

COMPLAINTS ABOUT DAMAGE TO PROPERTY

The Public Transport Ombudsman ("PTO") is able to deal with complaints about public transport services, including complaints from commuters or others that their property has been damaged as a result of travelling on, or otherwise coming into contact with, public transport services or public transport infrastructure.

This position statement outlines some of the factors the PTO will consider in investigating complaints about damage to property, including:

- how the damage to the property occurred
- the amount of damage
- whether the public transport operator caused or contributed to the damage.

The statement is a guide only, and each case will be dealt with having full regard to the particular circumstances.

The PTO strongly encourages the person making the complaint to provide full information to the public transport operator in the first instance, and for the operator to make all necessary inquiries to assess the complaint at the earliest opportunity.

How did the damage occur? The PTO will investigate the circumstances surrounding the damage to property. Information obtained from the person making the complaint may include:

- a full explanation from the person about how the property was damaged
- statements from or contact details for any witnesses to the incident
- the item(s) of damaged property, or photographs of the item(s).

Where appropriate, the PTO may also request a report from a person with appropriate expertise, to obtain a view about how the damage may have occurred.

The PTO will request information from the public transport operator, which may include an account of any staff who witnessed the incident or associated events. The PTO will also obtain, from the operator or the Department of Transport, any retained CCTV footage relevant to the complaint.

How much damage was caused – the quantum of damages? The PTO will obtain information about the monetary value of the damage to the property. The PTO will generally expect the person making the complaint to obtain this information. Information provided may include:

- a dated receipt, statement of purchase or proof of ownership for the property
- a quote or quotes assessing the cost of repair work to the damaged property.

Where the damage is such that it would be cheaper to replace the property, or the property cannot be repaired, it may sometimes be necessary to obtain a

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statement from a repairer or repairers to this effect, in addition to a quote or receipt for replacing the item.

Did the public transport operator cause or contribute to the damage? The PTO will investigate whether any actions or inactions of the public transport operator have contributed to or caused the damage to the property. The PTO will also consider any statutory or contractual limitations on liability. This may include considering:

- the condition of any public transport carriage, vehicle or property said to have caused the property damage
- the actions of any staff members said to have caused or contributed to the property damage
- any legal obligations or requirements, contractual provisions, and industry codes and practices.

The PTO will generally expect the public transport operator to provide advice about these matters – including any reports or other information obtained or available – when providing a response to a complaint. The PTO may also seek to inspect any public transport carriage, vehicle, infrastructure or property said to have caused or contributed to the property damage.

Other matters

The PTO strongly recommends that as much information about the incident and damage is provided by the person making the complaint at the outset. This will reduce the time taken to investigate and resolve a complaint. If it is not provided at the outset, the PTO will endeavour to outline to the person what further information is required when acknowledging the complaint, and request that this be obtained within a short period of time.

When requesting an initial response to a property damage complaint from a public transport operator, the PTO expects that all information and documents considered by the operator when first dealing with the complaint will be provided to the PTO. This includes any statements of staff members or contractors, and information about any legal or contractual matters that might be relevant to the operator's liability.