

GUIDELINE 9

AUTHORISED OFFICER COMPLAINTS

9.1. Introduction

In February 2008, following amendments to the PTO Charter and Constitution, and an exchange of letters with Ombudsman Victoria, the new arrangements commenced for the handling of Authorised Officer complaints.

Previous limitations on the PTO to deal with complaints about Authorised Officers when exercising statutory powers were removed. The exchange of letters provides for the PTO, in the first instance, to receive all complaints relating to the conduct of Authorised Officers.

The following guideline addresses specific issues relating to Authorised Officer complaints. It should be read in conjunction with the current Complaint and Dispute Resolution Service (CDRS) guidelines which provide a framework for dealing with all complaints made to the PTO.

9.2. Ombudsman Victoria

Even though the PTO has increased jurisdiction to deal with Authorised Officer complaints, OV retains jurisdiction to deal with complaints about the exercise of statutory powers by Authorised Officers. The following arrangements will apply.

Referral on receipt of new complaint

Where a serious allegation is made to the PTO concerning the conduct of an Authorised Officer and there is evidence provided by the Complainant to support the allegation, including for example medical evidence, independent witness statements or recorded footage of the incident, the PTO Officer will notify the complaint to Ombudsman Victoria (OV) at the outset. This permits OV to determine whether to deal with the matter. Such a referral may be made regardless of whether the relevant Member has dealt with the complaint. In addition, where the matter may also be the subject of a PTO investigation, joint investigation may be considered (see below).

In this circumstance the PTO will nevertheless commence an investigation immediately.

Referral during a PTO investigation

Where a complaint against an Authorised Officer is the subject of a PTO investigation, and there is a lack of co-operation by the Member or another person or organisation with relevant evidence and the evidence is critical to the

investigation of the complaint, consideration will be given to requesting that the OV jointly investigate the complaint with the PTO. Generally, such investigation will only be recommended where the allegations are serious, and there is substantial evidence in support of the allegation. The primary reason for referral is to enable relevant evidence to be obtained through use of information collection powers provided to OV under the Ombudsman Act 1973.

Quarterly Review

The PTO and OV have agreed to meet on a quarterly basis to discuss complaints about Authorised Officers, including where appropriate, the details of allegations, outcomes and investigations. A quarterly report will be prepared for OV with information about the number and type of complaints concerning Authorised Officers received by the PTO, and the outcomes of those complaints. If necessary, case studies of relevant matters will be prepared for the purpose of the meeting.

9.3. Referrals to Members

Consistent with the PTO Constitution and Charter, Members who employ Authorised Officers (Connex, Yarra Trams, BAV & V/Line) must be given the opportunity to investigate complaints against Authorised Officers, before the PTO may proceed with any investigation.

To ensure relevant evidence is secured if available, when referring Complainants who have alleged issues against Authorised Officers to the relevant Member, PTO Officers will recommend that the Complainant request the CCTV footage (if any) be secured by the Member immediately.

In addition, when advising a Member that a Complainant has been referred directly to the Member in the first instance, the PTO Officer should include in that advice a recommendation that any CCTV footage be immediately secured.

9.4. Victoria Police

Where criminal allegations are made against Authorised Officers, Complainants may wish to have their allegations investigated by police. PTO Officers, where they have identified alleged serious criminal conduct by Authorised Officers, should advise Complainants that they may consider approaching Victoria Police so that a criminal investigation into the allegations may be considered. ...

Where complaints against Authorised Officers are currently the subject of Police investigation or criminal proceedings, the PTO will not separately investigate until Victoria Police have completed the criminal investigation, and there are no criminal charges arising out of the matter, or the charges are finalised.

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9.5. PTO Investigation

Complaints about the conduct of Authorised Officers will be managed in a manner consistent with CDRS guidelines. The following particular considerations apply:

- Where a complaint includes issues about a ticket infringement notice (TIN), and the PTO investigation includes a matter that relates or may relate to the validity of the TIN, the PTO Officer dealing with the matter will consider whether to advise the Complainant to request that the due date for payment of the TIN extended ...
- As a high priority, and as soon as reasonably possible after receipt of a complaint against an Authorised Officer that will be investigated by the PTO, the Officer dealing with the matter should ensure that requests are made to the relevant Member and / or the Department of Infrastructure that relevant CCTV evidence is secured.

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