

## **Submission**

# **Review of the Disability Standards for Accessible Public Transport 2002**

By

Robin A. King ACAA & Sheila King  
On behalf of  
Access For All Alliance Inc

Our submission will as far as possible be structured around the key questions in chapter 4 of the Issues Paper.

1.

- Has the accessibility of public transport improved since the introduction of the Transport Standards?
- How has accessibility to conveyances improved (eg, trains, buses, trams, ferries, taxis, aircraft etc changed? Can you provide examples?

### **BUSES**

No I do not think the situation has improved since the Standards were introduced. I do not believe it is valid to assess improvement with respect to single elements of the Standard. For instance, we have in the Wide Bay Area of Queensland a local bus company providing conveyances and meeting the 25% as required in Schedule 1 but they refuse to accept scooters even though they would fit in the 1300mm x 800mm allocated space. This is further compounded by the lack of accessible infrastructure. We have twenty plus bus stops that are new or have undergone major refurbishment and are still non – compliant (no access, no allocated spaces, no circulation space, no compliant TGSI's etc.). We took this to HREOC and when conciliation failed went to the Federal Court and failed. This case will be dealt with in more detail later in the submission. In fact every bus could have been compliant but as there is no supporting infrastructure they are useless.

### **RAIL**

With regard to rail transport, Queensland Rail (QR) has issued guidelines for access to the rail transport for people using mobility aids (wheelchairs & scooters). A railway guard has now been given the authority to refuse access to the train if, it is in his or her assessment too hard to provide assistance up the ramp to the railcar they can refuse entry. The wheelchair passenger will then be transported to their destination by taxi on a one off refusal basis. QR are using Workplace Health & Safety (WH&S) issues to validate these guidelines. To overcome any WH & S concerns a lifting device should be provided for the staff to overcome this problem rather than deny access to one of the most disadvantaged groups in the community. In fact QR have lifting devices at the tilt train stops but they are not used as we were told "it was a pain to manoeuvre them". QR have stated in these guidelines that if a refusal is made they will pay for a once only trip by taxi or other means of transport even though the Standards do not allow separate and parallel services for people with disabilities. Access should only be denied

### **AIRCRAFT**

There is a class action against Virgin Blue Airlines regarding their alleged discriminatory practices to passengers with disabilities. They have also imposed

profile limits for mobility aids transported on various types of aircraft. Again WH & S issues are being used as, in some cases the mobility aid would have to be turned on its side to load it into the baggage hold. These problems could be resolved by using a loading device that could rotate its load prior to entering the baggage hold area. If this sort of device was required to aid aircraft maintenance it would have been provided. The airlines have a variety of loading vehicles purpose built to speed up the turn around of the aircraft. Why not one for mobility aids and the like?

One recurring problem that appears to have become prevalent over the last twelve months is the fact that even though people with disabilities who fly via either Jet Star or Virgin are advised that they will be the last to vacate the plane they are very often left sitting on the plane for periods from 5 to 15 minutes waiting for the wheelchair which was ordered at the time of booking their flight.

This wait is compounded by the fact that when the wheelchair arrives the client is very often pushed into a departure lounge and told they will have to wait there because there are no staff to take them to the arrival carousel. The writer was on one occasion left by the Virgin staff in the departure lounge for over 20 minutes. It is made impossible for people who need a wheelchair to overcome this problem because the wheelchairs used to transport clients to the carousel are such that they require a person to push them. If wheelchairs which could be self-wheeled were used many clients would choose this method of propelling themselves to the carousel rather than waiting an unknown time for a staff member to be found to undertake this service. This constant delay in alighting from the plane and then being 'dumped' in a departure lounge is in itself discriminatory. Staff shortage should not be used as an excuse to deliver discriminatory services to people with disabilities.

Since starting this response my wife and I had to fly to Adelaide from Brisbane with Jetstar. On both the outward and return flights we did not have the requirements for wheelchair assistance registered and were told that as the aircrafts allocation of two wheelchair passengers had been filled the computer would not accept more than two wheelchair passengers. This aircraft was an Airbus A320 with a capacity of 177 passengers, and after a series of phone calls and our insistence a wheelchair arrived and we boarded the aircraft. I believe it is time that a minimum requirement for wheelchair passengers should be stated relative to seating capacity similar to that of busses to prevent this unnecessary hassle occurring.

## **TAXIS**

There is no numerical requirement in the Standard for accessible taxis unlike other forms of public transport. Recently this highlighted a real problem in that Sheila had to fly to Melbourne to collect a National Award as the representative for Access For All Alliance Inc. She flew from Sydney to Melbourne (Avalon) and after landing found that the Shuttle Bus to Melbourne was not capable of

accommodating her mobility aid (scooter). She then had to resort to booking an accessible taxi. Two hours later after waiting in the cold, a taxi arrived FROM GEELONG and when asked about the delay, the driver stated that he had only received the call 10-15 minutes ago. \$150.00 later she arrived at her conference in Melbourne. I do not believe that this situation will change even after 31<sup>st</sup> Dec 2007. The complaint mechanism must be made easier so that a risk assessment by the operator that a complaint will not be made is much harder.

## **OTHER FORMS OF TRANSPORT**

### **CLUB COURTESY BUSES (Community Transport Services)**

As stated in The Guidelines in section 1.6 community transport services are covered by the Disability Standards for Accessible Public Transport (DSAPT). Robin King is an accredited access consultant (Member of the Association of Consultants in Access Australia (ACAA)) and as such was asked by the local RSL to obtain tenders on their behalf to convert two courtesy buses for compliance with the DSAPT. The RSL provides the service to its members and visitors to the area. Queensland Transport has subsequently advised the RSL that they did not have to comply. For this type of public transport the term TARGETED GROUP must be more unambiguously defined. For instance a bus used for members of Blind Citizens Australia would be exempt, as it states a specific type of disability. If the intended interpretation is that, this exemption only applies to targeted groups with a disability that do not require the access requirements, it should be unambiguously stated.

- [How has accessibility of information changed?](#)  
We have not detected any change in the accessibility of information. It would have been helpful if an accessible bus running at a given time was designated as such on the timetable.
- [How has accessibility of infrastructure \(eg access to stations, stops, ports, piers, airports, interchanges etc. as well as access to co located facilities\)?](#)  
Nothing has changed. For instance Attachment #1 was part of an unsuccessful complaint involving 20 plus bus stops against the local council in the Federal Court. This is a NEW bus stop installation with the following non-compliant areas.
  - No access path of travel
  - No compliant surface
  - No allocated spaces for mobility aids
  - No compliant seat profile
  - No designated seats for people with disabilities
  - No tactile surface indicators

It also follows that manoeuvring areas etc are also not compliant because of the surface requirements

This bus stop is totally non-compliant yet it has been installed with a grant from Queensland Transport. There are other installations that require travel of up to 90 metres to find a place to cross the road. Access to the infrastructure must not be just a compliant path of travel but include a kerb ramp within the infrastructure and also to an accessible path of travel on the opposite side of the street where applicable if there is an accessible path of travel on the other side of the road.

Part 2.3 – Paths branching into 2 or more parallel tracks should cover this situation and should be stated in more specific terms and an example given.

- Do you consider that the changes have matched (1) the compliance requirements and (2) your expectations?
  - (1) No definitely not
  - (2) They have certainly NOT matched our expectations.
- If the changes have fallen short of your expectations, can you provide examples?

Yes we most definitely can. We are founder members of a community access group namely Access For All Alliance Inc. The group is a Queensland State Member of Australian Federation of Disability Organisations (AFDO) for cross disabilities and have received numerous National and peer awards for work in the disability sector. We were party to negotiations with HREOC for adjustable height examination beds in GP's surgeries. The Secretary Sheila King is an Associate Member of the European Consortium for Accessible Tourism.

Access For All Alliance initiated a representative claim against the Hervey Bay City Council in relation to twenty plus bus stops both new, and those that have undergone a major refurbishment that did not comply with the DSAPT.

This complaint had passed through the HREOC filter process (HREOC Act s 46PH) and proceeded to conciliation. The Council position was that if we wanted fully compliant bus stops, they would have to reduce disability access in other areas. This was of course an unacceptable "trade off" and conciliation failed. We then registered a representative complaint with the Federal Magistrates Court in Brisbane knowing we only had 28 days to respond. We were very lucky to obtain pro-bono legal representation from PIAC in Sydney. The Respondents then lodged a challenge to the validity of the claim under the constitution. The Magistrate thought that this complaint was better served in the Federal Court. Finally when we got to court the Constitutional matter was first heard. The respondents stuffed up, by failing to inform the Territories of this matter and this part of the case was adjourned. We then proceeded to a challenge to the validity of the claim. All was proceeding well until the HREOC *amicus curiae* made a submission to the court to which our barrister had objected. He basically stated that as HREOC had terminated the

complaint the complainant had to start again from “scratch”. The respondent’s legal team then jumped on the band wagon and stated that Access for Alliance could not board a bus or access the infrastructure as it was not an aggrieved person. The opportunity would not have been given to the respondents as HREOC had assessed the claim as valid. But when the HREOC friend of the court made his submission he virtually stabbed us in the back and in fact made the HREOC complaint system irrelevant.

We based our complaint on the fact that the respondents had contravened the DSAPT (DDA Section 32) on 19 specific bus stops but this could not even get to first base as we were an incorporated body and could not be deemed an aggrieved person even though the interpretations act states a corporate body can be a person.

Under Section 35.1 of the DSAPT Guidelines it clearly states:

#### 35.1 Complaint to HREOC

- (1) The primary means of ensuring compliance with the Disability Standards is through a complaint to the Human Rights and Equal Opportunity Commission (HREOC).
- (2) If a person believes that a public transport service is failing to implement the requirements of the Disability Standard, or adhere to the compliance schedule set out in Schedule 1 to the Disability Standards, the person may lodge a complaint with HREOC.
- (3) A complaint may be lodged with HREOC by an aggrieved individual or any person or group on behalf of one or more aggrieved persons..

The Federal Court Judge in her decision made assumptions that were not substantiated but to appeal her decision would have meant placing a substantial monetary deposit with the Court which was impossible.

In my view we qualified as legitimate complainants in (2) above as we had highlighted in great detail the areas of non- compliance of the infrastructure and we certainly did believe that the Standards were not being adhered to.

We also qualified in (3) above as we were a group ( Access For All Alliance Inc.) and were complaining on behalf of the members.

The result of this frustrating experience is that there are now approximately 21 bus stops that are inaccessible in the Hervey Bay area that have been given legitimacy by the failure of our complaint even though the Court did not address the body of the complaint.

**It is VERY important that part 35.1 of the DSAPT Guidelines is introduced into the DSAPT in clear and unambiguous terms. In terms that cannot be corrupted by creative interpretation by the legal system.**

Unfortunately the Guidelines are being ignored because, as we have been told many times that they have no force in law.

WE really need an interpretation similar to that contained in the issues paper on page 12 & 13. “ consumer's need only show that a provider has failed to comply with the Standards, rather than demonstrating that they have been discriminated against, thereby reducing the burden of proof on the part of the consumer.”

Examples of two of the bus stops in the complaint are attached (**See DOC # 1**).

**3. Do you consider that the level of compliance required at the end of the five year period is sufficient to have had an impact on accessibility?**

No I do not. We have buses in the area which satisfy the requirements but the lack of compliant infrastructure has rendered them inaccessible. In the other forms of transport, the operators are placing limitations on accessibility by exploiting ambiguities and undefined requirements in the DSAPT. This situation has led to even more frustration as there appears to be an increasing number of limitations being imposed by the operators.

We believe that the Standards being definitive mandatory minimum requirements should operate in a similar manner to the Building Code of Australia (BCA), where any person who feels that the BCA is not being complied with can make a complaint to the relevant authority.

It must also be noted that when (if ever), the Access to Premises Standards pass through the Federal Parliament, the premises requirements of the DSAPT will be placed in Part H of the BCA. How is that going to operate? Again we would emphasise that Part 35.1 of the DSAPT Guidelines must be given the force of law rather than an interpretation as follows:

**35.1 Complaint to HREOC**

- (1) The primary means of ensuring compliance with the Disability Standards is through a complaint to the Human Rights and Equal Opportunity Commission (HREOC).
- (2) If a person believes that a public transport service is failing to implement the requirements of the Disability Standards, or adhere to the compliance schedule set out in Schedule 1 to the Disability Standards, that person may lodge a complaint with HREOC; **or**
- (3) A complaint may be lodged with HREOC by an aggrieved individual or any person or group on behalf of one or more aggrieved persons.

With regard to (3) above, we were members of an incorporated body (GROUP) who made a representative complaint on behalf of its members who were people with disabilities and their carers. The respondent's argument was that Access For All Alliance Inc. cannot get on a bus but its members can. Therefore Access For All Alliance Inc. could not make a complaint. It is also interesting to note that Acts Interpretation Act 1901 section 22 Meaning of certain words states:

In any Act, unless the contrary intention appears:

- (a) Expressions used to denote persons generally (such as "person", "party", "someone", "anyone", "no-one", "one", "another" and "whoever"), include a body politic or corporate as well as an individual;
- (aa) individual means a natural person; .....

It would appear that had Part 35.1 of the Guideline been incorporated in the Standard, Access For All Alliance (AFAA) would have been qualified to make the complaint under both (2) and (3) and not been the victims of "well the Guidelines have no force in law".

4. [To what extent do you consider current data on accessibility are reliable? Can you provide examples of problems with data that you are aware of?](#)

In the main data on accessibility of venues and accommodation is highly suspect and is usually the interpretation of what the owner operator believes is accessible. Sheila carried out a national survey of people with disabilities on the barriers experienced when they went on holiday. Two of the main problems were highlighted:

- Could not find accessible accommodation (42.7% of participants)
- When I arrived at the accommodation it was found to be inaccessible even though it stated it was when booked. (37.3% of participants).
- Coach tours do not provide accessibility information;
- Rail transport imposes limitations for accessibility such as maximum width of scooters of 600mm;
- Rail guard can refuse access if he or she feels that it is too difficult for him/her to board in the mobility aid
- Aircraft have a limit of two wheelchairs or, the computer system does not register the requirement for wheelchair assistance because two wheelchair passengers had already booked resulting in considerable delays at the check-in counter.

None of the above are stated in the timetables etc.

5. [How could reporting of accessibility data be improved for future stages of the implementation of the Transport Standards?](#)

The level of compliance could be stated on transport documentation (timetables etc) and any additional restrictions clearly stated. Numerical requirements for access to all types of transport would greatly reduce these back door restrictions.

6. [Are you aware of examples where improved accessibility of public transport has led to increased patronage?](#)

No we are unable to provide a positive comment in this area as although the conveyances have started to comply albeit with self imposed restrictions, due to the lack of accessible supporting infrastructure the situation has not changed.

7. [Has the introduction of the Transport Standards helped you better understand your rights as a public transport user? If yes, in what ways has it done this?](#)

No it has not. As described above, due to the manner in which the Standards have been drafted, the legal system can through creative interpretation distort the aim of the Standards. Unless this Standard is written in unambiguous terms with mandatory statements, it is a massive task for the requirements of this Standard to be implemented. The AFAA case in the Federal Court has created case law in that only an aggrieved person (with a disability) can proceed with a claim. In other words if the claimant is vision impaired all they can complain about are the TGSI's and timetable formats etc. That bus stop can still not have allocated spaces, designated seating, manoeuvring areas etc and still pass through the courts. We desperately need clarity as to who can make a complaint, whether in fact any person or group (like Access For All Alliance) can register a complaint on behalf of their members. Whether in fact as stated in the Issues Paper, it operates in the same manner to that of the Building Code of Australia referenced Standards.

8. [Are the Transport Standards and accompanying Disability Standards for Accessible Public Transport Guidelines 2004 \(No. 3\) \(the Guidelines\) a sufficient source of information on your rights as a user of public transport, or have you needed to consult other sources? What other sources have you consulted? How did you find out about these sources?](#)

No, the guidelines in some areas have created problems. For instance, Part 1.6 refers to community transport services and states that they are covered by the Standards if they provide a public transport service rather than targeted groups of people. We have in our area courtesy buses operated by various clubs which the general public visiting the area and members can use. They have been told by QLD Transport that they service a targeted group and do not have to comply. The clubs are not a targeted group servicing a specific type of disability, their

members and visitors are members of the general public. This is the sort of creative interpretation being used. Also you have the mantra of “the Guidelines have no force in law” when it suits them. It should be clearly stated that the targeted groups are in fact ONLY groups of people with a specific type of disability.

9. Are you aware of other users of public transport who appear to be unaware of their rights or obligations? How could this lack of awareness be addressed?

At this point in time we do not think that public transport users know their rights. They are however aware of the stress and in some cases fear of having to confront their problems in a court system. This could be addressed by creating a system where similar to the BCA in that all they have to do is make a complaint and it will be investigated by an appropriate authority that has the power to order it resolution. We have a situation now where first of all, a complainant has to pass the preliminary hurdles such as a constitutional challenge as to the validity of the Standards, the suitability of the claimant to make a claim, whether they qualify as an aggrieved person, and then finally perhaps they might have their complaint heard under section 32. These in most cases are insurmountable hurdles for one of the most disadvantages groups in our society to face. They are in most cases singularly timid and need a like minded group for support.

13. Are there areas of the Transport Standards that you consider unclear in terms of the adjustments operators and providers need to make? Please specify.

Yes most definitely.

### **PART 2.3 Paths branching into 2 or more parallel tracks.**

This must be expanded to cover the situation where there is an access path running through the infrastructure but access to that path of travel in some cases would mean travelling in excess of 100 metres whereas other passengers can just cross the road and step up the curb. A kerb ramp requirement within the boundary of the infrastructure would solve this problem.

### **PART 7 Waiting Areas**

#### **7.1 Minimum number of seats to be provided.**

This should read “If a waiting area is provided, a minimum of 2 seats or 5% **whichever is the greater** of the seats must be identified as available for passengers with disabilities if required. If there is a bench seat provided this is in some cases being interpreted as only 5% of the seating area of the seat and not the seat itself. In fact you could have a large waiting area and provide only 2 seats and still be compliant without the addition of the red text. These seats should also be specified as having a minimum specification of Part 23 Street Furniture.

## **7.2 Minimum number of allocated spaces to be provided**

If a waiting area is provided, a minimum of 2 allocated spaces or 5% **whichever is the greater** of the area must be available for passengers with disabilities if required.

The situation is similar to 7.1 above. In this case we would refer you to Part 6.6 on page 64 of the RIS – PROVISION OF WHEELCHAIR SPACES IN FULL SIZE ROUTE BUSES. ( Attached as DOC # 2). This states in part:

As indicated in section 2.4 above, all submissions from the disability community during the consultation phase strongly rejected an amendment to the draft standards in this area. This position was based on the fact that, where only one wheelchair space per bus is provided, people in wheelchairs are prevented from travelling with friends and family who were also in a wheelchair. It was thought that providing two wheelchair spaces would reduce the number of incidents where a wheelchair passenger was unable to board due to the wheelchair space already being occupied.

Discussions with State and Territory transport departments have revealed strong support for maintaining the requirement to provide space for two wheelchair passengers. On this basis, we recommend that Ministers agree not to amend the draft standards in this area.

It therefore follows that a minimum of two allocated spaces or 5% of the area whichever is the greater be provided also at the bus stop waiting area. If a shelter is provided these spaces must also be within the confines of the shelter.

## **Part 8 Boarding**

To overcome the limitations to boarding mobility aids onto railcars imposed by Queensland Rail, if it is deemed a WH & S risk to manually assist a passenger's mobility aid on board a lifting device must be provided. Mobile single wheelchair lifting devices are readily available and should be utilised if this restriction is imposed.

## **PART 9 Allocated Space**

A general observation of this part is that there should be a quantitative value of accessible accommodation should be placed on Taxis and Aircraft according to passenger capacity.

## **PART 11.7 Grabrails to be provided in an allocated space**

This requirement is redundant where the allocated space is at the rear of the bus and access is via a lifting device.

## **Part 30 Belongings**

I think the “If possible “ should be removed from (2) as some airlines are forcing passengers with disabilities to sign waivers for any damage to their mobility aids.

**LIMITED RELEASE**

**FRAGILE & UNSUITABLY PACKED** – Release applied to damage.  
 **PACKAGING INADEQUATE** – Release applies to damage and loss of contents.  
 **PERISHABLE** – Release applies to spoilage resulting from delay.

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**RECEIVED DAMAGED**

**HANDLE BROKEN**     **STRAP BROKEN**     **TORN**     **DENT**  
 **SCRATCH**     **OTHER**  
 **TOP**     **BOTTOM**     **SIDE**     **END**

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Release applies to damage

**Voluntary Separation**

**LATE CHECK-IN**     **NOT ADMISSIBLE IN CABIN**

In consideration of carrier(s) transporting both property (described above), which has been damaged previously or which is deemed by governing tariffs to be unsuitable for transportation as checked baggage, I hereby release carrier(s) from liability resulting solely from such pre-existing damage or unsuitability (as designated above by "X").

\_\_\_\_\_▲ Passenger's Signature ▲

The above release had to be signed prior to a walker being loaded, this also applies to the small scooter Sheila uses when flying unaccompanied. I watched her scooter being unloaded at the Fraser Coast Airport and it was literally picked up and tossed onto the baggage trolley by the baggage handlers. On receiving the scooter at the baggage claim area we found that the Gel battery was on its side out of its holder. Disabled passengers should NOT have to indemnify the airlines for incorrect baggage handling.

14. [Have exemptions allowed under the Transport Standards \(as specified in the previous chapter\), reduced the clarity of obligations under the Transport Standards?](#)

No we do not believe so. The exemptions granted have in the most part only been temporary.

15. [To what extent do the Transport Standards allow operators a choice of ways in which they can demonstrate compliance?](#)

The DSAPT provides a mandatory minimum level of compliance which should be maintained. There are provisions in the Standard for alternative solutions which must provide equal access with dignity, equity, convenience and cost, but it does provide the yardstick for the minimum level of access.

16. [Where Australian Standards or other technical requirements are specified, are these appropriate? Please provide examples where you believe the use of Australian Standards is not appropriate.](#)

The Australian Standards have been referenced in the Building Code of Australia since January of 1999. Although not a perfect set of requirements they have set a minimum standard of accessibility. The only areas of the Transport Standard that

might need slight modification are requirements in restricted areas but any changes should be predicated with valid tests for alternative solutions, not like the recent ARA submission where sweeping changes were requested without supporting evidence.

17. Are there requirements that have proven to be impractical or difficult to implement? If so, please specify.

We cannot think of any area of the Standard that modern technology could not resolve.

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

Yes, if the complaint process was in fact as outlined on pages 12 and 13 of this Issues Paper I think compliance would be more readily implemented as a risk assessment for non-compliance would now favour the disabled user as it would be an easy and definitive complaint.

19. Do you consider that the requirements in the Transport Standards have been applied consistently across different modes of public transport?

No for the reasons previously stated.

20. Will any current areas of inconsistency be addressed through the future stages of the implementation of the Transport Standards?

No, the providers are not even complying with the requirements of the first stage of the schedule or imposing their own restrictions.

21. Do you consider that the current exemptions granted are appropriate? Should these exemptions be reduced over time?

I believe that most of the exemptions are for a period of three years but, any permanent exemptions should be reviewed as a matter of course every five years.

22. In implementation of the Transport Standards, have the requirements led to a relatively consistent standard of compliance across all modes of public transport? If not where are the major differences in approach?

The major area of concern is the bus service where the conveyances are compliant but the bus stop infrastructure is inaccessible.

23. To what extent do the requirements in the Transport Standards address all of the accessibility requirements for people with disability? Are there gaps in the coverage of requirements?

Other than anomalies previously highlighted we do not believe that there are any gaps in types of public transport covered.

24. Does the compliance timetable provide for a gradual improvement of accessibility over the 30 year implementation period? Are there aspects of this timetable that present compatibility problems? How could these requirements be improved?

It would be an improvement for Part 2 of the schedule at a rate of so much per year to the target date of 2012. For instance the 30% differential could be implemented at a rate of a minimum of 6% per year. This will resolve the problem that we have now where compliance is delayed until the last minute thus legally denying access for five years.

25. Are providers meeting their obligations across all aspects of accessibility, which ensures compatibility.

No definitely not, as stated in 1 to 24 above.

26. Do the requirements of the Transport Standards need to more explicitly recognise the potential other regulatory constraints that impede the capacity of transport providers to deliver the objects of the Transport Standards?

No we do not think this is necessary. Only safety issues like those required in Australian Design Rule 58 should be considered as an overriding requirement to the DSAPT.

27. How well are the current arrangements for making complaints about accessibility understood by the public?

The current arrangements are an absolute shambles. We do not believe that the system envisaged should be as follows:

- Submit a representative claim to HREOC and have this claim accepted as valid under 46PB of the HREOC Act.
- Go through the conciliation process and have the complaint terminated as unresolvable.
- Have our legal representatives spend many hours at great cost to present the case.
- The respondents legal representatives then:

Challenged the validity of the claim under the Constitution.

Challenged our right as a corporate body to be an aggrieved person even though HREOC had accepted and processed our complaint.

The *amicus curiae* from HREOC then stood up and said that after a claim is terminated we have to start all over again once it goes to court. (Why do we need HREOC in the first place?). This then opened this avenue of escape for the respondent. The evidence presented to the court did not address this area as HREOC had already accepted our complaint. Now our case will be used as a reference for all future complaints, thus increasing the burden of proof on the complainants which, is exactly what the definitive requirements of the Standards were meant to reduce.

If the requirements for a complaint are indeed as stated on page 12 & 13 of this paper, then there must be a mechanism for the Attorney General to re-visit this case and reverse the decision or at least re-open the case so that the subject matter of the complaint can be heard.

28. [Are the current processes sufficiently responsive to complaints, or requests for information or advice on the Transport Standards?](#)

We unfortunately cannot give any positive response to this question. As you probably realise from all the above we are very, very disillusioned with all the processes associated with the Disability Standards for Accessible Public Transport. The problem is not the Standard itself but in the process of enforcement.

Submitted by:

Robin A. King ACAA

Sheila King

Attachments

- #1 Copy of the audits of two of the bus stops subject of the complaint
- #2 Copy of page 64 of Regulation Impact Statement