

**Public Transport Ombudsman**  
**Final Report**

**2014 Independent Review**

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## I. INTRODUCTION

The Public Transport Ombudsman (PTO) is an industry self-regulatory scheme which has the objective of dealing with public transport complaints involving the scheme's 8 members in a cost free, efficient, effective, fair, informal and accessible way.

The PTO's Constitution requires the Board to conduct a review of the scheme every 5 years with consultation with public transport providers, community groups and other interested people. The National Benchmarks for Industry Based Customer Dispute Resolution Schemes requires scheme reviews to be undertaken by an independent reviewer.

Cameronralph Navigator has been engaged by the Board to carry out this review. We are a Melbourne based consultancy with extensive experience in external dispute resolution, having previously reviewed the performance of 17 external complaints handling schemes in Australia, New Zealand and Canada. We undertook the previous independent review of the PTO in 2009. We also undertook a review of complaints-handling in the (then) newly privatised public transport system in 2002.

## 2. EXECUTIVE SUMMARY

### 2.1. Overview

We found that the PTO is a well-managed organisation that is working co-operatively with Operators to provide a good practice complaints resolution service that enhances the public transport system effectiveness. The PTO is meeting the EDR Benchmarks and is accessible, independent, fair, accountable, efficient and effective.

### 2.2. Key Issues

Whilst our review did not identify any major issues, we did identify some improvement opportunities. We have made 14 recommendations and grouped these into the following themes:

- 1) Additional initiatives to enhance the PTO's accessibility including working more closely with Operators to build awareness of the PTO;
- 2) Improving timeframes for the longer running complaints;
- 3) Work to further strengthen relations with stakeholders;
- 4) Further work with Operators to build a common understanding of the PTO's approach to systemic issues and ensure that the PTO's contribution in this area is as effective as possible;

- 5) Ensuring the ongoing strength of the PTO's governance by discussing with the Minister's Office the development of a framework for future Consumer Director appointments; and
- 6) Addressing internal management issues, including funding and training, in an environment where there has been considerable PTO staff turnover.

## 3. PROJECT APPROACH

### 3.1. Review scope

The Terms of Reference for the review specify that the primary matters for inquiry and report are:

- 7) the scope of the PTO scheme, including:
  - whether the jurisdiction of the scheme and the powers of the Ombudsman are sufficiently broad to deal with the majority of public transport related complaints;
  - whether the binding decision monetary limits remain sufficient;
  - whether the Constitution and Charter continue to support the independence of the PTO in light of developments in the structures and operations of industry-based Ombudsman schemes since 2004;
- 8) the effectiveness of the PTO in meeting its objectives, including whether the scheme is achieving the EDR Benchmarks (including any revisions to the Benchmarks as a consequence of the current Government review) of:
  - accessibility
  - independence
  - fairness

- accountability
- efficiency
- effectiveness;

- 9) how the PTO handles privacy-related complaints received on or after 12 March 2014, relating to a complaint about a PTO scheme member's interference with an individual's privacy under the *Privacy Act 1988 (Cth)*. This is for the purposes of the PTO's recognition by the Office of the Australian Information Commission as an external dispute resolution scheme able to handle complaints under the *Privacy Act 1988 (Cth)* – a process that we understand is well in train.

### 3.2. Matters outside scope

Our report necessarily discusses the way in which the PTO fits into the public transport complaints handling landscape – and also makes observations about relative strengths and weaknesses - but it is not our place to make recommendations about other parts of that landscape.

### 3.3. Methodology

Our work program included:

- review of PTO's website and other materials;
- review of PTO's procedural guidance for its staff;

- review of about twenty PTO investigated complaints;
- review of three complaints made about PTO's performance;
- interviews of eighteen stakeholders including industry, regulator and community representatives and some members of the PTO Board;
- review of the PTO customer satisfaction survey conducted in 2013;
- a PTO staff forum;
- analysis of PTO data; and
- meetings with PTO management to clarify issues and discuss our findings.

### 3.4. Terminology

In our report, we use the term “Operator” to signify the private sector and government agency members of the PTO whose complaints are able to be resolved through the PTO.

We use the acronym “PTV” for Public Transport Victoria.

The abbreviation ‘EDR’ is used for external dispute resolution – ie. resolution of a complaint via an ombudsman scheme.

A reference to the “EDR Benchmarks” is to the Benchmarks for Industry-based Customer Dispute Resolution Schemes released in 1997 (and now in the process of being updated). These are voluntary good practice guidelines. Compliance with these is, however, a precondition to the Ombudsman’s membership of the Australian and New Zealand Ombudsman Association.

### 3.5. Structure of the report

Our report begins with a discussion of the Victorian public transport context within which the PTO operates and our understanding of the PTO’s role and key functions.

The report then assesses how well the PTO is carrying out its key functions and whether the Charter and Constitution provide the PTO within sufficient scope and otherwise sufficiently support the PTO in those functions. We then consider some internal management issues (organisational enablers to achieve the PTO’s work), the PTO’s engagement with stakeholder groups and its resourcing. These chapters of our report cover the key issues that emerged during our review in response to our Terms of Reference and the EDR Benchmarks. However, for completeness, we include in the last chapter of our report tables that list the key practices in the EDR Benchmarks with our comments about how the PTO meets those key practices.

### 3.6. Acknowledgements

Our thanks go to the Ombudsman and her staff for their assistance and openness. This is particularly the case given that during the period of our work, the Ombudsman announced her resignation from the PTO in order to take up the position of ombudsman with another EDR scheme – and so was particularly busy preparing with end of year responsibilities to be completed prior to her departure from the PTO.

We would also like to acknowledge the Operators and community stakeholders who generously consented to meet with us to share their views.

## 4. PUBLIC TRANSPORT CONTEXT

Any assessment of the effectiveness of the PTO must begin with an understanding of the unusual environment in which it operates. We understand that the privatised Victorian public transport system is unique and, to our knowledge, the PTO is the only industry-based EDR scheme operating in a privately operated public transport setting.

### 4.1. Overview

The Victorian public transport system brings together largely private sector operations under the oversight of a Government transit authority - including:

- Multiple operators who are responsible for particular parts of the system;
- The use of detailed contractual and policy provisions whereby Government guides and constrains the private operators;
- The transit authority itself taking responsibility for some functions within system - eg. ticketing and timetabling; and
- A taxpayer-subsidised system with the Government ultimately taking responsibility for decisions about funding priorities.

Although a unique configuration, the public transport system in Victoria is now quite mature. The initial privatisation was first undertaken 16 years ago. Whilst the basic concept remains, there have been many changes – including to the operators involved (the most recent change occurring in August 2013 when Transdev took over responsibility for about 30% of the metropolitan bus routes and

became the first bus company to be a stand-alone member of the PTO) and the adoption of a transit authority (creation of the PTV in 2012).

### 4.2. Establishment of PTV

The PTV was established as a statutory authority on 2 April 2012 – and acts as a system authority for all public transport in Victoria. In addition to this oversight role, it provides a number of services direct to the public including the myki ticketing system and a single point of contact for customers wanting information on public transport services, fares, tickets and initiatives.

The PTV's Customer Advocate function was established in December 2013 as an available point of escalation for unresolved complaints about any Operator including the PTV itself. It operates in accordance with *Customer Advocacy Terms of Engagement*. This document makes it clear that customers are not obliged to bring their complaints to the Customer Advocate. and, if they so wish, can instead take their complaint directly to the PTO.

If a customer is dissatisfied with the Customer's Advocate's resolution of a complaint, the customer may continue with the complaint by taking it to the PTO. If a customer notifies both the Customer Advocate and the PTO of their complaint, the Customer Advocate will not handle the complaint and instead defers to the PTO.

The *Customer Advocacy Terms of Engagement* commit the Customer Advocate to manage complaints in accordance with the Australian and international complaints-handling standard AS ISO 10002-2006. The complaint handling process includes:

- Acknowledging the complaint;
- Notifying the Operator of the complaint and what the customer is seeking as a resolution;
- If the Operator does not accept the customer’s proposed resolution - undertaking an investigation that may take up to 5 days;
- Facilitating a negotiated outcome between the parties or failing this recommending an outcome;
- The Customer Advocate is able to make recommendations as to how a complaint should be resolved – it does not have the power to bind an Operator to accept a recommendation.

Between 1 December 2013 and 31 July 2014, 721 complaints were escalated by the customer to the Customer Advocate.

Between 1 January and 30 June 2014, the PTO investigated 27 complaints where the customer had previously had contact with the Customer Advocate (9.4% of all PTO investigated complaints during that period).

### 4.3. Current PTO functions

PTO provides external dispute resolution for the eight Operators that are its members as required by their contracts with Government. The services include:

- 1) Provision of information to public transport users – both proactive awareness building of the complaint resolution process and provision of information in response to enquiries.

- 2) Independent investigation, conciliation and resolution of complaint.

**Fig 1: Investigated complaints in 2013/14**

Operator	No. of investigated complaints	% of investigated complaints
Bus Association Victoria (Member on behalf of private bus companies)	39	7%
Metro Trains (Private operator of Melbourne trains)	65	12%
PTV (Government body responsible for ticketing and other functions)	382	70%
Southern Cross Station (Responsible for operation of the station)	0	0%
Transdev Melbourne (Covering about 30% of bus routes in Melbourne)	19	3%
V/Line (Government operator of country train services)	30	5%
VicTrack (Government body that owns train and tram tracks)	0	0%
Yarra Trams (Private operator of Melbourne tram services)	13	2%
<b>Total</b>	<b>548</b>	<b>100%</b>

- 3) Contribution to systemic improvement via provision of regular data to Operators in monthly reports, identifying potential systemic issues and raising these with Operators, reporting on systemic issues in its Annual Report and publicly releasing specific issue reports.

The PTO's effectiveness in carrying out these functions is discussed in the next chapters of our report.

#### 4.4. Future of PTO

Given that a review also needs to be forward looking, we thought it appropriate at this stage to set out our observations about the attributes that we think equip the PTO to make an ongoing contribution to the public transport complaints handling system. This is by way of response to the speculation we heard in some of our stakeholder interviews about whether the PTO will be needed in future, given the reconfiguration of the whole of the transport system under the over-arching PTV transit authority – and given the establishment of the Customer Advocate under the PTV.

Certainly, as we understand the PTV's powers, it could in future amend the Operators' contracts, for example, to require them to escalate complaints to PTV and to comply with PTV complaint resolution (instead of PTO complaint resolution).

Ultimately any such change would be a matter for Government, however we would have some concerns if this option were being actively championed.

Our concern is that public transport has a particular need for a truly independent place for complaints to be referred. Most important to

this consideration is to recognise the nature of public transport as a system of subsidised service delivery. The realities are that any 'mass' transit system will by its nature, regularly opt for choices that are better for the 'mass' than for the individual. This is inevitable and will generate an equally inevitable number of complaints. Further, many of these complaints will point to the need for systemic improvement – eg. timetabling changes, improved facilities or access, changed procedures, upgraded information resources or improved infrastructure.

At best these forms of resolution take some time, however they will frequently require changes to policy, investment of additional, unbudgeted resources and changes to public funding choices. In these circumstances, for many complaints, there is no available short term resolution – other than by way of apology or explanation. An independent body that is both credible to the consumer as an unconflicted honest broker, and that has a sound understanding of these issues is, in our view best placed to manage customer expectations and provide these explanations.

The second key characteristic of the Victorian environment is the number of players, some private, some public, that make up the whole of the system. This generates some complexity in handling complaints, not only in hand-offs and allocating responsibility but also in the interplay between system-wide policy and individual Operators' own policy and approach. Again, we think that an independent body is best able to provide consumers with the assurance that complaints will be dealt with consistently and not get lost in the system.

The third key aspect to transport complaints is their short 'shelf-life' – because complaints are typically about what is short-term inconvenience or annoyance and involves small amounts of money, complainants will lose interest in their complaints where they are not resolved promptly or there is a sense of 'hitting a brick wall' of inertia

or active resistance. Over the long term, an independent body that is focused solely on complaints handling is best placed to provide a definitive response in a timeframe that will satisfy customers and maintain confidence in the system.

In our view, it is these characteristics that drive the unique role that an independent specialist Ombudsman can provide in public transport. More than most service environments, the value comes from the confidence that a body exists to fairly and independently consider a consumer's complaint.

The PTV on the other hand is ultimately a creature of government, is itself responsible for key aspects of service delivery, for implementing government public transport policy and for the effectiveness of the whole public transport system. No matter the effort to achieve operational independence for the handling of complaints, it cannot help but be subject to the highly political sensitivities of the public transport portfolio and be drawn into defending the system against criticism.

In addition, the PTV's own service delivery – chiefly ticketing and timetabling – is the source of an enormous percentage of the complaints about public transport – and that find their way to the PTO. The table above shows that some 70% of complaints that were investigated by the PTO in 2013/14 were about services provided by the PTV. While we understand that the PTV organisational structure attempts to create some independence for the Customer Advocate, it seems to us that the PTV Customer Advocate is conflicted as a function within a direct service provider – of some of the most critical aspects of the system.

These reservations are notwithstanding that the PTV Customer Advocate has some strengths as a model. It is well connected to the customer hotlines and therefore provides the authority with an

excellent picture of the health of customer services aspects of the public transport system. For those complaints that it is able to handle, it should have some efficiency advantages over the PTO through being 'under the same roof' as the rest of the PTV and presumably obtaining faster access to information and people when handling complaints about PTV services at least.

It is also argued that in theory, the PTV's Customer Advocate should have a more direct line into highlighting areas for systemic improvements for the public transport system as a whole – again as it is 'under the same roof' as the authority that sets the standards and administers the contracts that govern the system in Victoria. But whilst those standards and contracts provide the overarching framework, they inevitably cannot engage at the detail level raised by complaints.

The last point we make is that we are not alone in thinking that the PTV Customer Advocate can not be truly independent – our interviews both with Operators and with community stakeholders made it clear that the PTV is not seen as independent but rather its roles as service provider and transit authority and system-wide complaint-handler are seen as fundamentally conflicted.

By way of contrast, interviews with stakeholders suggest that the PTO's independence is much valued for its ability to be a fearless voice, for the transparency it provides through the detailed data in its publicly available Annual Report and its ability to provide an independent review of complaints about the PTV.

In any event, the PTO is part of the landscape. As such, the PTO should continue to do what adds value to the public transport system and should rigorously maintain its independence and transparency given that this goes to the crux of what it offers.

## 5. INFORMING PUBLIC TRANSPORT USERS

PTO's role includes providing information to customers about the availability of the complaints process, how to access this process and the approach taken to complaints. This work is important to meet the PTO's accessibility obligation. PTO utilises its website to provide information to customers and also its web and telephone enquiry service. In addition, PTO has an outreach program to build awareness of the complaints process.

### 5.1. Web presence

PTO's website includes information about how a customer may make a complaint and the types of complaints that the PTO is able to handle. Information is provided in English. In eight other languages, the PTO's website has brief information about the PTO and the contact details for the PTO's translation service. The PTO's website also includes an Auslan video for the assistance of the hearing impaired.

The PTO's website also includes information about how PTO approaches common issues: *PTO Approach 1* deals with complaints about customer service, complaint handling and administrative practices, *PTO Approach 2* deals with compensation claims, and *PTO Approach 3* deals with noise complaints. Case Studies are also published on the website to give customers further insight into the PTO's approach. Further Case Studies and data about complaints is published in the PTO's Annual Report. A Media Release is issued with the Annual Report that provides a convenient summary of the key information in the Annual Report.

### 5.1.1. Stakeholder views

Our interviews with community stakeholders confirmed that the PTO's website information is regarded as informative and easy to read. To enhance accessibility, a couple of community stakeholders recommended greater use of social media, for example, Facebook and YouTube videos.

### 5.1.2. Findings

We have been sceptical in the past about the attention given to social media as a channel for EDR schemes to connect with customers. When we have been privy to the results, we have found that EDR schemes that have invested in this interface are not finding that their social media efforts are returning much in the way of consumer response. We have heard theories for why this is and could posit our own guesses, but are not aware of any definitive research that would cast real light on what the relevant issues are.

Despite the absence of strong evidence, we take a somewhat different view for the PTO. Given that public transport is a critical service for the younger demographic – who are also the heavier users of social media – we think there is an education opportunity in the space for the PTO to make young customers aware of the PTO.

The PTO has recently obtained advice about how best to engage with social media and is proposing to focus on the use of Twitter. Clearly social media is on the PTO's radar so we make no specific recommendations.

## 5.2. Enquiries service

The PTO is contacted primarily by email or its online complaint form. Telephone is also important – it has a 1800 number advertised on its website.

**Fig 2: Source of contacts in 2013/14**

Channel	Number	Percentage
Email or online complaint form	2,320	56%
Telephone	1,698	41%
Letter/ Fax/ In person	124	3%
<b>Total</b>	<b>4,142</b>	<b>100%</b>

Where the PTO identifies that the enquiry is best handled by another body, the PTO refers the person to that body.

### 5.2.1. Findings

We were satisfied that the PTO provides an effective enquiries service. The volume of telephone calls permits these to be answered within a few rings. Where the PTO is contacted by email or via the online complaints form, within 24 hours, the PTO attempts to make phone contact with the customer to discuss the matter. The PTO’s surveying of customers last year found high levels of satisfaction by customers with their initial contact with the PTO (77% of respondents rated the approachability and professionalism of the PTO as excellent or good).

## 5.3. Awareness building

Like all EDR schemes, the PTO has two strands to its awareness building.

- 1) It has clear expectations of the Operators as to what they must do to promote awareness of the existence and role of the PTO. To this end, the PTO has agreed with the Operators the wording to be included in their complaint handling materials.
- 2) The PTO also has an active community outreach program. The Ombudsman regularly meets with community organisations (for example, Carers Victoria, LINK Community Transport, Vision Australia, Acquired Brain Injury Office) and presents at community forums (often organised in conjunction with Shire Councils) to raise awareness about the PTO’s work. In the last 12 months, there have been in excess of 30 such events with 11 of these in Regional Victoria. Local media coverage of community forums is sought where possible.

To maximise the effectiveness of its outreach efforts within the available resources, the PTO has developed a Communication Plan and a calendar of events for the next 12 months. These aim to ensure that the PTO’s messages are clear and consistent and awareness building efforts appropriately span the range of stakeholder groups and localities (city and regional), with media coverage effectively leveraged.

### 5.3.1. Stakeholder views

For the most part, stakeholders were supportive of the PTO’s awareness building efforts.

As we have observed several times, public transport is an environment in which there can be level of resignation to the inevitability of complaints where little can be done beyond explanation and apology (eg. delays, breakdowns, overcrowding). In our 2009 review, we encountered some criticism from Operators that the PTO's awareness building was encouraging more of these types of complaints.

These past criticisms – that awareness building amounts to 'drumming up complaints business' – were little aired in our interviews in 2014, we think reflecting the increasing sophistication of the Operators and their understanding of the importance of awareness building for the PTO.

Some Operators did caution that public transport is a highly political issue, particularly in an election year, and that the PTO needs to tread carefully to minimise the risk of the media misconstruing the PTO's messages and using these to become part of political controversy.

Community representative groups on the other hand were concerned that, despite the PTO's evident efforts, awareness of the PTO continues to be low. They would like the PTO to require Operators to have wall posters that give visual prominence to the availability of the complaints handling process and the PTO's role. They would also like to see the PTO do more to engage with indigenous and rural communities and people who have a disability.

### 5.3.2. Findings

We agree with stakeholders about the importance of efforts to build awareness of the PTO's role. After all, if customers are not aware of the PTO and so do not access it with their complaints, the PTO might as well not exist.

Awareness building is all the more important given the PTO's uniqueness which means that customers' experience elsewhere will not automatically lead them to assume that there is a public transport ombudsman. The complexity of the complaints handling system – including since the advent of the PTV Customer Advocate – also gives more imperative to awareness building.

Having said this, the PTO is a small office and in our view devotes as much of its resources to awareness building as can reasonably be expected. Inevitably, some of the PTO's awareness building involves taking up opportunities as they arise – but we were satisfied that the PTO's efforts are as strategically focused as is practically achievable. We are aware that the PTO has sought to encourage Operators to participate with it in awareness building presentations – and we support this continuing in the future.

We also agree with Operators that the PTO needs to be conscious that public transport is a very political issue and ensure that its awareness building initiatives are not seized upon by others to make political points. Discussions with the PTO suggest that they are very mindful of this. The articulation in the PTO's Communication Plan of the key awareness building messages is a useful initiative to try and minimise this risk.

In addition, the more that the PTO can work hand in hand with other players in the public transport space to build awareness, the less the PTO will itself need to use the media to build that awareness – thereby limiting the risk of loss of control of its messages. For this reason, we support the idea that the PTO work with the PTV in its role as transit authority and with other Operators with a view to establishing expectations that Operators display posters in trains, trams, buses, railway stations and depots that make customers aware of the

availability of the complaints handling process including the PTO's role in that process.

#### **Recommendation 1.**

**The PTO should continue to encourage Operators to participate with the PTO in complaints handling awareness building presentations. For example, if the PTO is making a regional presentation, the PTO should invite V/Line to participate. This would help to ensure that internal dispute resolution is pursued by complainants before they access the PTO.**

#### **Recommendation 2.**

**The PTO should work with the PTV and other Operators with a view to establishing expectations that Operators display posters in trains, trams, buses, railway stations and depots that make customers aware of the availability of the complaints handling process including the PTO's role in that process.**

## 6. COMPLAINTS RESOLUTION

PTO must resolve disputes fairly and efficiently. Both fairness of process and fairness of outcome are important.

### 6.1. Overview of PTO processes

Like most EDR schemes, the PTO does not take on a complaint if the Operator has not already had a chance to consider it – so if the customer comes direct to the PTO, they will usually be then directed to the Operator.

If this has occurred, the PTO will refer the complaint to the Operator for internal escalation – but only if the customer agrees. A short summary of the matter is provided to the Operator. The Operator has 7 days to resolve the complaint and must respond both to the customer and the PTO.

If the complaint proceeds to an investigation, the PTO will investigate. It asks the Operator to provide relevant information to the PTO and will then attempt to conciliate the complaint. If conciliation is not achieved, the complaint proceeds to a Case Assessment – in practice the parties will often accept this.

If the PTO considers that no remedy is required of the Operator or the Operator’s response has been fair and reasonable albeit not accepted by the customer, the PTO has a discretion not to further investigate. This discretion is delegated by the Ombudsman to the Operations Manager. If the PTO considers that a remedy is appropriate and the Operator is unwilling to provide this, the

complaint is escalated and can ultimately result in a Binding Decision being made by the Ombudsman.

**Fig 3: Outcome of investigated disputes within jurisdiction in 2013/14**

Outcome of investigated complaints	Number	Percentage
PTO resolution	442	84%
Discontinued – No further customer contact	52	10%
Discontinued – Withdrawn	24	4%
Discretion not to further investigate	5	1%
Discretion not to further investigate – Fair offer	4	1%
<b>Total</b>	<b>527</b>	<b>100%</b>

### 6.2. Referral for internal escalation

Where a customer agrees to the PTO referring a complaint for internal escalation, the PTO does not obtain ‘the full story’ from the customer but rather takes down only brief details and provides these to the Operator.

This was a very recent change of practice – the PTO used to obtain and provide Operators with more fulsome information – and we heard

some comment from Operators that they preferred the previous practice.

We understand from the PTO that the change in practice was motivated by their concern that more fulsome information may encourage Operators to adopt the position that the complaint can be responded to without a further conversation with the customer – whereas the PTO is keen to see direct engagement by the Operator with the customer.

### 6.2.1. Findings

We agree with the PTO that there should be an expectation that, where a complaint has been referred to an Operator for internal escalation, the Operator should phone the complainant to discuss the complaint. If this is to occur, it would seem an unnecessary annoyance for the complainant – and resource inefficient for the PTO - if the PTO were to question the complainant in detail before making the referral to the Operator.

Clearly this is a question of striking the right balance. The PTO should obtain enough information to assist the Operator with critical details - but not such that the complainant is required to repeat details unnecessarily.

We also recognize that any change in PTO practice needs to be clearly communicated to stakeholders and teething problems need to be worked through. We heard enough about this issue to suggest that the PTO may need to do more to ensure Operators understand the reasons for the PTO’s change in practice and have an opportunity to raise their concerns so that practices can be finessed where this is appropriate. We address this issue in Chapter 10.

## 6.3. Ease of complaints process

The PTO’s surveying of complainants last year revealed how critical it is to complainants that the process of making a complaint to PTO is an easy process. The PTO’s process rated highly in this respect.

Fig 4: Complainant surveying in 2013 (n = 340)

Issue	Needs some or significant improvement	Adequate	Good/ Excellent
Complaints process was straightforward	20%	16%	64%

This surveying pre-dated the establishment of the PTV Customer Advocate. As noted previously, early indications are that around one in ten complainants to the PTO are experiencing the PTV Customer Advocate as an extra step on the path to PTO resolution.

### 6.3.1. Findings

We found that the PTO’s complaint handling process is an appropriately easy process for complainants. Neither the PTO’s complainant surveying nor its data give rise to concern that complainants are abandoning complaints because the process is too hard. The PTO’s complainant withdrawal rates are about what we would expect of an EDR scheme that is doing its job of managing customers’ expectations.

The PTO’s complainant surveying did establish that it is quite important to complainants that the first person to whom the

complainant speaks at the PTO is able to handle the complaint (over half of surveyed complainants rated this as critical or very important on a 5 point rating scale).

This does not generally happen at the PTO where the complaint is made by telephone. Currently a Case Officer has the first contact with the complainant and, where the Case Officer establishes that the complaint is ready for investigation, the Case Officer then transfers the complainant through to a PTO Conciliator to progress the complaint. We understand that there has already been some discussion about this issue within the PTO and think that this is something that the new Ombudsman might like to consider as part of their review of the office.

More significantly, in the next round of complainant surveying, we think that it will be important for the PTO to test whether the ease of the complaints process has been impacted by the PTV Customer Advocate step – for those complainants who avail themselves of that step.

The critical issues here will be whether these complainants understood the limitations of what the PTV Customer Advocate can offer (not a fully independent complaints handling service, no ability to bind the Operators etc) and that direct recourse to the PTO would have been possible.

Our experience of interviewing complainants in other sectors is that they often do not fully understand who they are engaging with (whether their complaint is being handled by someone from the organization they are complaining about or by an independent body providing external dispute resolution). If confusion of this kind is occurring and the PTV Customer Advocate step is being experienced as an extra (even possibly unwanted) step on the path to the PTO, the

PTO will need to work with the PTV and the other Operators to devise communication strategies to address this.

### Recommendation 3.

**In its next round of complainant surveying, the PTO should identify complainants whose complaint was previously considered by the PTV Customer Advocate and test whether that step was perceived as adversely affecting the ease of access to the PTO. In particular, it will be important to test whether these complainants were aware that they could have bypassed the PTV Customer Advocate step and whether they elected to go to the PTV Customer Advocate understanding the difference between it and the PTO. If surveying suggest grounds for concern, the PTO should work with the PTV and other Operators with a view to devising communication strategies to address the concerns.**

## 6.4. Early closure of complaints

Paragraph 6.3 of the Charter gives the PTO a discretion not to investigate a complaint if in the opinion of the Ombudsman:

- (a) the complaint is frivolous or vexatious or was not made in good faith;
- (b) the complainant does not have a sufficient interest in the subject matter of the complaint;
- (c) an investigation, or further investigation, is not warranted; or

- (d) the complaint is more appropriately or effectively dealt with by any other body.

#### 6.4.1. Stakeholder views

We received some views by Operators that there is opportunity for PTO to close off some matters more efficiently. At times they felt that the PTO were reluctant to close off a matter without first pursuing further information that (in their view) was highly unlikely to cast relevant light on the complaint. In other cases, they felt that PTO staff were pursuing lines of enquiry that they should have known from experience were unlikely to change the perspective of the complaint. They also felt that at times they were being asked to come up with an offer or customer service gesture ‘to make the complainant happy’ – when the merits of the matter did not warrant such an offer.

#### 6.4.2. Findings

Our file review provided a couple of examples where we thought that the PTO should have been able to proceed more quickly to a ‘Discretion Not to Further Investigate’ finding. It seemed to us that where this had happened, this was not a fault of process design or policy settings, but rather it was a question of the knowledge and confidence of staff.

We have not made any recommendation as to process or policy but do observe that this should be addressed as part of the ongoing development of day-to-day supervision and reflected in staff training.

## 6.5. Conciliations

In the public transport context, the conciliation of complaints needs to take account of the following factors unique to the environment:

- 1) The Victorian Fares and Ticketing Manual which specifies the liability of Operators - for example in relation to cancelled or late services and the rules for myki and V/Line ticket refunds, reimbursements and replacements; and
- 2) The PTO does not have jurisdiction to resolve complaints about Government funding priorities and so where complaint is about infrastructure or the extent of service, it may not be possible for the PTO to address the substantive problem. It can however look for ‘soft infrastructure’ solutions – eg. customer information so that customers can work around areas of service difficulty.

As noted previously, in the last financial year, 84% of investigated complaints were conciliated, with the balance of complaints either withdrawn or with the PTO exercising its discretion not to further investigate.

**Fig 5: Redress for investigated complaints in 2013/14 (more than one type of redress possible per complaint)**

Redress for investigated complaints	Number	Percentage of investigated complaints where PTO resolution achieved (total 442 PTO resolutions)
Detailed explanation	442	100%
Apology	261	59%
Refund	179	40%
Goodwill gesture	136	31%
Ticket compensation or other monetary compensation	9	0.2%
Recommendation for change in policy/ procedure	24	5%
Operator staff training	22	5%
Operator staff disciplined/ counselled	18	4%

### 6.5.1. Stakeholder views

Stakeholders were generally supportive of the PTO’s conciliation processes. We heard comments from Operators about the PTO’s ‘ability to take the heat out of the situation’. There was also comment from Operators and community representatives about the PTO’s pragmatism and examples provided of where the PTO helped to find

‘soft infrastructure’ solutions to complaints. Our file review supported this.

On the other hand, some Operators said that the PTO can at times be overly combative and can make them feel ‘guilty until proven innocent’. Also a couple of Operators questioned the fairness of outcomes and thought that the PTO was ‘pushing the boundaries’ of what is appropriate, where they approach an Operator to say that a complainant is still dissatisfied and ask if the Operator would consider some small customer service gesture.

### 6.5.2. Findings

On balance, we think that the PTO’s high conciliation success rate is a testament to its fair investigative processes, to Operator cooperation with investigations and to the constructive relationship between Operators and the PTO. Occasional tension between the PTO and Operators in relation to a complaint is inevitable in our view. It did not seem to us that current relations are unusually tense or problematic. That said, it is however important that the PTO remain sensitive to Operator concerns from time to time and that staff training reinforce the importance of avoiding a combative tone in communications.

In relation to customer service gestures, it seems to us that some of the tension about this issue is attributable to the considerable differences between the Operators within the public transport system. At one end of the spectrum are the comparatively small private bus operators that are members of the PTO through Bus Association Victoria, that have much more limited resources, simpler customer service systems and often close familiarity between the driver and the passenger. At the other end of the spectrum are the large scale

Operators that have a considerable revenue and cost base and sizeable, well-resourced customer service functions.

There are also obvious differences in internal policy with some Operators telling us that they will freely give small service gestures and others saying that they will never offer a gesture unless the merits support it. As noted in Figure 8 below, customer service gestures though the PTO are typically small with the average amount being \$57.47.

This does leave the PTO with something of a problem in how to judge its shuttle negotiation with the parties. At the moment, the setting is that if a complainant explicitly asks for a gesture of some kind and there is some substance to the complaint, then PTO Conciliators will ask the Operator if they are willing to consider this.

We understand that in these circumstances the Operator may well feel that they are being pressured into something they are reluctant to do – however we think that it is the PTO’s role to pursue resolution. Provided that where appropriate, the PTO are ‘dismissing’ matters without merit, then we think it is sensible and part of the PTO role to identify opportunities for resolution and put them to the Operators.

## 6.6. Privacy complaints

In the 2013/14 year, there were 2 investigated complaints where privacy issues were flagged. But in neither case was it necessary for the PTO to delve into the privacy issues. So we are not in a position to comment about how well the PTO handles privacy-related complaints received after 12 March 2014 as requested by our Terms of Reference.

## 6.7. Scheme Timeframes

The majority of complaints to the PTO resolve very quickly - by the PTO referring the complaint to an Operator for internal escalation and the Operator resolving the complaint.

For investigated complaints, the PTO’s investigation process typically gives the Operator 14 days to provide the PTO with an initial response to the complaint and relevant information. Where necessary, a further 7 days is given, and in these circumstances, the complaint can be upgraded (additional fee payable) - this happened in 15 instances in 2013/14. An initial response timeframe of less than 14 days may, however, be agreed between the PTO and the Operator for a straight forward complaint. For the more complex complaints, follow up questioning and the shuttle negotiation process can take some time.

The next tables set out the PTO’s current key efficiency measures and recent performance against these.

**Fig 6: Key efficiency measures for disputes in 2013/14**

Efficiency measure	Result
a. 95% of enquiries/referred complaints are to be finalised within 3 days	94%
b. 60% of investigations finalised within 45 days.	68%
c. 75% of investigations finalised within 60 days.	79%
d. 90% of investigations finalised within 90 days.	93%

**Fig 7: Time taken to resolve disputes**

Time taken	2012/13		2013/14	
	No.	%	No.	%
1-30 days		41%	261	50%
Less than 45 days		60%	98	68%
Less than 60 days		71%	58	79%
Less than 90 days		87%	71	93%
Up to 6 months		98%	30	98%
More than 6 months		2%	9	2%
<b>Total</b>		<b>100%</b>	<b>527</b>	<b>100%</b>

### 6.7.1. Stakeholder views

Some Operators reported that after they respond to the PTO with information there can be long delays before they hear anything further.

Complainants also view timeliness as a key area for improvement, as highlighted in the PTO’s surveying in 2013 with 42 customers (12% of surveyed group) nominating this. 36% of respondents agreed or strongly agreed with the statement that the PTO Conciliator sorted things out, but that it took too long.

### 6.7.2. Findings

Supporting the views expressed by stakeholders, our file review identified some instances where the PTO took a couple of weeks to progress the complaint after receiving information or a response from a party. We understand from the PTO that the problems we saw occurred as a result of short staffing earlier this year, including because one of the four Conciliator roles was vacant for 2 months – and that the staffing issue has now been resolved.

Going forward therefore, we think that the PTO needs to aim to reduce the ‘tail’ for investigated complaints and in particular achieve a higher percentage of investigated complaints resolving within 60 days. This is already part of the PTO’s agenda with the Board setting a target of 70% of complaints resolved within 45 days and 80% of complaints within 60 days. This is an excellent first step, but we would encourage the PTO over time to further tighten these timeframes.

In this regard, we note that the PTO management reporting system ensures that PTO management have good visibility of ageing investigations and systems in place to follow up on these.

#### Recommendation 4.

**The PTO should challenge itself to reduce the ‘tail’ of complaints by progressively introducing more stringent key efficiency measures for investigated complaints. The aim should be to achieve preferably by 2015/16 75% of investigated complaints finalised within 45 days and 85% of investigated complaints finalised within 60 days.**

## 7. SYSTEMIC IMPROVEMENT

### 7.1. Systemic issues jurisdiction

The EDR Benchmarks establish an expectation that an EDR scheme has mechanisms and procedures for referring systemic industry problems that become apparent from complaints, to relevant scheme members. Where the systemic issue is not addressed by the scheme member to the EDR scheme's satisfaction, the matter should be referred to the Board.

Consistent with this, paragraph 3.7 of the PTO's Charter gives the Ombudsman jurisdiction "to receive and record complaints relating to systemic issues of a member (for example, a management practice that gives rise to repeated complaints)". Systemic issues may be drawn to the attention of Operators, regulators or the Minister of Transport as the PTO considers appropriate. This is reinforced by paragraph 7.1(n) which confers on the Ombudsman responsibility for "monitoring general trends and systemic issues arising from the complaints made or referred to the Ombudsman and raising those issues with members, regulators as the Ombudsman considers appropriate".

Clearly the Charter provides the PTO with a mandate to analyse its data and identify systemic problems. What is less clear (and the subject of some stakeholder discussion) is the priority that should be given to this work and depth of focus – or whether the systemic issues jurisdiction is now less significant given the establishment of the PTV as transit authority.

#### 7.1.1. Stakeholder views

A range of views were expressed by stakeholders. Community group representatives tended to place very high importance on the PTO's systemic issues jurisdiction and thought that the PTO had a record of contributing very significantly to system improvements. Some Operators agreed. Others felt that undue resources are currently being spent by the PTO on systemic issues, some saying that this was at the cost of prompt resolution of the individual complaints.

#### 7.1.2. Findings

The systemic issues jurisdiction is where an EDR scheme's work mostly closely overlaps with a 'regulatory' role. The scope of that jurisdiction varies from sector to sector depending upon the regulatory arrangements and the extent to which Government and stakeholders are depending on the EDR scheme to drive improvements.

In the Victorian public transport context, there is now a regulator (the PTV) that monitors Operator performance across a range of areas and is developing detailed performance standards. In this environment, we think that it would be appropriate for the PTO to re-evaluate its contribution to systemic improvements. Of course, the PTO's complaints database is a very valuable source of data about Operator performance and the PTO should analyse this data and contribute insights from this. We discuss in more detail below, aspects of the systemic issues jurisdiction and how we see the PTO's contribution evolving.

## 7.2. Reports to Operators

The PTO provides a monthly case report to each Operator. This collates the numbers of enquiries and complaints that were open during the month and lists each by case number and name, date of receipt, status (eg referred to Operator), issue category and outcome.

The PTO also provides a quarterly report to the CEO of each Operator. This provides information about their share of overall complaints, the issue classification and their case volumes compared with the previous year.

A different type of quarterly report is provided to all Operators for the purposes of the Customer Feedback Industry Roundtable meetings convened by the PTV. This includes customers' explanation of the reason for their dissatisfaction with the Operator's internal dispute resolution and also some information about the types of issues that are taking longest to resolve at the PTO.

In addition, the PTO provides a monthly detailed system-wide report to the PTV that sets out data about the number of cases received by the PTO (in total and by Operator), the number finalised by the PTO, the issue category, investigated complaint redress and the age of complaints (by Operator).

### 7.2.1. Stakeholder views

Some Operators suggested that they would welcome trend analysis in the monthly reports to assist them to improve their customer service and reduce the flow of complaints.

### 7.2.2. Findings

As previously referred to, the Operators differ considerably - in their size and own customer service resources and also in their public transport role. Some Operators have almost no complaints and others have relatively large numbers of complaints. In these circumstances, there is likely to be quite some difference as to what PTO reporting they would value.

We think that the small number of Operators should permit the PTO to tailor monthly reports to Operators' needs without this becoming a significant resource impost. In particular, if an Operator believes that better information will assist it to reduce the flow of complaints, the PTO should do its best to provide reporting that accommodates this.

By way of example, the type of analysis that might be useful for some Operators could be: a trend across Operators to increasing numbers of complaints of a particular type, or an increase in total complaint numbers by the Operator that is outstripping in percentage terms the increase being experienced by other Operators. If necessary, a cost-recovery charge for extra reporting provided to an Operator could be included in the calculation of the Operator's annual levy.

#### Recommendation 5.

**The PTO should consult with the Operators to see if they would like their periodic reporting to include trend analysis and if so the types of information that would be valued. If the feedback suggests this is appropriate, the PTO should be willing to tailor its reporting to meet Operators' needs. If**

necessary, a charge could be made for extra reporting to an Operator on a cost recovery basis.

### 7.3. Systemic issues raised with Operators

The PTO revised its Systemic Issues Policy in February 2014. This now defines a systemic issue as “an issue identified through consideration of a single or series of individual complaints, where the effect of the issue may extend beyond the parties involved”. The benefits of resolving systemic issues are said to be:

- ensuring systemic issues are identified and resolved quickly, thereby limiting the potential impact of the issue on the travelling public;
- assisting operators to improve their practices and processes, which will lead to a better customer experience and will reduce further complaints;
- alerting relevant regulators and the Government to issues impacting consumers;
- assisting the effective and efficient resolution of individual complaints lodged with the PTO by establishing a knowledge base about the issues and the appropriate steps to address them; and
- assisting to create an industry culture of complaint analysis, through the collaborative approach taken to the investigation and resolution of issues, so systemic issues are proactively identified and resolved internally.

Systemic investigations are handled by a senior PTO officer. The Operator is provided with opportunity to respond to the PTO firstly at the PTO contact level and then if the PTO is not satisfied, the PTO’s concerns are escalated to the Operator’s Chief Executive Officer or other nominated senior executive - thereby providing a further opportunity to make a response.

Systemic issues are reported to the PTO Board on a quarterly basis and are referred to in the PTO’s Annual Report, on its website and in public reports. Operators are provided with an opportunity to comment on summary information of finalised systemic issues prior to inclusion on the PTO’s website or Annual Report. If the Operator disagrees with the PTO’s assessment that the matter represents a systemic issue, this will be noted with a brief statement of the Operator’s reasons.

#### 7.3.1. Operator views

A range of views were expressed by Operators. Some perceived the PTO to be raising issues of which the PTO became aware through its community networks or the media rather than through its own complaint work – and questioned the appropriateness of this. Whereas some Operators thought that the PTO should only raise as a systemic issue something raised in multiple complaints, other Operators thought that one complaint might be sufficient to justify the PTO raising the matter as a systemic issue.

#### 7.3.2. Community group views

Several community representatives pointed out that the flow of complaints to the PTO does not necessarily include the perspectives of disadvantaged Victorians, that they frequently do not make complaints,

although they will make their concerns known to the community groups that support them. Where these community groups provide information to the PTO about their clients' concerns, they want the PTO to be able to use that information to launch a systemic issues investigation – just as if an individual had made a complaint.

### 7.3.3. Findings

Particularly now that the public transport system includes the PTV as transit authority, we think that it is important that the PTO's systemic issues referrals to Operators all have actual case antecedents. Where the PTO receives intelligence from its community networks of systemic issues that have not been borne out in the PTO's caseload, we think the proper course of action is for the PTO to refer these issues to the PTV.

Normally we would expect that, where the PTO has referred a potentially systemic issue to an Operator, there would be more than one antecedent complaint that has been made to the PTO. But we can envisage situations where the capacity for repeat occurrences will be abundantly clear from a single complaint and we think that in these situations it would be wrong for the PTO to ignore this and simply wait for repeat complaints before taking the matter further.

It seems to us that this view of the PTO's jurisdiction is consistent with the PTO's revised Systemic Issues Policy and how that is applied in practice. We are aware that the PTO has taken steps to make Operators aware of this Policy, but we are not sure that those efforts have been entirely successful. We encourage the PTO to do more to raise Operator understanding of the revised Policy.

### Recommendation 6.

**The PTO should work to increase Operator understanding of its revised Systemic Issues Policy, for example, emailing this to Operators with a short summary, referring to it in one-on-one meetings and explicitly referring to it when systemic issues are referred to Operators.**

## 7.4. Contributions to public policy

The PTO from time to time releases reports on issues that emerge from a review of its complaints data. In September 2013 after a consultative process that involved all Operators, it released a report entitled *Closing the Accessibility Gap*. It also contributes to public policy submissions made by the Australian and New Zealand Ombudsman Association and itself makes submissions to public enquiries where it has relevant expertise. In November 2013 and May 2014, it made submissions to the Productivity Commission's Inquiry into Access to Justice Arrangements and in February 2014 it made a short submission to the Family and Community Development Committee Inquiry into Social Inclusion and Victorians with a Disability essentially enclosing its *Closing the Accessibility Gap* report.

### 7.4.1. Findings

We see that there is significant value in the PTO extracting what lessons it can from its data and publicly sharing this. Reports such as *Closing the Accessibility Gap* contribute PTO's knowledge to public

arena. But PTO needs to recognise that system improvement is now much more PTV's domain than PTO's role – in this context we think that rather than putting forward formal recommendations, it would be more politic if the PTO took the role of highlighting the issues and its analysis, suggesting a general direction or options for resolution - and then left it to the PTV as transit authority to take this input forward as it saw fit.

While we think this is a more sustainable role to adopt – there are some risks. One feature of the PTO's current approach is that it goes to some lengths to find workable, practical solutions to the systemic issues that it finds. Without responsibility for this, there is a risk that a future PTO may become - and/or be seen as - an 'agitator' with no responsibility for helping to find practical solutions to issues it raises.

Clearly there is a delicate balance that needs to be struck. We suggest that the PTO work closely with the PTV as transit authority to find that balance when the PTO is finalising its next systemic issues public report (scheduled to be released in March 2015).

### Recommendation 7.

**Where the PTO's complaints work highlights important general themes, the PTO should continue to contribute these to the public domain through a special purpose public report developed in consultation with all Operators. Given the PTV's role as transit authority with responsibility for systemic improvement, the PTO should also work closely with the PTV when framing PTO suggestions for future direction.**

## 7.5. Annual Report and Case Studies

The PTO's Annual Reports provide a wealth of data about the PTO's caseload. As do all EDR schemes, Annual Reports include Case Studies as a way of illustrating the PTO's role and approach. Additional Case Studies are published on the PTO's website.

### 7.5.1. Findings

We think that the PTO's Annual Reports provide an important level of transparency about complaints. We are aware that one Operator in particular has raised concerns with the PTO about the accuracy of its Annual Report data – but we did not receive substantiation of these concerns and our review did not identify weaknesses in the PTO's data.

We also heard some Operator sensitivity about Case Studies – but no more disquiet about these than we have found for other EDR schemes. We were satisfied that the PTO is fair and balanced in its selection and presentation of Case Studies and that these play an important educative role for Operators and customers alike. PTO charter and constitution

## 8. PTO CHARTER AND CONSTITUTION

To be effective, the PTO's scope and powers must be clear and sufficient to deal with the vast majority of customer complaints that arise. Its constituent documents must position PTO to deliver independent decision-making and to promote public confidence in its independence.

### 8.1. PTO scope

Part B of the PTO's Charter sets out the jurisdiction and functions of the PTO. Paragraph 3.1 clearly defines the types of complaints that the PTO can investigate. In summary, the PTO's jurisdiction is complaints about:

- (a) the provision of public passenger transport and their goods;
- (b) the sale of tickets;
- (c) infrastructure including cleanliness;
- (d) the conduct of Authorised Officers (other than where serious issues are raised and that are within the Victorian Ombudsman's jurisdiction);
- (e) Public Statutory Bodies providing public transport services;

- (f) the conduct of Operator employees, agents or contractors; and
- (g) Operators' use of premises or effect on someone else's premises.

Paragraph 4 of the Charter limits the PTO's jurisdiction to exclude some types of complaints. In summary, the listed exclusions are:

- (a) the setting of prices;
- (b) commercial activities that do not closely relate to the core public transport services provided by Operators;
- (c) the content of Government policies, legislation, licences and codes;
- (d) matters that have been or are under consideration by a court of tribunal;
- (e) matters specifically required by legislation or subordinate rules or that the PTO has agreed will be handled by the PTV or another government authority;
- (f) actions taken by an Operator in response to an Instrument issued by a regulator of administrative agency relating to public transport reliability, security, emergency procedures or safety;
- (g) any Free School Bus Service;
- (h) adequacy of current timetable routes or frequency;

- (i) serious misconduct by Authorised Officers referred to the Victorian Ombudsman; and
- (j) Victorian Public Statutory Bodies that do not provide public transport services.

In 2013/14, there were 836 complaints that were outside the PTO’s jurisdiction. 691 of these complaints were about infringement notices.

### 8.1.1. Findings

Nothing was drawn to our attention in the course of our review that suggests that the Charter unduly restricts the PTO’s scope.

## 8.2. Financial limit

Paragraph 6.1 of the Charter prevents the PTO from making a Binding Decision in relation to a claim or a related set of claims that costs the Operator more than \$5,000 – or \$10,000 if all parties consent to the higher limit.

We understand from the PTO that it has not received any claims for amounts in excess of \$5,000. Accordingly no matters have been excluded on the basis of the financial limit.

**Fig 8: Redress value in 2013/14**

Redress for investigated complaints	Average	Range
Refund	\$124.33	\$1.08 - \$2,216.00
Goodwill gesture	\$57.47	\$3.00 - \$776.88
Ticket compensation	\$22.43	\$3.00 - \$50.00
Other monetary compensation	\$163.23	\$22.30 - \$435.90

### 8.2.1. Findings

We concluded that the PTO monetary limit is sufficient and is consistent with the nature, extent and value of customer transactions in the public transport industry.

## 8.3. PTO powers

Paragraphs 5 and 6 of the Charter set a framework for PTO procedures and give the PTO the power to investigate complaints, including the ability to collect relevant documents, to decide not to further investigate and to make Binding Decisions. We discuss earlier in our report the manner in which these powers have been exercised.

### 8.3.1. Findings

Again nothing was drawn to our attention in the course of our review that suggests that the PTO’s powers are unduly limited.

## 8.4. Constitutional structure to achieve independence

The PTO's Charter and Constitution specify the Board structure, which features an independent Chairperson appointed by the Minister and equal numbers of Industry Directors (appointed by industry) and Consumer Directors (appointed by the Minister representing the interests of public transport users).

The practice is for Consumer Directors to be appointed for a 3 year term. The Minister has just announced the most recent appointment, filling a vacancy created in late June this year.

The Board's duties include the appointment of the Ombudsman, monitoring the Charter and considering whether to recommend amendments to the Minister, determining PTO policies and practices, ensuring sufficient funding of the PTO and approving its budget and overseeing the Ombudsman's management of resources.

### 8.4.1. Stakeholder views

A number of stakeholders (from both industry and community) raised with us that there would be value in having at least one Community Director who more directly represents public transport users. Some felt that it was important that at least one of the community Directors be 'plugged in' to the consumer organisations around Victoria.

A longer term - of up to 5 years - was also suggested as a way to enable Community Directors to build knowledge and give them more standing in the PTO Boardroom.

Some stakeholders also noted that two Consumer Directors' terms end in the second quarter of 2015 as does the Chair's term. This creates potential for considerable change on the Board occurring all at the same time.

### 8.4.2. Findings

We agree that it would be best practice to have Directors leaving office at different times in order to allow for refreshment whilst ensuring sufficient continuity on the Board to maintain its effectiveness. In the case of the three Directors whose terms finish mid next year, it would assist continuity if at least one were to be given a short extension to spread out the dates on which Directors leave and new Directors come onto the Board.

Given that PTO Consumer Directors are appointed by the Minister, there is always a risk that the Board's skills needs will take second place compared with the political considerations of appointments to a voter-sensitive Board - and that Board change will tend to occur with the political cycle. We think that at least some Directors being appointed for 5 year terms would tend to mitigate against this.

We must repeat the observation we made in our 2009 report. Unlike many other Industry-based EDR schemes, the Consumer Directors for the PTO Board have not been drawn from consumer activist ranks. We understand that this is in order to obtain a balanced spread of representatives of the public users of the transport system and in part reflects the shape of the activist groups in public transport - who are largely focused on government policy issues.

However, we continue to think that this may leave the PTO Board at some risk of criticism over whether it sufficiently represents

consumers. We think that there would be merit in having at least one Consumer Director from a consumer advocate background and at least one Consumer Director from Regional Victoria thereby achieving greater diversity amongst the group of Consumer Directors – albeit we would avoid setting this as an inflexible policy – or embedding it in the PTO’s constituent documents.

#### **Recommendation 8.**

**The PTO should discuss with the Minister’s Office the issues we have raised concerning Consumer Director appointments, with a view to developing a framework for the appointment of future Consumer Directors that includes staggered appointment dates, longer terms and more Board diversity.**

## 9. INTERNAL MANAGEMENT

### 9.1. Case management system

Like many other Australian EDR schemes, the PTO uses 'Resolve' as its complaints case management system.

Our file review and discussions with PTO staff suggested that Resolve is being used effectively and that Resolve permits the issues and current status of a complaint to be readily identified. Also it would seem that Resolve is being used by staff in a consistent way that permits the generation of reliable data.

### 9.2. Procedures

The PTO has good documented procedures including: a Case Handling Manual that was last updated in April 2014, an Investigations Framework that provides a high level overview of the PTO's investment methodology and an Investigation Checklist for conciliators to structure and record their investigative step.

### 9.3. Staffing

The PTO is a small organisation. This can make it difficult to accommodate fluctuations in complaint volumes. To achieve flexibility and help it to manage the variation in complaint volumes that is an inevitable feature of all EDR schemes, the PTO has organised short term secondments from the Energy and Water Ombudsman Victoria. We think that this is a sensible strategy.

A small organisation can also impose restrictions on the promotional opportunities available to staff and can have the result that staff turnover is higher than in a larger organisation. In fact, the PTO has been through a recent period of high turnover with half of its staff having begun with the PTO less than 6 months ago. Of the six staff who investigate and resolve complaints, the Ombudsman and only one other staff member has been with the PTO for more than 12 months. Further change is now imminent with the departure of the existing Ombudsman.

Inevitably this turnover in personnel places pressure on the organisation while new staff are recruited, upskilled and grow into their roles. A couple of Operators made observations about this as a recent development.

#### 9.3.1. Findings

The PTO's structure was recently revised with the creation of the senior position of Operations Manager. We think that this was a sound initiative that should help the organisation with its imminent transition. Going forward, we think it will be important for the Board and new Ombudsman to monitor staff turnover and see what can be done to promote staff continuity. We note that some of these measures may involve some additional cost.

#### Recommendation 9.

**The PTO Board and new Ombudsman should monitor staff turnover and develop strategies to promote staff continuity.**

## 9.4. Skills and training

The PTO conducts induction for new staff and has developed materials for this purpose including Powerpoint presentations *PTO 101 Staff Induction* and *What is an Ombudsman*. For a PTO Conciliator, the program of induction includes an introduction to the Charter, Resolve, the Case Handling Manual and the Victorian Fares and Ticketing Manual.

Ongoing staff training is provided through industry and community group conferences and presentations, external seminars and tailored PTO training. This encompasses complaints handling, legal knowledge, industry knowledge, writing skills and special interest group issues and skills. PTO Conciliators all undertake mediation training. A number of PTO staff have been able to attend externally facilitated, PTO-organised Operator training workshops dealing with issues such as managing difficult behaviours and accessibility awareness.

On an individual level, each PTO staff member has a Development Plan that is agreed with their manager in conjunction with their annual performance appraisal. The PTO's policy is to offer leave for approved study, even if its training budget does not permit fee support.

Lastly, the Ombudsman and the Operations Manager attend the Australian and New Zealand Ombudsman Association conferences and use this to keep abreast with EDR developments.

### 9.4.1. Stakeholder views

In interviews, concern was expressed by some Operators that recent staff turnover has resulted in a decline in the knowledge and skill levels of PTO staff. To build PTO knowledge, one Operator suggested that

PTO Conciliators would benefit from a site visit to learn more about their public transport service.

### 9.4.2. Findings

In our file review, we saw a couple of examples where the industry inexperience of staff was apparent, delaying the resolution of the complaint. This lent support to Operator feedback. We also note at paragraph 6.5 the need for training to regularly reinforce a constructive tone in PTO complaints correspondence.

This all underscores the importance of the PTO continuing to invest in training its staff, particularly while staff turnover is high. We understand that there are time and budget constraints that can make this difficult. Nevertheless we think that priority needs to be given to making time for training initiatives such as site visits to Operators. While we understand that much staff development occurs in an on-the-job and informal way, an adequate training budget is also important. This year's professional development budget for staff is \$28,000, which represents 1.5% of budgeted salaries. Best practice is generally accepted to be around 4.5% - and for a knowledge business such as the PTO, with many new staff, we would expect that a higher rather than lower budget is likely to be necessary.

Finally we recommend that the Board continue to support the Ombudsman's participation in ombudsman conferences. Our experience of these is that they deliver value by providing an opportunity to share ideas, for example, about how to build efficiencies and keep up with an ever increasing flow of complaints and how best to structure stakeholder engagement. In addition, they provide valuable peer support in what can be a difficult role.

### Recommendation 10.

The PTO should develop and document a comprehensive office-wide training plan that includes initiatives to build industry specific knowledge (including by undertaking site visits to Operators), legal knowledge and general complaints handling skills (including to promote a constructive approach to both parties to the complaint). The plan should continue to include participation by the Ombudsman and Operations Manager in ombudsman conferences. Given the turnover in staff, the Board should be prepared to add to this year's Professional Development budget (if necessary by dipping slightly into reserves) to fund the training plan.

## 9.5. Supervision

Staff supervision at the PTO is largely performed by the Operations Manager to whom Case Officers, Conciliators and the Policy and Research Officer reports. The Operations Manager reviews all Case Assessments and upgrades of investigated complaints.

Our discussions with staff and review of files suggested that supervision practices are effective.

## 9.6. Planning processes

The PTO has a five year Strategic Plan. An annual business plan and budget is prepared. Projects are identified by reference to PTO's strategic objectives which are referenced back to the EDR

Benchmarks. Success measures for projects are articulated and reporting against these occurs.

We were satisfied that planning processes are practical and appropriate for the size of office.

## 9.7. Complaints about PTO's performance

The PTO's website includes information about how a complaint may be made about the PTO and the process for dealing with these. A link is provided to the *PTO Internal Complaint Handling Policy March 2014*. This specifies that a complaint will be acknowledged and a substantive response provided within 20 calendar days. The PTO maintains an internal register of complaints about the PTO.

We reviewed three complaints about the PTO's performance. The two more serious complaints were escalated to the Ombudsman, investigated and a detailed and timely response provided. We were satisfied that the PTO is effectively implementing its policy and dealing with these complaints.

## 10. ENGAGEMENT WITH STAKEHOLDERS

To be effective, the PTO needs to engage productively with all stakeholders.

### 10.1. Engagement with Operators

The PTO meets quarterly with all Operators at the Quarterly Customer Feedback Roundtables convened by the PTV at which complaint trends are discussed.

The PTO has regular one-on-one meetings with all Operators. The Chair and the Ombudsman meet with each Operator's CEO twice yearly. The Operations Manager meets monthly with the PTV and aims to meet every 6 weeks with other Operators.

#### 10.1.1. Findings

We were satisfied that the PTO is building productive relationships with the Operators. We heard positive feedback from Operators about the Ombudsman's accessibility and willingness to participate in dialogue, attend meetings and contribute to sector-wide interactions.

Whilst there have been tension points, most particularly in relation to the PTO's budget a couple of years ago, the consensus seemed to be that relations have improved since then.

Here we note that all EDR schemes experience some tension from time to time with some of their members (and this is almost a

necessary corollary of their independent perspective). For the PTO, relations with members are potentially complicated by the fact that the PTV as transit authority is able to make requests of the PTO that can have flow on effects for the other Operators, for example, the PTV's recent request that timetabling complaints are referred to individual Operators. Where this is the case, the PTO needs to clearly explain this to the other Operators. This environment makes it all the important that the PTO continue to work at its operational-level relationships with Operators and that diary difficulties do not result in the regularity of meetings slipping.

During the course of our review, we came across a couple of situations where the PTO had not managed to effectively communicate to Operators a change in process: see paragraph 6.2 for one example. This suggests that more operational-level contact is required. We also heard from a new Operator that they would have liked more operational-level support from the PTO in their early months.

#### Recommendation 11.

- a) **The PTO should ensure that the regularity of its operational-level one-on-one meetings with Operators is maintained and reported on to the Board.**
- b) **Where the PTO makes a change in process, it should develop a multi-faceted strategy (email, the On Track newsletter and face to face meetings) to communicate to Operators the change and the reason for the change.**

## 10.2. Engagement with Community organisations

The PTO has been proactive in building relationships with community organisations, particularly those representing disadvantaged Victorians with a dependence on public transport. Our meetings with community organisations demonstrated how much they had appreciated the Ombudsman's efforts in this. On the other hand, some Operators have queried the PTO's availability to these community organisations and have suggested that they do not represent the majority of public transport users.

### 10.2.1. Findings

We think that the PTO plays an important role in reaching out to community organisations – for awareness building and other educative purposes and to build the understanding within the PTO that it needs to assess complaints involving the disadvantaged eg. how widespread a problem is and possible solutions. This is all the more important work given that the PTO Board is not well connected with community organisations and so is not a source of this input. It is moreover work that the PTO is doing in a resource efficient manner. In our view, this is excellent work that should continue.

### Recommendation 12.

The PTO should continue its current level of engagement with community organisations to build understanding of the PTO's role and to build PTO understanding of the issues involving the disadvantaged.

## 10.3. Bringing stakeholders together

In late 2012, PTO established a Stakeholder Consultative Committee comprising two consumer representatives, two industry representatives and two PTO representatives. This Committee meets twice a year and, for example, had input into the change of process for complaints referred for internal escalation and the revision of the Systemic Issues Policy. We have received some feedback that Committee members think that it is a good initiative to bring together different types of stakeholders in this way.

In February 2014, the PTO held a Strategic Directions Forum that was attended by Board members, the Ombudsman, community group representatives and Operator representatives. Another Forum is planned for March 2015.

### 10.3.1. Findings

We think that the PTO should be commended for these initiatives. We caution that participant enthusiasm for stakeholder-wide forums is likely to wane if these are not carefully structured to ensure that both

Operator and community organisation input is carefully balanced and that tangible outcomes are achieved. As the first forum, the March 2014 forum was explorative in nature. The next forum would probably benefit from a tighter structure and clearer idea of what outcomes are desired. We have discussed this with the PTO's management and they confirm that this is the intention. So we see no need for recommendations as to this.

## II. RESOURCING

The PTO must be sufficiently resourced to carry out its dispute resolution responsibilities in a way that meets the EDR Benchmarks.

### II.1. Adequacy of funding

We do have some concerns about the PTO's funding. Whilst the funding seems to have mostly permitted the PTO to manage its workload when it has been fully staffed, the funding does not seem to have provided room to manage staff shortages - eg. the two month Conciliator vacancy earlier this year.

Workload pressures have also deferred training initiatives and meant that the PTO has not adhered fully to its planned program of operational-level Operator meetings: see paragraphs 9.4 and 10.1.

This year's budget provides a salaries' increase of 6.8% as compared with 2013/14 budget. After excluding 3% for inflation, this provides a real increase of 3.8%. The Board will need to watch to see if this increase is enough to remedy this position, bearing in mind that a new Ombudsman will inevitably need some assistance from the senior staff in settling into the role. We also have some doubts about whether the training budget for 2014/15 will be adequate given the need to upskill new staff: see paragraph 9.4.

#### II.1.1. Findings

We applaud tight Board oversight of funding and certainly understand the need for cost-effectiveness. We also understand that the

Operators through their past actions have indicated their preparedness to reject a budget than includes even a fairly modest increase on the previous year's budget.

In the context of a multi-billion dollar public transport sector, it seems to us that the details of a tiny budget for a consumer protection mechanism could be seen to be getting undue attention.

We think that when the Board considers the PTO's 2015/16 budget, it should ensure that it is satisfied that this explicitly accommodates the issues we have identified. Two of the few areas of criticism of the PTO from stakeholders relate to staff shortages (length of time for some complaints) and training (staff knowledge).

#### Recommendation 13.

**The Board should ensure that the PTO's future funding is sufficient – and that stakeholders will see it as sufficient - to address the issues we have identified.**

### II.2. Efficiency of PTO's use of its resources

We saw an organisation that is modest in its accommodation and equipment. Its salaries seem to be appropriate – perhaps a bit low as reflected by loss of staff to other competing areas. Conversations included considerable concern for being economical and an admirable cost-consciousness. Whilst our scope of work did not include detailed

process mapping, we did not identify any obvious efficiencies that could be made.

## 12. EDR BENCHMARKS

The following tables assess the extent to which the PTO meets the EDR Benchmarks.

### 12.1. Accessibility

Key Practices	PTO compliance
Awareness/ Promotion	<p>The PTO has an outreach program and uses the media to promote customer awareness of its existence and is sensitive to the needs of disadvantaged customers: see paragraph 5.3.</p> <p>The PTO produces consumer material (see paragraph 5.1) and requires Operators to publicise the PTO (see paragraph 5.3).</p>
Access	<p>The PTO ensures State wide access to customers via the internet and a toll free number. Complainants can submit their complaint orally and are not required to put their complaint in writing. Ease of access is discussed at paragraph 6.3.</p>

Cost	The PTO provides its services free to customers.
Staff Assistance	PTO staff have the ability to handle customer complaints and explain how the scheme works. Training is discussed at paragraph 9.4.
Use	The PTO is easy to use for customers to use: see paragraph 6.3.
Non-adversarial Approach	The PTO primarily relies upon conciliation as the mechanism for resolving complaints: see Chapter x. Its processes are non-legalistic.
Legal Representation	PTO complainants are almost never legally represented.

## 12.2. Independence

Key Practices	PTO compliance
Decision-maker and staff	The Ombudsman is appointed by the Board. The Ombudsman appoints staff. They are not answerable to Operators or the Board for the way in which specific complaints are handled.
Overseeing entity	The PTO is a public company. Its Constitution provides for a Board with equal numbers of Industry Directors and Consumer Directors and an independent Chair: see paragraph 8.4. The Board appoints the Ombudsman and oversees the PTO.
Funding	The PTO is funded by levies paid by the Operators. Levies are determined annually by the Board and are based on the amount required to fund the PTO Scheme. The Annual General Meeting of Operators is required to approve the PTO's budget. If the budget is not in fact approved, the Constitution requires the matter to be referred to the Secretary of the Department of Transport or in some circumstances to an independent consultation. Resourcing is discussed in paragraph 11.1.
Charter	The Charter is annexed to and part of the Constitution. It sets out how the PTO Scheme operates. Amendments must be approved by the Board and also require the prior written consent of the Minister. The Charter was last amended in June 2013.

## 12.3. Fairness

Key Practices	PTO compliance
Binding Decisions	The Ombudsman has the power to make binding decisions. In handling complaints, the Ombudsman must have regard to the law, industry codes and good transport industry practice.
Procedural fairness	The PTO accords procedural fairness to the parties. Both parties are provided with an opportunity to put their case and are provided with sufficient information to know the case of the other party. In November 2008, the PTO Scheme's only Binding Decision was made - reasons were provided. If a complaint is excluded, reasons are provided to the complainant.
Provision of information	The PTO asks parties to provide relevant information. It has power to determine that Operator documents are to be produced, unless third party confidentiality considerations apply.
Confidentiality	The Charter does not impose an obligation on the PTO or the parties to maintain confidentiality. In the public transport context, we think that this is appropriate.

## 12.4. Accountability

Key Practices	PTO compliance
Binding Decisions	The PTO publishes Binding Decisions but in a way that protects the privacy of the customer. Case Studies are published to educate Operators and the public about the PTO's approach and to build confidence in the PTO's consistency and fairness.
Reporting	The PTO publishes informative Annual Reports on its website that include statistical information, Case Studies, information about systemic problems and other data. Information is provided about each Operator's complaints.

## 12.5. Efficiency

Key Practices	PTO compliance
Appropriate Process or Forum	The PTO deals only with complaints within its jurisdiction and only after the complaint has been through the Operator's internal complaints process. Where relevant, the PTO refers complaints to other fora. Where complaints raise systemic issues, these are referred to the relevant Operator: see paragraph 7.3.  The Ombudsman has a discretion not to investigate if investigation is not warranted: see paragraph 6.4.
Tracking of complaints	The PTO has a case management system that enables tracking of complaints. Timeliness is discussed at paragraph 9.1.
Monitoring	The PTO has identified projects to achieve its strategic objectives and objective measures to assess its performance in relation to these. It also has Key Efficiency Indicators for its complaints handling: see paragraph 6.7.  The PTO's case management system provides a record of all complaints and enquiries and their progress.  The PTO has undertaken 5 yearly reviews of its performance. It has also undertaken customer surveying. Regular engagement with Operators provides an opportunity for feedback from them. Review reports and analysis of customer surveying is provided to the Board.

## 12.6. Effectiveness

Key Practices	PTO compliance
Coverage	The Charter clearly sets out the scope of the PTO and its powers. Paragraphs 8.1 and 8.3 discuss the sufficiency of these to deal with the majority of complaints. Paragraph 8.2 discusses the financial limit.
Systemic problems	The PTO has mechanisms for referring systemic industry problems to the Board where the Operator fails to address these adequately.
Scheme performance	The PTO has procedures for receiving complaints about the scheme, identifying improvement opportunities for these and keeping the Board informed about complaints about the scheme.
Internal complaints mechanism	Operators are required to have internal complaints mechanisms. The PTO discusses with Operators improvements to these where warranted.
Compliance	The PTO has mechanisms to encourage Operators to abide by the Charter. Operators must comply with Binding Decisions.
Independent review	The PTO has had independent reviews every 5 years to assess the scope of the PTO, performance against the EDR Benchmarks, satisfaction with the PTO, the quality of dispute resolution, access to the PTO and the effectiveness of the Charter. These have involved consultation with stakeholders. Review reports are made public.

## 13. LIST OF RECOMMENDATIONS

This section provides a summary of all Recommendations made throughout the Report. In this section, they are loosely grouped with thematically similar Recommendations. For ease of reference to the supporting text, they retain the number given to them in the body of the Report – which in some cases will not be in number order.

### 13.1. Additional initiatives to enhance the PTO's accessibility

#### Recommendation 1.

The PTO should continue to encourage Operators to participate with the PTO in complaints handling awareness building presentations. For example, if the PTO is making a regional presentation, the PTO should invite V/Line to participate. This would help to ensure that internal dispute resolution is pursued by complainants before they access the PTO.

#### Recommendation 2.

The PTO should work with the PTV and other Operators with a view to establishing expectations that Operators display posters in trains, trams, buses, railway stations and depots that make customers aware of the availability of the complaints handling process including the PTO's role in that process.

#### Recommendation 3.

In its next round of complainant surveying, the PTO should identify complainants whose complaint was previously considered by the PTV Customer Advocate and test whether that step was perceived as adversely affecting the ease of access to the PTO. In particular, it will be important to test whether these complainants were aware that they could have bypassed the PTV Customer Advocate step and whether they elected to go to the PTV Customer Advocate understanding the difference between it and the PTO. If surveying suggest grounds for concern, the PTO should work with the PTV and other Operators with a view to devising communication strategies to address the concerns.

## 13.2. Improve timeframes for the longer running complaints

### Recommendation 4.

The PTO should challenge itself to reduce the ‘tail’ of complaints by progressively introducing more stringent key efficiency measures for investigated complaints. The aim should be to achieve preferably by 2015/16 75% of investigated complaints finalised within 45 days and 85% of investigated complaints finalised within 60 days.

## 13.3. Work to further strengthen relations with stakeholders

### Recommendation 5.

The PTO should consult with the Operators to see if they would like their periodic reporting to include trend analysis and if so the types of information that would be valued. If the feedback suggests this is appropriate, the PTO should be willing to tailor its reporting to meet Operators’ needs. If necessary, a charge could be made for extra reporting to an

Operator on a cost recovery basis.

### Recommendation 11.

- a) The PTO should ensure that the regularity of its operational-level one-on-one meetings with Operators is maintained and reported on to the Board.
- b) Where the PTO makes a change in process, it should develop a multi-faceted strategy (email, the On Track newsletter and face to face meetings) to communicate to Operators the change and the reason for the change.

### Recommendation 12.

The PTO should continue its current level of engagement with community organisations to build understanding of the PTO’s role and to build PTO understanding of the issues involving the disadvantaged.

### 13.4. Working with Operators to address systemic issues

#### Recommendation 6.

The PTO should work to increase Operator understanding of its revised Systemic Issues Policy, for example, emailing this to Operators with a short summary, referring to it in one-on-one meetings and explicitly referring to it when systemic issues are referred to Operators.

#### Recommendation 7.

Where the PTO's complaints work highlights important general themes, the PTO should continue to contribute these to the public domain through a special purpose public report developed in consultation with all Operators. Given the PTV's role as transit authority with responsibility for systemic improvement, the PTO should also work closely with the PTV when framing PTO suggestions for future direction.

### 13.5. Ensuring the ongoing strength of PTO governance

#### Recommendation 8.

The PTO should discuss with the Minister's Office the issues we have raised concerning Consumer Director appointments, with a view to developing a framework for the appointment of future Consumer Directors that includes staggered appointment dates, longer terms and more Board diversity.

## 13.6. Addressing internal management issues

### Recommendation 9.

The PTO Board and new Ombudsman should monitor staff turnover and develop strategies to promote staff continuity.

### Recommendation 10.

The PTO should develop and document a comprehensive office-wide training plan that includes initiatives to build industry specific knowledge (including by undertaking site visits to Operators), legal knowledge and general complaints handling skills (including to promote a constructive approach to both parties to the complaint). The plan should continue to include participation by the Ombudsman and Operations Manager in ombudsman conferences. Given the turnover in staff, the Board should be prepared to add to this year's Professional Development budget (if necessary by dipping slightly into reserves) to fund the training plan.

### Recommendation 13.

The Board should ensure that the PTO's future funding is sufficient – and that stakeholders will see it as sufficient - to address the issues we have identified.