

27 May 2008

Jim Betts
Secretary
Department of Transport:
PO Box 2797
Melbourne Victoria 3001

Dear Mr Betts

Improving Bus Safety in Victoria

I am writing to provide comments on the Discussion Paper *Improving Bus Safety in Victoria*. My comments are in fairly brief compass, and concern issues of driver and passenger conduct.

Background – PTO scheme and buses

The Public Transport Ombudsman ("PTO") can receive, investigate and resolve complaints between commuters and others affected by public transport operators, and members of the PTO scheme. This includes complaints regarding the conduct or behaviour of officers, employees, agents or contractors of members – PTO Ltd Charter, Cl 3.1(f).

At present, the PTO's functions specifically do not extend to complaints relating to "any Free School Bus Service provided under a contract with the Secretary to the Department of Infrastructure and under the service provision and travel eligibility policies of the Department of Education and Training" – PTO Ltd Charter, Cl 4.2(g).

For buses, the Bus Association of Victoria ("BAV") is the member, and the BAV holds membership only in its capacity as representative of Bus Companies excluding those Bus Companies exclusively providing Free School Bus Services – PTO Ltd Constitution, Cl 8.4.

In practice, this has meant that the PTO:

- can deal with most complaints about the conduct of staff of bus operators who are BAV members
- cannot deal with complaints about the conduct of staff of bus operators who are not BAV members
- cannot deal with complaints about free school bus services.

Some relevant information from PTO matters

The most common type of complaint about bus operators received by the Public Transport Ombudsman concerns staff conduct – primarily driver conduct. In the 12 months to March 2008 these complaints made up 41% of the bus-related complaints.

Complaints about driver conduct made to the Public Transport Ombudsman include allegations that:

- bus drivers failed to pick up passengers because of alleged past conduct issues, and
- bus drivers requiring passengers to leave bus services before their stop because of conduct issues.

On occasion, the PTO receives complaint against a bus company that is not a member for the BAV, and therefore not within the PTO scheme; these complainants have been referred back to the operators.

We have also received complaints about school bus services – these have been referred to the relevant government Department.

Issues raised in Discussion Paper

There are 2 interrelated issues raised in the Discussion Paper about which I wish to comment.

- the first concerns the regulation of passenger conduct and any role bus drivers might take in dealing with misconduct – Issues 35-37, section 8.13.
- the second concerns the conduct requirements for bus drivers - issues 22-23, section 8.9.

Regulation of passenger conduct

Effective regulation of conduct requires at least the following:

- clear specification of the conduct to be prescribed or regulated
- communication of any regulation to those who are or may be affected
- appropriate arrangements to detect and act upon breaches
- review mechanisms to ensure that any power is used appropriately.

Informing commuters

If it is determined to specifically regulate the conduct of passengers I would recommend that the regulation be clear and easily comprehended. The suggestion of a code of conduct may be an appropriate manner to facilitate this.

In addition, if specific regulations are made, they should be widely available to any persons who might use bus services. This includes working with bus operators to ensure the rules are displayed 'in vehicle' and at appropriate bus stops. It also includes providing the information in a manner that is easily understood by all in the community who access bus services, including young people, and those with vision impairments or who do not read English.

These steps would not only increase compliance, but ensure that commuters are properly informed of the conduct expected.

Providing for the resolution of complaints – including independent resolution

Providing for bus drivers to deal with alleged passenger misconduct could have a very significant impact upon affected commuters and their families. The proposal raises safety and transport access issues which would need close consideration.

If it is proposed to provide specific powers to bus drivers who are providing public transport services – such as the to refuse to pick up a passenger, to remove a passenger from a bus or to otherwise direct a passenger – then ensuring that bus companies have effective mechanisms to resolve any complaints that might be received is critical. It is also important for commuters to have a right to independent review of any complaints. These principles are at the foundation of the PTO's functions and jurisdiction.

For most bus commuters, the PTO is able to provide an independent resolution service for complaints or disputes where operators cannot resolve them. However, where the bus company is not a BAV member or the service is not within the PTO's jurisdiction (such as free school bus services), the PTO is unable to perform this function, and a commuter may be left without remedy.

I would therefore recommend that any proposals to provide increased regulation of passenger conduct and a specific role for bus companies or drivers to deal with conduct issues also include appropriate arrangements to have disputes resolved or determined, including a right for commuters who are dissatisfied with the outcomes of their disputes to seek independent review by the PTO or another appropriate agency.

Driver conduct

My comments in respect of these issues are similar to those above.

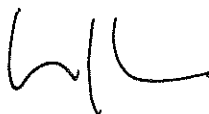
To the extent that commuters are able to seek resolution of concerns that they might have concerning driver conduct, any complaint process should include independent resolution for commuters who are not satisfied with operators' responses.

While most bus operators and bus services are covered by existing arrangements, some are not. For these operators or services, and so as to make any conduct requirements more meaningful, a right for commuters who are dissatisfied with the outcomes of their disputes to seek independent review by the PTO or another appropriate agency would appear a necessary corollary.

Conclusion

I trust the above information is of assistance. If you wish to discuss any matter noted above, please contact me on 8623 2121.

Yours sincerely



Simon Cohen
Public Transport Ombudsman