

# POLICY FOR HANDLING COMPLAINTS ABOUT THE PTO



## Purpose

The Policy for Handling Complaints about the PTO (the Policy) applies when a complaint is made about the fairness, independence or quality of service delivered by the PTO.

The PTO complies with the *Benchmarks for Industry-Based Customer Dispute Resolution Schemes 2015* and the associated guidance set out in *Key Practices for Industry-based Consumer Dispute Resolution Schemes 2015*<sup>1</sup>. The Key Practices under Benchmark 6, Effectiveness require dispute resolution schemes to have effective procedures for receiving and dealing with complaints about the scheme.

## Key words

### 'Complaint' and 'case'

When we refer to a complaint in the Policy, we mean your complaint about the PTO. If we are referring to the original matter that was referred to the PTO, usually a public transport issue, we will refer to that as a case.

### PTO Officer

A PTO Officer means any staff member other than the Ombudsman. If a specific PTO Officer is referred to in the Policy, that type of PTO Officer will be made clear, for example, PTO Senior Officer or PTO Manager.

### 'Consumer' and 'member'

A person who seeks access to the PTO's services to make an information request, make a complaint or resolve a dispute is referred to as a consumer.

A member is a body that provides public transport passenger services, or any other body, that is a member of the Public Transport Ombudsman Ltd and is required to follow PTO complaint handling procedures. As at 1 October 2022, our members are:

- Bus Association Victoria (BusVic)
- CDC Melbourne
- Kinetic
- Level Crossing Removal Project
- Metro Trains Melbourne (Metro)
- Public Transport Victoria (PTV)
- Rail Projects Victoria
- SkyBus
- Southern Cross Station
- Transit Systems
- VicTrack
- Ventura Bus Lines (Ventura)
- V/Line
- Yarra Trams

<sup>1</sup> The *Benchmarks for Industry-Based Customer Dispute Resolution Schemes 2015* can be viewed: ; [Key Practices for Industry-based Customer Dispute Resolution Schemes](https://www.ptovic.com.au/images/documents/Benchmarks_February_2015.pdf).  
[https://www.ptovic.com.au/images/documents/Benchmarks\\_February\\_2015.pdf](https://www.ptovic.com.au/images/documents/Benchmarks_February_2015.pdf); [https://static.treasury.gov.au/uploads/sites/1/2017/06/key\\_pract\\_ind\\_cust\\_dispute\\_resol.pdf](https://static.treasury.gov.au/uploads/sites/1/2017/06/key_pract_ind_cust_dispute_resol.pdf)

## Types of complaints

The Policy applies to complaints from consumers or members about any action, omission or decision made during case handling or about the service provided by PTO staff and the Ombudsman.

Complaints about PTO handling of personal information and privacy concerns are not covered by the Policy. They are handled according to the PTO Privacy Policy which is available on the PTO website and on request from our office.

We categorise complaints in the following way:

1. Complaints about how a case was handled;
2. Complaints about a PTO decision to close a case;
3. Complaints about jurisdictional decisions; and
4. Complaints about the operation of the PTO scheme or the Ombudsman.

Further information about each complaint category is outlined in sections below.

## Who can make a complaint?

Anyone who has accessed or been refused access to the PTO's services can make a complaint. This includes consumers, their authorised representatives and members.

PTO staff will refer consumers to the Policy, and provide a copy if requested, at the time the consumer indicates they wish to complain about the handling of their case or the service they have received from the PTO.

## How will complaints be handled?

Every complaint will be treated seriously and will be reviewed openly, efficiently and fairly.

If the complaint involves conduct by a PTO Officer, we will ensure that person does not investigate the complaint and a PTO Senior Officer or PTO Manager will handle the matter. If there are allegations of a serious nature, the Ombudsman may handle your complaint. A serious allegation is one which would lead to disciplinary action, dismissal or referral to the police if substantiated.

If we have made a mistake, we will acknowledge it and proactively work with you to remedy the situation.

## Timeframes for handling complaints

Once we have received your complaint, it will be acknowledged within one business day.

Timeframes for handling complaints may vary according to the type of complaint and are set out in the relevant section below.

## Record keeping and reporting

The complaint, including investigations, correspondence and findings, will be recorded in the relevant electronic case file.

Complaints handled under the Policy are confidential. The PTO's internal records are not available to third parties, including the person making the complaint, except to the extent required by law.

A Complaint Register will be maintained by the PTO for recording deidentified summaries of complaints handled under this Policy.

The Ombudsman will make available to the Chair of the PTO Board any part of the Complaint Register involving complaints that are handled personally by the Ombudsman or involves complaints about the Ombudsman.

## **SECTION 1 Complaints about Case Handling**

### **Expected timeframe for finalisation: 10 Business days**

In line with established alternative dispute resolution principles, the PTO asks that consumers and members raise any concerns they have with the handling or progress of a case with the relevant PTO Officer in the first instance.

The PTO Officer is required to make a record of this feedback and take appropriate steps to address the concerns raised. The PTO Officer must inform their manager of the complaint, including how it has been addressed and ensure a record is made in the electronic case file.

#### **1.1 Escalation of complaints**

A complaint must be escalated to a PTO Senior Officer or PTO Manager if a consumer or member:

- a. advises the PTO Officer that they are not satisfied with the approach taken to address the concern they have raised;
- b. asks to speak to a manager;
- c. makes a complaint in writing; or
- d. raises serious issues about the conduct of the PTO Officer.

#### **1.2 Escalation to the Ombudsman**

If it becomes clear that the consumer or member would like to lodge a complaint about the PTO Senior Officer or PTO Manager, the matter will be immediately referred to the Ombudsman.

The Ombudsman may also deal directly with:

- a. complaints that allege serious misconduct, including a conflict of interest, criminal conduct or corruption by a PTO Officer; and
- b. complaints where the consumer or member threatens legal action against the PTO.

#### **1.3 Investigation**

The PTO Manager/Ombudsman will ask the consumer or member to provide all relevant information about their concerns and to outline how they want the concerns addressed or resolved. A fair and open investigation will be undertaken and may include a review of:

- a. all relevant PTO case records;
- b. the consumer or member's statement about the way the case has been handled;
- c. any new or additional information which the consumer or member has provided that may be relevant to the handling of the case;
- d. the PTO Officer's account of the issues raised;
- e. what is fair and reasonable in the circumstances given the nature of the PTO's role and the grievance;
- f. the PTO Officer's adherence to relevant policies and procedures.

### ***1.4 Outcomes of complaints about case handling***

Once all relevant information has been obtained and reviewed, the consumer or member will be informed of the outcome of the PTO's investigation.

Outcomes of complaints may include, but are not limited to:

- a. providing the consumer or member with a summary of the findings of the review, either verbally or in writing;
- b. where appropriate, reallocation of the case to another PTO Officer;
- c. providing the consumer or member with details about how PTO policies, procedures and training will be improved to prevent a recurrence in the future; and/or
- d. providing the consumer or member with an apology.

Where there is an open Case, next steps considering the outcome and findings of the investigation will be clearly communicated. If the PTO continues to provide services, it will make sure that the consumer is not disadvantaged or treated differently because of making a complaint.

The PTO Manager will confirm whether the consumer or member is satisfied with the outcome of the review. If satisfied, the review will be finalised and no further action taken.

If the consumer or member remains dissatisfied with the outcome of a review undertaken by a PTO Manager, the complaint will be escalated to the Ombudsman for review.

The PTO will make reasonable efforts to reach the consumer or member. After 7 days of no response by the consumer or member, it will be taken as acceptance of the findings and consent for the PTO to take no further action.

## SECTION 2 Complaints about a PTO decision to close a case

### Expected timeframe for finalisation: 28 Calendar days

#### 2.1 Why was the case closed?

Most PTO cases are finalised by agreement. However, sometimes the PTO closes a case because it decides under the PTO Charter.<sup>2</sup> For example, a PTO Manager or PTO Senior Officer may use their authority to decide to close the case because further investigation is not warranted (clause 6.3(c)).

If a decision has been made to close the case, and you have not agreed to this, the PTO processes mean you would have been provided

- written reasons for the decision; and
- a case assessment.

Please read this information carefully, and if you need an explanation, contact us to discuss with the PTO Officer who handled your Case. You can use contact details we provided during the Case or contact 1800 466 865 or [enquiries@ptovic.com.au](mailto:enquiries@ptovic.com.au). Please have your reference number and all relevant correspondence ready.

#### 2.2 Ombudsman review process

You can request a review of the decision to close your case within 28 calendar days of the closure of the case.

We ask that the request be put in writing, or that you contact us if you need help with it. A verbal request to review a closed case will be considered in special circumstances.

Your request should ask for a review by the Ombudsman. It should include reasons why you believe the decision is wrong. You should include information to support your opinion.

If you do not give detailed reasons for your request for review, the Ombudsman will generally limit the grounds for a review to:

- a. whether there was bias;
- b. whether there was an error or omission during the conciliation or investigation; and/or
- c. whether there is new information, not previously available, which would materially affect the outcome of the conciliation or investigation.

All reviews are undertaken by the Ombudsman, although other PTO staff may be involved in the preliminary stages of the review. The Ombudsman can review discretionary decisions by PTO Manager's independently and objectively, having not been involved in the decision-making process.

When conducting a review of the decision to finalise the case, all information relevant to the decision will be considered by the Ombudsman. Where necessary, further information may be requested from the consumer, member or another party, to inform the Ombudsman's review.

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<sup>2</sup> Information about our jurisdiction can be found at <http://www.ptovic.com.au/make-a-complaint/to-the-ptov/what-we-can-do>

## 2.3 Outcomes of the Ombudsman's review

The Ombudsman will advise you, the consumer, of the outcome of the review within 28 calendar days of receipt of the internal complaint. Possible outcomes of an Ombudsman's review are:

- a. confirmation that the decision to close the case was correct;
- b. clarification of the reasons the case was closed; or
- c. re-opening the case so further investigation can be undertaken.

A written response will be provided to you at the conclusion of the Ombudsman's review, detailing the scope and findings of the review and any actions to be undertaken.

Where the Ombudsman decides to re-open a case, the member will be advised of the reasons for reopening the case and the issues that require ongoing investigation.

## SECTION 3 Complaints about jurisdictional decisions

The PTO recognises that it may be a consumer's only available option for dispute resolution. Accordingly, PTO staff initially take a broad rather than narrow, exclusive approach when determining if a complaint is within the PTO's jurisdiction to handle under clause 3.1 and 4.2 of our Charter.

If a consumer or member is not satisfied with the PTO's jurisdictional assessment regarding an individual complaint, they may seek a review.

If the jurisdictional issue affects the *scope* of the case but is not crucial to whether or not a conciliation or investigation will remain open or will commence, then the complaint will be considered under SECTION 1 of this Policy

This section applies to complaints where determination of jurisdiction will decide whether the PTO will cease to provide its services.

### 3.1 Ombudsman's review of jurisdiction

We will advise you of our findings. Until then, the complaint status and case handling process remain unchanged.

If the PTO Senior Officer or PTO Manager decide that the PTO does not have jurisdiction to handle a complaint, then we will finalise the PTO's involvement. You may ask for escalation or an Ombudsman review of the decision at this point in accordance with the steps set out in SECTION 2, Step 2.

If the PTO does have jurisdiction to investigate, the case will remain registered at the same level and an investigation will continue. In this event, the member is advised that if they are dissatisfied with the finding, they can ask to speak to a PTO Manager (see SECTION 1) to clarify the issue in the first instance.

If the member remains dissatisfied, a senior executive from that member may formally request a further review of the PTO's jurisdiction by providing a written submission to the Ombudsman detailing the basis for its view that the PTO does not have jurisdiction to handle the case. This may also include the member's own legal opinion.

The Ombudsman will consider the member's submission and may seek independent legal advice. The Ombudsman will then respond to the member in writing with a decision about whether the case will be treated as in or out of the PTO's jurisdiction. The case remains under investigation during this time.

If the Ombudsman finds that the case is in jurisdiction and the member continues to dispute jurisdiction, the Ombudsman will notify the PTO Board of the jurisdictional dispute. Ultimately, however, it is the Ombudsman's decision to determine jurisdiction.

If the Ombudsman is of the view that the issues fall within the PTO's jurisdiction an investigation will commence/continue. If the Ombudsman is of the view that an issue does not fall within jurisdiction, the complaint will not be investigated further; however, the PTO will refer the complaint to the member for internal escalation where suitable.

The consumer and member will be informed of the Ombudsman's decision in writing.

## SECTION 4 Complaints about the operation of the PTO scheme or the Ombudsman

### 4.1 Complaints about the PTO scheme

Consumers and members may complain about a broad aspect of the scheme's operation that has not been captured by the previous sections of the Policy.

The Ombudsman will consider these complaints in the first instance and will respond to the consumer or member verbally or in writing. A response will be provided within 15 business days of receipt of the complaint.

If the consumer or member is not satisfied with the Ombudsman's response, the Ombudsman will refer the complaint to the Chair of the PTO Board for advice. The next steps in any review will be determined by the Chair and the consumer or member will be advised accordingly.

### 4.2 Complaints about the Ombudsman

Written complaints alleging misconduct by the Ombudsman or about the Ombudsman's capacity to perform their role satisfactorily or independently will be immediately referred to the Chair of the PTO Board for investigation and response.

*Please note: complaints about the operation of the PTO scheme or a complaint about the Ombudsman do not include complaints about the investigation, progression or outcome of specific cases, or complaints about jurisdictional decisions. The PTO Board will not review complaints about specific cases, investigation outcomes or jurisdictional decisions.*

## Privacy and Confidentiality

The PTO respects the privacy and confidentiality of the people who access our services and who may make complaints about our services. We comply with the Australian Privacy Principles outlined in *Privacy Act 1988 (Cth)* regarding the collection, retention, storage and disposal of personal information.

More information about our Privacy Policy is available on our website [www.ptovic.com.au/privacy](http://www.ptovic.com.au/privacy)

**Public Transport Ombudsman**

October 2022