



Access to Public Transport gives you access to your community and a better life

**AFDO Submission to the 2012 Review of the Disability
Standards for Accessible Public Transport 2002**

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About the Australian Federation of Disability Organisations (AFDO)

The Australian Federation of Disability Organisations (AFDO) welcomes the opportunity to provide a response to the Australian Government in order to improve access to public transport for people with disability in Australia.

AFDO has been established as a primary national voice to Government that fully represents the interests of people with disability across Australia.

The mission of AFDO is to champion the rights of people with disability in Australia and help them participate fully in Australian life.

Current AFDO member organisations are:

- Ann McDonald Centre
- Arts Access Australia
- Australia for All Alliance
- Australian DeafBlind Council
- Australians for Disability and Diversity Employment
- Blind Citizens Australia
- Brain Injury Australia
- Deaf Australia Inc.
- Deafness Forum of Australia
- Disability Justice Advocacy Service Inc.
- Disability Resources Centre
- Ideas
- National Association of People Living with HIV
- Physical Disability Australia
- National Ethnic Disability Alliance
- People With Disabilities WA
- Wise Employment
- Short Statured People's Association of Australia
- Disability Advocacy and Complaints Service of South Australia

Introduction

The stated purpose of the *Disability Standards for Accessible Public Transport* (Transport Standards) is to enable public transport operators and providers to remove discrimination from public transport services. Unfortunately the implementation of the Transport Standards has not translated into consistent equitable access to public transport for people with a disability in Australia.

There are instances and locations where people with a disability have limited or no access to public transport services which restricts their access to employment, education and training, recreation and prevents them from becoming valued contributing members of society.

This is particularly concerning given the significant change in the policy context designed to improve the lives of people with a disability through a human rights based approach. Since the last review of the Transport Standards in 2007, Australia has become a signatory to the United Nations Convention of the Rights of Persons with a Disability, the National Disability Strategy has been released and legislation has been enacted for the introduction of a National Disability Insurance Scheme. Given this increased emphasis on improving the lives of people with a disability, it is time to translate the intent of these instruments into reality to ensure people with a disability are valued and treated as equal citizens of Australia.

United Nations Convention of the Rights of Person with a Disability

In addition to the legal enforceability of the human rights of people with a disability through the Disability Discrimination Act 1992, the ratification of the United Nations Convention of the Rights of People with a Disability (CRPD) by the Australian Government in 2008 has created additional obligations for reform in Australia.

The Convention directs signatories to, *'take appropriate measures to ensure persons with disabilities have access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas'* (Article 9 Accessibility).

In light of the legislative framework in Australia, and Australia's obligations under the CRPD, the long timelines specified in the Transport Standards are unacceptable. The twenty to thirty year timeline for full compliance under the Transport Standards means that many people with a disability will never have equal access to public transport. Another example of these unacceptable timelines is the proposed process for equal access to school buses. This process is proposed to begin in 2029 with full compliance

by 2044. This means that a student with a disability who starts school in 2014 will complete year 12 before the process for making school buses accessible begins. The Australian Government has committed to 'in principle' that school buses need to be accessible to students with a disability, this needs to be implemented rather than 'discussed' and 'progressed' or 'reviewed'.

State jurisdictions have argued that there is no unmet need in regard to students with a disability accessing school with the current school bus exemption in place. There needs to be an investigation into the current and future needs of students with a disability to have access to school buses to enable them to attend the school of their choice.

History has shown us that when compliance with The Standards becomes difficult for transport providers or operators, they either apply for an exemption from compliance or a time extension. Both of these alternatives are to the detriment of people with a disability, the very people whose human rights are to be advanced through existing legislation and the CRPD.

Recommendation 1

That equal access to public transport for people with a disability is the first priority under the Transport Standards with resources and processes put in place for this to be achieved in much shorter timelines.

Recommendation 2

That the process to ensure school buses are accessible to students with a disability begin immediately and the disability sector be funded to undertake an investigation into the unmet transport needs of students with a disability to attend schools of their choice.

National Disability Strategy 2012-2020

The Vision of the National Disability Strategy is, '*An inclusive Australian society that enables people to fulfill their potential as equal citizens*'. Policy Direction 4 of The Strategy is, '*A public, private and community transport system that is accessible for the whole community*'. It is hard to imagine how this vision and policy direction can become a reality without shorter timelines for making public transport accessible to people with a disability. To reiterate a previous example, the current National Disability Strategy will expire nine years before the proposal to make school buses accessible begins.

It is fundamental that people with a disability are able to move around in their community to achieve equity in participation in almost every area of life. Without this freedom of movement, access to employment, education, training, recreation and all forms of civic participation are severely restricted and people with a disability will continue to experience discrimination and exclusion.

National Disability Insurance Scheme

The introduction of a National Disability Insurance Scheme (NDIS) is the most significant reform in the disability sector for decades. The Objects and Guiding Principles contained in the National Disability Insurance Scheme Act 2013 aim to put people with a disability and families in control and provide sufficient support for them to participate in their communities in the way they choose. An accessible public transport system is fundamental to the success of the implementation of the National Disability Insurance Scheme in Australia.

If people with a disability cannot access their community due to lack of access to public transport, their life choices will be severely restricted. Also if a person with a disability cannot access trains, trams or buses and has to rely on more expensive taxi services, the cost of their funding package will increase. This will result in people receiving less support to meet their needs and collectively make the implementation of the NDIS more expensive.

Systemic Issues in implementing the Disability Standards for Accessible Public Transport.

The Australian Government response to the 2007 Review of the Transport Standards highlights a number of systemic issues. AFDO contends that there has been little progress in addressing these issues.

In addition to these systemic issues, a fundamental problem is that the Australian Government response to the 2007 review of the Transport Standards was only released to the public in June 2011, some four years after the review was completed. With the second review commencing in 2012, this left little time for changes in processes to be implemented and evaluated. For the review process of the Transport Standards to be effective, administrative processes need to be streamlined and information released to the public in a more timely manner.

Shortcomings in data required to measure performance

The Commonwealth Government response to the 2007 Review of the Transport Standards states that, *'Whilst a quantitative estimate of the progress against the five year milestones is not possible due to the lack of detailed and comparable reporting, the Review reports evidence of increased investment in accessible public transport and growth in accessible services and infrastructure.'*

This statement raises the question of the validity of the whole review process of the Transport Standards to date. The 2007 Review Report states that some targets were not met, how do we know if *'a quantitative estimate of the progress against the five year*

milestones is not possible... How do we know if a public transport operator or provider has reached the target percentages contained in Schedule 1? The 2007 Review report indicates that a detailed and comparable reporting process for the 2012 Review is still not in place to assess the success of the implementation of the Transport Standards. AFDO is not aware of any significant changes in the reporting process that would make the 2012 Review more accurate and meaningful.

There is also a question about how the percentage of compliance is calculated. In Victoria public transport operators claim 100% compliance in the provision of information. This is clearly not the case with audible announcements not being made consistently on trams, trains and buses, timetables not being available in accessible formats and information about bus routes also not being available in accessible formats.

Recommendation 3

That a detailed and comparable reporting process be put in place as a matter of urgency for subsequent five-year reviews of the Transport Standards.

Compliance processes reliant on complaints being initiated by people with a disability

There are many examples of public transport operators and providers not meeting the targets contained in Schedule 1 of the Transport Standards and thus being in breach of the Disability Discrimination Act 1992 (DDA). Two clear examples of this are Wheelchair Accessible Taxis not having the same response time as other taxis and audible announcements (and equivalent messaging for people who are deaf or have a hearing impairment) not being made on trams and trains in Melbourne. Both of these targets should have been met in 2007. This highlights the lack of enforceability of the Transport Standards. If compliance with the Transport Standards is not enforced, this will lead to non-compliance.

The complaints process for non-compliance with the Transport Standards mirrors the complaints process under the DDA. It is well documented that the complaints process under the DDA can be daunting, protracted, expensive and inequitable with many people with a disability not lodging complaints. In Victoria the Equal Opportunity and Human Rights Commission has the power to take action on systemic issues brought to its attention.

AFDO would like to highlight a recent Federal Court decision which raises some significant concerns about the application of the Transport Standards. In the recent *Harraksin v Murrays* decision the Federal Court stated that a breach of the Transport Standards in and of itself could not constitute unlawful discrimination. This appears to be in direct contradiction to the relevant sections of the DDA, but there is a concern that the decision could create a precedent. Given it is a Federal Court decision it overrides the decision in relation to *Innes v RailCorp*, which was made in the Federal Magistrates Court (a lower court). This unclear connection between a breach of the Transport

Standards and a breach of the DDA highlights the complexity of the current complaints process and the need for a process to address systemic issues more effectively and efficiently.

Recommendation 4

That the Australian Government initiates a process to address systemic issues associated with non-compliance with the Transport Standards without the need for individual complaints under the DDA.

Feedback and Recommendations from AFDO Member Organisations

To ensure AFDO's response to the review of the Transport Standards reflects the collective views of people with a disability, all state and national member peak organisations were contacted to find out what the issues are and how they can be addressed. Please see a summary below of the feedback received and recommendations for future action. This summary has been listed by disability type from information received from member organisations.

Transport issues for people who are blind or vision impaired

Issues

- Public transport information is not always available in accessible formats to meet the needs of people who are blind or vision impaired.
- The delivery of disability awareness training for public transport management and staff is not mandatory in the Transport Standards. Well informed staff who have awareness of access issues for people who are blind or vision impaired can often make access to public transport easier.
- The accessibility of new technology (e.g. smartphone apps) which provide information regarding public transport is not covered in the Transport Standards. New technology can be helpful, but it needs to be accessible to people who are blind or vision impaired.
- Silent vehicles are another example of new technology in transport. The Transport Standards need to keep up with the development of new technology and introduce compliance processes.
- Large integrated transport interchanges are becoming more prevalent in Australia. This infrastructure structures can be complex and difficult for people who are blind or vision impaired to navigate. In situations where multiple

buses are leaving from the same location, people who are blind or vision impaired have considerable difficulty identifying the bus they want and may get on the wrong bus, or be left behind.

Recommendation 5

That the Transport Standards ensure that all public transport information is available in accessible formats, including information provided through web based applications for use with portable electronic devices.

Recommendation 6

That the Transport Standards include a mandatory requirement that public transport managers and staff attend disability awareness training.

Recommendation 7

That processes and mechanisms be put in place for the Transport Standards to cover the introduction of new transport related technologies.

Recommendation 8

That the Transport Standards be amended to have a far greater emphasis on 'way finding' to meet the travel requirements of people who are blind or vision impaired.

People who are Deaf or hard of hearing

Issues

- Hearing loops are not always available in public transport buildings and vehicles
- Visual warning and information systems are not in place in emergency situations to protect the safety of people who are Deaf or hard of hearing. This also applies to information regarding the rescheduling of transport services.
- Although people who are Deaf are frequent users of SMS facilities, not all of them are competent users of new technology. New technology to provide information should not be seen as the total solution to the information needs of people who are Deaf or hard of hearing.
- Poor quality sound systems can make audible announcements difficult to hear for most people, but for people who are hard of hearing these announcements are often inaudible.

Recommendation 9

That the Transport Standards ensure that hearing loops and visual information, including emergency warnings, are available in all public transport infrastructure and conveyances.

Recommendation 10

That the Transport Standards specify that web based and electronic information does not totally replace other forms of information that are accessible to people who are Deaf or hard of hearing.

Recommendation 11

That the Transport Standards include guidelines as to the volume and clarity of audible announcements.

People with a disability from Non English Speaking Backgrounds (NESB)

- The additional needs of people with a disability from NESB are not adequately addressed in the Transport Standards
- People with a disability from NESB are not aware of their rights and complaint processes and assistance available through the Australian Human Rights Commission.

Recommendation 12

That the Transport Standards be amended to include measures to meet the additional needs of people with a disability from NESB.

Recommendation 13

That measures are taken to ensure people from NESB with disability are more aware of the role of the Australian Human Rights Commission in resolving complaints and that foreign language interpreters will be provided for people from NESB wanting to learn about their rights or seeking redress for wrongful acts done to them;

Recommendation 14

That communication tools and resources such as easy English, pictorial formats and ethnic media be better utilized to inform people with a disability from NESB of their rights.

People with a physical disability

Issues

- Railway stations having lifts and no ramps, which can cause people who use mobility devices to be stranded if there is a power failure and the lifts are inoperable.
- Buses do not stop if the passenger has a disability which prevents them from hailing the driver.
- Wheelchair accessible tram stops along a route where no wheelchair accessible trams are running.
- Lack of consistency in the dimensions of new trains, trams and buses resulting from different suppliers of these vehicles.
- Service counters are too high for people of short stature to use.
- Existing and newly constructed bus stops do not have accessible paths of travel or curb ramps to enable people with a disability to access bus services. The Transport Standards specify these access requirements but there are many situations of non-compliance.
- Crowded trains, trams and buses resulting in people with a disability having to wait for the next service.
- The poor attitude of many drivers and other staff of trains, trams and buses that people with a disability are a nuisance and it is not part of their job to do anything extra to help them.
- Transport providers avoiding their responsibility to provide direct access for people with a disability by saying they provided assisted access, but this assisted access is still very discriminatory as it requires people with disabilities to be in special places at special times and often staff are reluctant to help.

Recommendation 15

The Transport Standards should ensure that railway stations have both lifts and ramps, or more than one lift with auxiliary power supply for power outages.

Recommendation 16

That there is better co-ordination between the provision of wheelchair accessible tram stops and the running of wheelchair accessible trams in Melbourne.

Recommendation 17

That the Transport Standards incorporate more specific requirements for the design of trains, trams and buses to ensure consistency of dimensions.

Recommendation 18

That the Transport Standards include provisions which give people with a disability priority access to areas on public transport vehicles reserved for wheelchair access.

Recommendation 19

That access audits of bus stops be undertaken to identify situations of non-compliance with the Transport Standards and necessary work be carried out to provide compliant access.

People with a cognitive impairment or complex communication needs

Issues

- Complex timetables which are difficult to understand
- Confusing signage at railway stations, transport interchanges and on public transport vehicles
- Public transport operators not understanding the needs of people with a cognitive impairment or complex communication needs.

Recommendation 20

That the Transport Standards are amended to make reference to the use of easy English and pictorial formats in the provision of information. Also new timetable formats to be trialled by people with complex communication needs before publication.

Recommendation 21

That the requirements of people with a cognitive impairment or complex communication needs be included in disability awareness training for public transport managers and staff.

Issues affecting people with all disability types

- Infrastructure needs to be accessible to enable people with a disability to get to and from public transport services to ensure they are able to complete a journey 'door to door'.
- People with a disability should have access to training to teach them how to use public transport (similar to training for the MYKI system).

Recommendation 22

That linkages and processes should be created to ensure people with a disability have equitable access to infrastructure leading to public transport services covered under the Transport Standards (e.g. bus providers working with local Councils to ensure bus stops are accessible).

Recommendation 23

That training is available to people with a disability to teach them how to use public transport services.

Recommendation 24

That public transport operators be trained in the travel needs of people with a disability to enable them to deliver training to people with a disability on how to use their services.

Summary of Recommendations

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