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Annual Report **2009**

Snapshot

1180 cases received

- ↳ an increase of 4 per cent

1583 complaint issues finalised

- ↳ 90 per cent finalised in 31 days

227 complaint issues investigated and finally determined

- ↳ 80 per cent successfully resolved
- ↳ 12 case studies on PTO cases

2 PTO reports on systemic issues

- ↳ review of authorised officer cases recommends better guidance and increased monitoring of use of force
- ↳ review of operators' complaint-handling recommends apologies and goodwill gestures for late responses

Increased accessibility of PTO services

- ↳ PTO information translated into 7 languages, and large text and audio information available for vision-impaired people
- ↳ PTO attends more than 30 community consultations and information sessions

Improved workplace

- ↳ PTO implements paid parental and study leave, and introduces more flexible work arrangements
- ↳ Environmental Management Plan has resulted in at least a 13 per cent reduction in energy and paper usage and waste generation

Chair's message

This is the fifth annual report of the Public Transport Ombudsman (PTO). Each year since the PTO was established in April 2004, our reports have provided a unique perspective on public transport in Victoria.

It was very pleasing, then, to receive the Independent Review Report to mark 5 years of operation of the PTO. The June 2009 report by The Navigator Company, an expert in reviewing ombudsman schemes in Australia and overseas, made a number of very significant findings:

- ▾ the PTO's systems and procedures are of considerable strength
- ▾ the PTO clearly meets National Benchmarks for industry ombudsman in almost all respects
- ▾ the PTO's governance framework is effective.

The reviewers recognise the considerable progress made by the PTO in our first 5 years, while making recommendations – including refining procedures and enhancing our leadership role – that give direction for the coming period.

This year, I wish to pay particular tribute to our industry directors. The role of industry director of an ombudsman scheme is not an easy one. Industry directors are required to take off their 'operator' hats when they come to the PTO Ltd Board, and act in the best interests of the PTO scheme and its objectives. They do so for no financial reward.

Boyd Power, from Yarra Trams, and Russell Coffey, from the Bus Association of Victoria (BusVic), both left the Board in 2008-09 after more than 4 years as directors. They demonstrated in all of their dealings the ideal attributes of industry Board members: diligence, honesty, and discretion. The PTO is indebted to Russell and Boyd, and to the current industry directors – Mark Paterson from Connex, who has been on the Board since 2004, and new directors Rob Barnett, V/Line's Chief Executive Officer, and Chris Lowe, the Executive Director of BusVic – for their committed service.

It is also important to note the ongoing and substantial contribution of our foundation consumer directors, serving both on the Board and its various committees: Maree Davidson (Performance and Remuneration and Budget Committees), Toni McCormack (Chair – Audit, Risk and Compliance Committee) and Joe Nieuwenhuizen (Chair – Budget Committee).

The Public Transport Ombudsman, Simon Cohen, this year reports on the strategic priorities set for the PTO. For a small but important organisation, the achievements are impressive. I congratulate Simon and the entire PTO staff for the outcomes achieved.



Merran Kelsall
Chair, Public Transport Ombudsman Ltd

“...the PTO clearly meets National Benchmarks for industry ombudsman in almost all respects.”



03

Merran Kelsall, Chair, PTO Ltd

Ombudsman's message

"...the PTO has worked hard this year to improve our accessibility."

04



Simon Cohen
Public Transport Ombudsman

Industry ombudsman schemes such as the PTO have at their foundation a commitment to accessible justice – cost free, independent, fair, speedy and resolution focused. Our Charter reflects this, with a mission founded on principles such as accessibility, equity and community awareness.

The importance of accessible justice has long been recognised, most recently in the Attorney General's October 2008 Justice Statement. The Statement supports Appropriate Dispute Resolution (ADR) to increase access to justice and reduce costs. It also recognises the achievements of industry ombudsman in promoting ADR and achieving good outcomes for consumers.

Consistent with this focus, the PTO has worked hard this year to improve our accessibility. Public transport operators have implemented agreements to give people who complain information about their right to seek an independent review by the PTO. The PTO website has incorporated large text and audio material, to improve our access for vision-impaired people. PTO information is now available in 7 new languages, explaining to commuters with complaints when and how to contact us.

In addition, we attended more than 30 consultations and information sessions, speaking to hundreds of commuters, community workers and others about our services, and discussing their perspectives on public transport. All of this is essential to make sure Victorians know they have a Public Transport Ombudsman, and how they can contact us.

Increasing accessibility is one of our current strategies. The PTO business plan set 4 distinct priorities:

- ▾ providing excellent dispute resolution services
- ▾ contributing to better public transport services
- ▾ having effective relationships with our stakeholders
- ▾ making our office a leading ombudsman.

This year, for the first time, we report our activities against each of these priorities, both to more completely explain our work, and to better account for the important task with which we are entrusted.

I thank all PTO officers for their hard work and commitment in again making sure we delivered on what was an ambitious plan. We are also indebted to Merran Kelsall and the entire Board for their substantial contributions.

The coming year holds significant challenges and opportunities for public transport in Victoria, including new metropolitan train and tram operators, and a new ticketing system. These and other changes make our job, as the accessible and independent referee for commuter disputes, even more important.

Simon Cohen
Public Transport Ombudsman

Priority 1 – excellent dispute resolution services

The first job of the PTO is to receive, investigate and resolve public transport complaints – this is the primary reason the PTO exists. Our objective is to provide excellent dispute resolution services that meet both the needs of those who complain and public transport operators (operators). There are a number of possible steps to the PTO case-handling process: receipt and assessment; referral to operators and others; investigation and resolution; conciliation; and binding decision. These steps, and our performance in the past year, are outlined below.



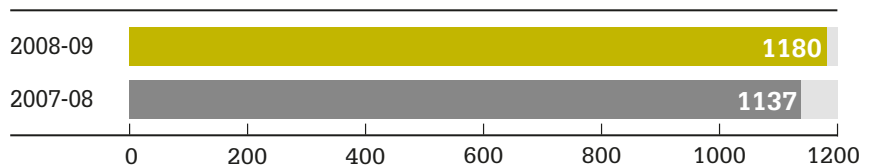
A person contacts the Public Transport Ombudsman to raise a concern.

NEW CASES

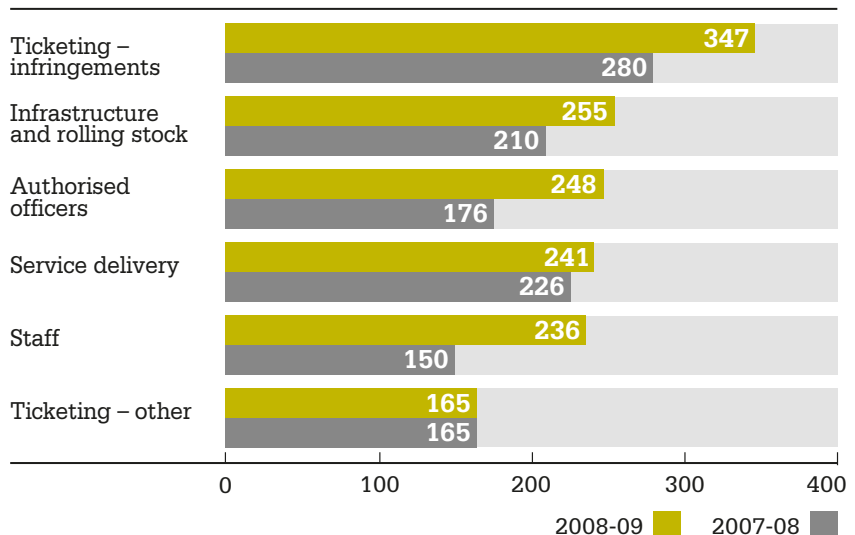
In 2008-09, the PTO handled 1206 cases¹, including 1180 new cases, an increase of 4 per cent on 2007-08 –

Each case may include a number of issues. For example, a person may complain about the conduct of a staff member, but have a second and separate issue that the operator who employed the staff member did not respond to their complaint. This year, we registered 1595 issues – an increase of 20 per cent –². This increase reflects both more cases, and the more complex nature of some of our complaints.

**GRAPH 1
TOTAL RECEIVED CASES**



**GRAPH 2
ISSUES**



¹ The PTO registers a new case when a person contacts the PTO to raise a new issue or issues. Since January 2009, we have re-opened cases where a person contacts us again about the same issue and we decide to investigate the issue. Between January and June 2009, 21 cases have been re-opened. Prior to January 2009, a separate new case would have been registered for these re-opened matters.

² This year we report on infringement notice and ticketing issues separately – these had previously been reported together under the category, Ticketing.

Priority 1 – excellent dispute resolution services



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The most common complaint issue was about transport infringement notices. As we explain below, these complaints are referred to the Department of Transport for action. The next top 5 complaint issues concern:

- ✚ infrastructure and rolling stock – complaints about public transport vehicles, stations and tracks, and most commonly in relation to announcements, safety and security, overcrowding and the impact on residents and others of maintenance works and public transport operations
- ✚ authorised officers – complaints about conduct (intimidation, use of force), communication and the exercise of discretion
- ✚ service delivery – complaints about punctuality, cancellations, disruptions, and the failure of operators to pick up or set down passengers
- ✚ staff – including drivers, customer service officers, station attendants and conductors – with issues about behaviour, passenger safety and security, and the handling of complaints
- ✚ ticketing – including about faulty tickets and machines, refunds, replacements, information and conditions.

We also received complaints about public transport land, in particular, rail car-parks; and public transport information, such as timetables and information on websites.

ACCESSING OUR SERVICES

We aim to provide an informal and accessible service, and most of our cases – 54 per cent in 2008-09 – we receive by telephone. Another 37 per cent of cases are emailed to the PTO or lodged online. Less than 1 in 10 cases is now received by letter.

Most often, people making complaints are referred to the PTO – by public transport operators, government agencies and other Ombudsman offices. This was the source of referral for 28 per cent of cases in 2008-09³.

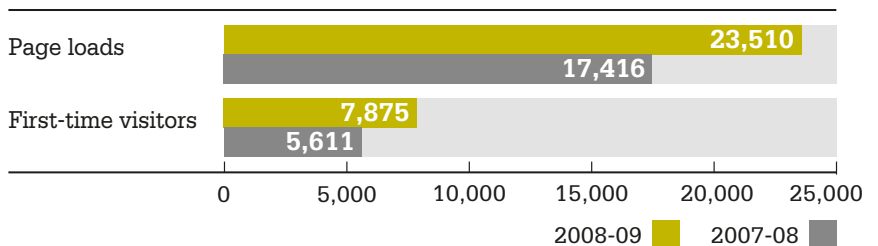
People also find out about our services through the PTO website. Our web traffic increased substantially this year, with 35 per cent more downloads and 40 per cent more first-time visitors – . In the past 12 months, we have increased the accessibility of our website for vision impaired people, with large text and audio-format material. We have also translated information about the PTO into 7 other languages. We have had excellent cooperation and advice from a number of community organisations – including Vision Australia, Co.As.It and the Australian Greek Welfare Society – to make these improvements.

The first step to access, of course, it to know that there is an Ombudsman’s office. While it is important that we work to increase the PTO’s profile, we rely on public transport operators to tell commuters about their review rights. Operators last year agreed to additional steps to tell their customers about the PTO and their review rights:

- ✚ public transport operators include information about the PTO on websites and in publications
- ✚ operators also give information about the PTO to people who complain and, in particular, those who are dissatisfied with complaint outcomes
- ✚ PTO articles have been included in operators’ publications for customers and employees.

In the coming year, we will review and report on how these agreements have been implemented, to support the right of all in the community to have their complaints heard.

**GRAPH 3
PTO WEBSITE HITS**



³ 237 of 838 cases received in 2008-09 where we were able to identify how a person knew about the PTO were referred by public transport operators, government agencies and other Ombudsman offices.

Priority 1 – excellent dispute resolution services



The PTO can only deal with complaints about public transport services provided by Victorian public transport operators that are members of the PTO scheme. We refer other complaints to an appropriate agency, such as another Ombudsman or a government department.

It is sometimes the job of other agencies to deal with particular issues arising from transport services. When we receive a complaint that we cannot deal with, we provide detailed referral advice. In 2008-09, 511 complaint issues were referred to other agencies by the PTO.

The most common referred issue was transport infringement notice appeals. The Department of Transport is charged with reviewing these notices, and complaints about

the Department can be made to Ombudsman Victoria. Despite this, many commuters approach the PTO when they receive a transport infringement notice. In 2008-09, 347 cases included this issue. We provide these people with contact details and other information about how to appeal the notice.

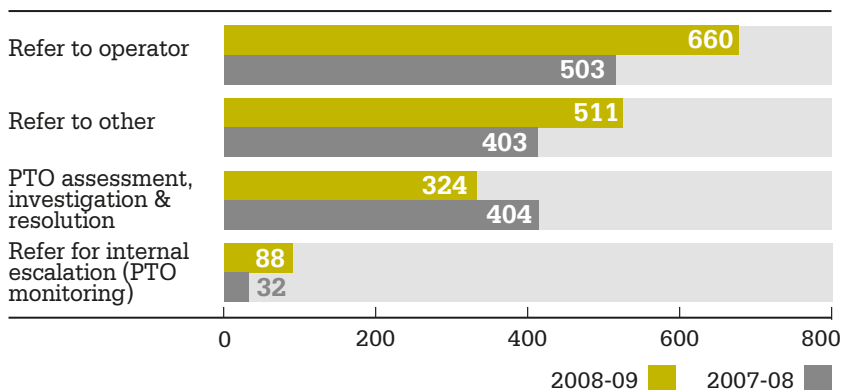
In February 2009, we increased the referral information available on our website to assist those people who want to appeal infringement notices. This included

direct links to the Department of Transport website, contributing to the almost 50 per cent fall in these 'out of jurisdiction' complaints in the 6 months to the end of June 2009⁴.

Sometimes, the person appealing an infringement notice will also have a complaint about public transport services – such as the conduct of an authorised officer or about a faulty ticketing machine – which we are able to deal with.

The PTO will only deal with a complaint that public transport operators have been unable to resolve. If the operator has not had a chance to deal with the complaint, the PTO will refer the person to the operator to resolve the matter directly.

**GRAPH 4
PTO ACTIONS**



Most complaints about public transport are received and investigated by public transport operators. In 2008-09, operators reported 36,969 complaints by customers⁵. These complaints are managed under a uniform complaints-handling procedure for the Victorian public transport industry.

Only after operators have had an opportunity to investigate a complaint can the PTO become involved. In 2008-09, the PTO referred 660 complaint issues to public transport operators for resolution –

⁴ 228 recorded infringement notice issues from 1 Jul-31 Dec 08; 119 recorded infringement notice issues from 1 Jan-30 Jun 09.

⁵ Reports provided to the Customer Feedback Industry Roundtable, 2008-09.

Priority 1 – excellent dispute resolution services

Receipt

Referral

Investigation

Resolution

Conciliation

Decision

Our officers provide the person making a complaint with detailed information about contacting the operator, and the complaints process. We also notify the public transport operator to expect the complaint. This year we have taken a number of steps to improve this referral process:

- In January 2009, we commenced a project to survey by telephone those people we referred to operators. Early results (from the first 4 months of the survey⁶) show:
 - most people (94 per cent) rated our referral service as satisfactory or better, including 58 per cent who were very satisfied with the referral information

- our officers were rated as helpful (88 per cent), courteous and professional (97 per cent)
- most people (85 per cent) contacted public transport operators as a result of our referral information.

Our survey will run throughout 2009, and include evaluating satisfaction with operators' complaints processes.

- In January 2009, we also began to more closely monitor cases that were initially referred to operators, and where the person making the complaint then re-contacted the PTO. From January to June 2009, 21 cases were re-opened for further review after initially being referred to operators.

This year, we have continued to support the complaint escalation procedures of public transport operators. We referred 88 complaint issues to senior managers that previously would have been investigated by PTO officers. Our *Refer for Internal Escalation* process includes:

- vetting the complaint to make sure serious matters are not escalated, but instead investigated by the PTO
- obtaining the consent of the person making the complaint – where a person does not agree we will not refer the complaint, and instead we will investigate the matter
- requiring senior managers to contact the person within 24 hours, and to provide a response within 7 working days
- monitoring operators' response to the complaint.

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1 – Oaks Day

A commuter who was unable to find public transport as a result of the disruption to Connex services on Oaks Day caught a taxi home. She was dissatisfied when Connex refused to reimburse her the taxi fare. The PTO referred the complaint, with the commuter's consent, to a Connex senior manager. In responding to the escalated complaint, Connex acknowledged the commuter's inconvenience. Connex advised that while compensation was not generally offered outside of the service commitment code,:

'[U]pon review and in light of the receipts provided and the distance you were obliged to travel, we can confirm that we are prepared to offer a once-off gesture of goodwill as a resolution to your concerns. As such, we would be happy to refund your taxi fare for 6 November 2008, and also to offer you a Zone 1 and 2 adult daily ticket.'

2 – Station rubbish

A resident who lived near a rail station complained about rubbish and dead trees near the station. The resident stated that she had complained to Connex and had not received a response. The matter was referred by the PTO for escalation to the Connex customer feedback manager. Within a short time, cleaning contractors had attended the area and removed the dead trees and six loads of rubbish and branches. The resident subsequently provided photos of further rubbish/litter directly to the public transport operator, and additional maintenance action was promptly completed.

6 34 surveys completed.

Priority 1 – excellent dispute resolution services



We make sure that people we refer for internal escalation know that they can come back to the PTO if they are not satisfied with the operator's response. Some of the results achieved from these escalated matters include refunds, compensation and maintenance works – see

We survey every person we refer for internal escalation. While the response rate was low (about 25 per cent⁷), some of the early results are encouraging:

- every person⁸ who answered stated they were satisfied that

their initial contact with the PTO was promptly acknowledged, and they understood the referral information provided by our officers

- most (76 per cent) advised that they were contacted promptly by customer feedback managers, and rated as satisfactory or very good their promptness, courtesy and professionalism.

Most people (62 per cent) were also satisfied with the internal escalation procedure. A high proportion (71 per cent), however, stated that their complaint

remained unresolved. While a number of people had been provided with a reason why the complaint could not be solved, 28 per cent of all those who responded to our survey re-contacted the PTO after receiving an operator's response.

We will continue to keep this process under close review during the coming year, to identify the reasons why some complaints are not resolved, and to look for opportunities to improve operators' escalation processes.



Where an operator has had the chance to resolve a complaint, and the person remains dissatisfied, the PTO may investigate. A PTO investigation will include:

- hearing the complainant's side
- giving the operator a chance to respond
- obtaining documents and other information
- researching and considering industry practice, government policy and the law.

During 2008-09, 324 complaint issues were finalised by PTO assessment, investigation and resolution. These include 227 fully investigated issues. We have observed an increasing complexity in the matters investigated, for reasons including:

- our increased role in dealing with authorised officer complaints –
- we now refer simple matters back to operators for internal escalation –

This year, we commenced a new procedure for cases where public transport operators did not provide timely or complete responses. Our *Case Handling Guidelines* provide for these matters to be reviewed, and, where appropriate, the case is escalated and an additional charge applied. The reason for this is to encourage timely and full responses to PTO requests. Our approach in implementing this procedure has included:

- educating operators about PTO information requirements

- making sure operators are reminded when responses are due
- providing operators with a chance to explain if a response is not provided or is incomplete.

It is very pleasing to report that public transport operators co-operated with almost all PTO investigations. Only 4 cases were considered for the additional levy; it was not necessary to apply the levy in any of these cases.

⁷ 18 responses were received from a total of 70 surveys, sent between May 2008 when the internal escalation procedure began, to May 2009.

⁸ Unless otherwise stated, survey results do not include those where persons did not answer the question/s asked; these have been removed for the purpose of calculating survey results.

Priority 1 – excellent dispute resolution services

Receipt

Referral

Investigation

Resolution

Conciliation

Decision

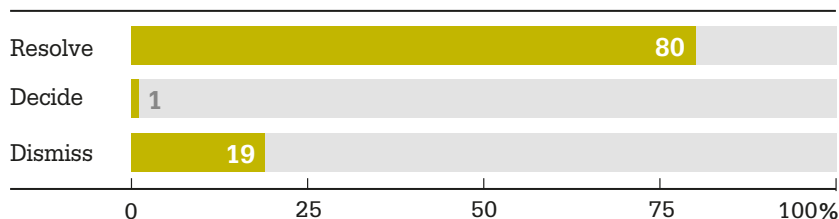
After an investigation, the first aim of the PTO is to resolve the complaint. This may include providing detailed information to the person who has complained, conveying an apology or offer of compensation from an operator, or an operator making changes to public transport services or providing additional training.

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Most complaint issues that the PTO investigates – about 80 per cent – are resolved following our investigations –

Resolutions usually include a detailed explanation of what has occurred. They may also include an operator making an apology, making a goodwill gesture, providing compensation (ticket or monetary) and staff training or other remedial action. This year, our case studies give examples of some of the outcomes achieved by people who made complaints.

GRAPH 5
PTO INVESTIGATIONS



3 – Tram collision

A motorist who stated that her car was hit by a tram complained to Yarra Trams, and requested that she be compensated. Two months later, and because the matter was unresolved, the motorist contacted the PTO. She provided the names and contact details for two witnesses to support her account. The PTO investigation included obtaining the tram driver's statement, which did not accord with the motorist's account. Yarra Trams advised that the delay in finalising the matter was due to the inability to contact a further witness, despite a number of attempts. Given that this witness was not available, and the information provided in support of the claim, Yarra Trams agreed to compensate the motorist for the damage to her vehicle on provision of 2 quotes.

4 – Ticket machine

A commuter complained that he had inserted a \$50 note into a ticket machine to purchase a Metcard. He stated that the machine did not issue a Metcard or change, and the \$50 note was not returned. The commuter submitted a refund form; the application was declined as no fault was found on the machine. The commuter contacted the PTO.

During our investigation, it was identified that the date of the incident was incorrectly stated on the refund form. A further test for the correct date found that the machine went out of service and into auto-test mode at about the time that the commuter claimed to have lost his \$50. This explained why the commuter's money was not returned. The Transport Ticketing Authority (TTA) advised that if the commuter left the machine during this period, then it is likely that the next customer found the \$50 note. As a result, TTA agreed to refund \$50 to the commuter.

Priority 1 – excellent dispute resolution services

Receipt

Referral

Investigation

Resolution

Conciliation

Decision

5 – Passenger left behind

A passenger contacted the PTO after travelling from Bateman's Bay to Melbourne on a V/Line coach service. The coach stopped at Narooma to pick up and set down passengers, and the passenger stated that he told the driver he was going to the restroom. When he came out, he found the coach had left without him. The passenger was unable to complete his journey that day. He stayed overnight in a hotel. The passenger contacted V/Line and was offered a refund of his fare – only part of the resolution that he was seeking. He also sought reimbursement of accommodation costs and telephone expenses. Because he was not satisfied, he contacted the PTO.

During our investigation, we obtained information about the driver's interview, including that he had not seen the passenger leave the bus, nor did he recall the passenger telling him that he was going to the restrooms. However, V/Line acknowledged that the driver should have performed a head count, particularly as there were only 6 passengers on board. V/Line had already offered to refund the \$55 cost of the passenger's ticket. After the passenger supplied the PTO with substantiation of his \$50 accommodation expenses, V/Line also agreed to pay this amount, resolving the complaint.

6 – Concession cards

With the imminent introduction of myki, commuters holding certain concession cards including War Widows Transport Concession Cards were advised that these cards would be valid until 29 Feb 2008, or until replaced by myki. The concession cards were clearly marked with this condition.

A war widow travelling by Connex train in May 2008 was approached by authorised officers for her ticket. She produced her war widows concession card, and stated that she was told by the officer that it had expired. Her details were taken and her ticket confiscated. While she was issued with a travel permit, the passenger stated that she could not use this for a subsequent bus journey, and was required to purchase another ticket. When the passenger complained about her treatment, the transport infringement notice which was to be issued was revoked. However, the passenger also wanted an apology for how she was treated, and a letter confirming her entitlement to use the concession card.

During the PTO investigation, Connex advised that the reporting officer could not recollect the passenger producing a war widows concession card. However, after a full examination of evidence, the PTO found, and Connex accepted, that it was most probable that the passenger had produced the concession card. Reasons for this included that the officer had recorded that the passenger had presented a concession card, and the only concession card the passenger was eligible for was the war widows concession card. Following the PTO investigation, Connex sent a letter of apology to the passenger for any error on the part of the authorised officer. In addition, Connex:

- sent notices to all authorised officers and station staff, reminding them of the concession cards that are valid until the introduction of myki
- offered the passenger a daily Metcard as a goodwill gesture.

Priority 1 – excellent dispute resolution services

Receipt

Referral

Investigation

Resolution

Conciliation

Decision

Where a complaint cannot be resolved, and the operator's response is fair and reasonable, the PTO will end the investigation.

In 2008-09, 19 per cent of the case issues investigated were not resolved. Generally, the PTO exercised a discretion not to further investigate these cases.

For every investigation that we conduct, we consider what is fair and reasonable, good industry practice and current law. This year, we have conducted research, including into the practice of other ombudsmen, to refine our approach in considering what is fair and reasonable. Our case-handling guidelines now specify that considering what is fair and reasonable will include considering:

- ✎ the information obtained during an investigation

- ✎ any applicable laws or related documents
- ✎ any Codes or Charters, such as a customer service charter or compensation code
- ✎ the observed good practices of other public transport operators
- ✎ any expert advice, such as reports from technical, legal or medical specialists
- ✎ previous outcomes of complaints raising similar issues
- ✎ PTO position statements relevant to the issues of complaint – this year we finalised 2 position statements, one dealing with delayed or no responses to

complaints, and the second dealing with authorised officer complaints

- ✎ the history of the complaint, and how the person making the complaint and operator have acted, including issues of customer service and reasonableness
- ✎ what the ordinary person would think is a fair outcome.

Case study 7 is an example of a matter where we discontinued an investigation after finding the response of the TTA fair and reasonable.

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7 – Metcard retailer

An elderly commuter complained to the PTO about a decision by TTA not to enter into an agreement with a local small business to sell Metcards. She stated that the business, which had recently changed hands, had sold Metcards for a number of years, and that she found it difficult to purchase tickets elsewhere. The new business owner also complained about the decision, and provided a petition from his customers. During the PTO review, we:

- ✎ assessed the business against the Metcard retail selection criteria established by TTA
- ✎ visited the area in which the business was located to assess matters including the geographic proximity of the business with other Metcard retailers and public transport
- ✎ met with TTA officers to obtain a better understanding of their decision-making processes.

Our review found the TTA decision to be a fair and reasonable one. The business met many of the criteria for a Metcard retail agreement. However, the historical level of transactions for the business was at the lower end. The transactions did not demonstrate a level of patronage similar to other retailers in the same area, nor demonstrate value for money having regard to the costs of servicing Metcard retailers. In addition, given the limited life of Metcards (to be shortly replaced by myki tickets), we agreed that there would need to be compelling reasons for TTA to enter a new Metcard retail agreement with a business. We provided the commuter and business owner with detailed advice about our review and decision.

Priority 1 – excellent dispute resolution services

Receipt

Referral

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The PTO may conciliate the complaint. Here, PTO conciliators meet with the complainant and public transport operator – sometimes ‘on-site’ at places such as bus stops or rail stations – to see if a solution can be reached.

This year, the PTO attended places such as tram and train stops and the home of the person making a complaint, to explore options for complaint resolutions. Sometimes, these visits can resolve the issues of complaint by demonstrating graphically the issues of concern, as case study 8 demonstrates.

8 – Station bollards

A commuter who uses a scooter for mobility complained to the PTO about the location of bollards used on ramps at a metropolitan train station, which she stated were very difficult to manoeuvre around.

During the PTO investigation, Connex advised that the purpose of the bollards was to prevent bike and skateboard riders from speeding down the ramps and endangering pedestrians. In an effort to resolve the matter, a site visit was arranged, including the PTO conciliation manager, the commuter and Connex representatives. During the visit, the commuter demonstrated how difficult it was to move around the bollards. As a result of the site visit, Connex agreed to adjust the bollards and make access easier. Connex also undertook to inspect other ramps that may require further adjustment. The PTO is monitoring the implementation of the agreed outcomes.

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Receipt

Referral

Investigation

Resolution

Conciliation

Decision

If all avenues to resolve the complaint have been exhausted, and the PTO does not agree that the operator’s response is fair and reasonable, the Ombudsman may make a binding decision, up to an amount of \$5,000.

This year, the Ombudsman made the PTO’s first binding decision, after a passenger with valid tickets was wrongly removed from a train service. The decision included the payment of compensation, and a recommendation that additional training be provided to V/Line conductors about ticket conditions. The binding decision was reported in the Autumn 2009 edition of *OverView*, the PTO’s quarterly newsletter, and is on the .

Priority 2 – better public transport services

While our first job is to investigate and resolve public transport complaints, some cases raise issues with ramifications beyond a single complaint. Where this happens, we look to improve the public transport services, as well as resolving the individual case.

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Case study 9 is an example of our work in raising systemic issues and improving practice.

We are also required to monitor any systemic issues and general complaint trends. This year we finalised two systemic issue reports.

OPERATOR COMPLAINT MANAGEMENT

The first report followed a review of the 249 issues that we investigated in 2007-08. We assessed how public transport operators had managed these complaints in the first instance. While most

complaints (73 per cent) were handled properly, a substantial number (27 per cent) were not. Common issues included that people making complaints did not receive a response, or the response was delayed. Our report, finalised in November 2008, recommended a review of complaint-handling arrangements for occasions where there was an unexpected increase in complaints. We also recommended public transport operators apologise and consider giving a goodwill gesture (for example, Metcards or reimbursement) for late responses. This recommendation is reflected in our public position statement on delayed responses. We are pleased to see evidence of this approach in operator responses – see case study 10.

9 – Elderly bus passengers

An older passenger complained to the PTO about a number of matters including the failure of a bus driver to wait until he was seated before departing a bus stop. While our investigation could not substantiate the complaint, a review of our holdings identified 5 complaints about bus drivers departing stops prior to passengers taking a seat. Two cases had resulted in injury, including a broken hip. Our review found that good industry practice included allowing passengers, especially elderly passengers, to be seated wherever possible prior to a bus departing a stop. We asked Public Transport Safety Victoria to highlight this issue in their regular publication, *Bus Safety News*; an article was published in the June 2009 edition.

10 – Delayed complaint response

A passenger complained to the PTO about what he described as rude conduct of a Connex customer service officer when he approached her about a late-running train. Other than an initial response acknowledging receipt of his complaint, the passenger stated he had received no substantive response in almost 2 months.

With the passenger's agreement, the PTO referred the complaint to the Connex Customer Feedback Manager. Connex responded to the passenger within 7 calendar days. The response acknowledged his perceptions about how he was treated and indicated that his feedback was passed on to the station manager. Connex provided substantial information about delayed services on the day in question. The Connex response, while indicating an attempt to contact the passenger within about 1 month of his complaint, acknowledged that a reply should have been made to the complaint sooner. Connex apologised for not meeting required timeframes for handling complaints. To resolve the complaint, Connex offered 2 daily Metcards as a gesture of goodwill.

Priority 2 – better public transport services

AUTHORISED OFFICER COMPLAINTS

Report background: The PTO authorised officer complaints review reported on 90 cases received and finalised by the PTO between May and September 2008. The cases raised 139 misconduct allegations against authorised officers. Our review focused on trends arising from these complaints.

Most of the cases we reviewed were not investigated by the PTO, and were instead referred to public transport operators as required by our Charter for the first opportunity to investigate the complaint. We were therefore careful not to regard the complaints as proof, in themselves, that incidents had occurred.

However, complaints are evidence of the perceptions of those who make them even before they are investigated, and provide valuable information to improve procedures, training and practice.

Complaint trends: The most common complaint issue was intimidation, raised in 28 cases (31 per cent). Intimidation was also the most common issue raised in complaints from young people (12 cases or 52 per cent⁹), and complaints by third parties, such as parents or observers (13 cases or 50 per cent¹⁰). Other common conduct complaints included allegations of unnecessary use of force (22 per cent) and about excessive numbers of authorised officers being present at incidents (10 per cent) –

Customer service and related issues were the second most common category of concerns, raised in 24 cases (27 per cent). This includes complaints about authorised officers not listening, or behaving rudely.

Issues associated with requesting identification from alleged offenders was another common complaint issue, raised in 20 cases (22 per cent). Allegations included authorised officers not stating to passengers the grounds for their belief that an offence had occurred, and not complying with passenger requests for the authorised officers' identification.

PTO investigations: 15 cases were investigated by the PTO. In 7 cases, we were unable to determine the complaints because of a conflict of accounts, and a lack of other information (such as CCTV or witness accounts) to resolve the allegations – see

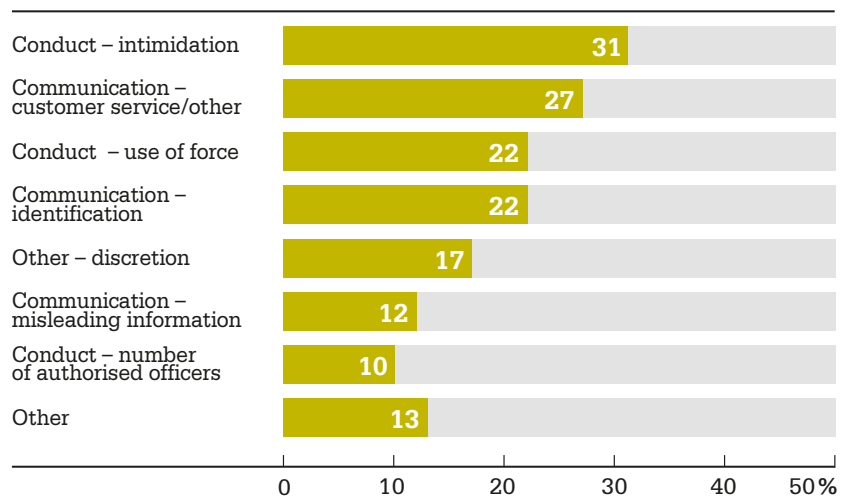
In 4 cases, we found that the allegations were not proved.

Two cases were resolved by the public transport operator acknowledging errors on the part of authorised officers (see), and another 2 cases were resolved after we provided detailed information, including about the powers of authorised officers.

Recommendations: Our review acknowledged the contentious nature of authorised officers' powers. Our recommendations included:

- ✚ giving authorised officers better guidance about the use of force, including a clear and appropriate definition for excessive or disproportionate use of force
- ✚ implementing a mechanism to record and monitor use of force incidents involving authorised officers
- ✚ improving procedures to make sure CCTV footage is retained where it may record a use of force by authorised officers
- ✚ providing information to authorised officers about why people complain.

GRAPH 6
AUTHORISED OFFICER COMPLAINT ISSUES



9 23 cases were complaints made by or on behalf of young persons.

10 26 cases were complaints made by third parties.

Priority 2 – better public transport services

We provided our report to public transport operators, the Director of Public Transport and Ombudsman Victoria in May 2009.

11 – Commuter apology

A commuter was requested by an authorised officer to revalidate an already valid ticket. The commuter refused, and the authorised officer confiscated the ticket and completed a Report of Non-Compliance. A transport infringement notice (TIN) was subsequently issued to the commuter. However, after a re-examination of the ticket confirmed its validity, the TIN was withdrawn. The commuter was dissatisfied with the initial actions of the authorised officer, and was not satisfied with the information provided by Connex in response to his complaint.

During the PTO investigation, Connex acknowledged that the officer could have exercised discretion and not have confiscated the commuter's ticket. The complainant was offered and accepted an apology and 3 Metcards as a gesture of goodwill.

12 – No CCTV footage

Authorised officers engaged with two 16 year old passengers who were travelling on a Connex train with incorrect concession cards. It was alleged that the authorised officers grabbed one of the passenger's feet and 'tossed it off her [other] crossed leg'. It was also alleged that the authorised officers abused the passengers. The mother and grandmother of one of the passengers made the complaint, as they stated they had witnessed the conduct of the authorised officers.

During the PTO investigation, statements were obtained from all involved in the complaint, including the passengers, other family members and the authorised officers. Relevant policies and procedures and complaint documents were also obtained. The authorised officers denied touching the passenger, and stated that they behaved professionally toward both young people at all times. The PTO also requested CCTV footage of the incident, and was advised that the CCTV hard-drive on the train was not operational at the time. The hard drive was immediately replaced, and the faulty unit sent for service.

As there was a clear conflict in the evidence of both parties, and no other information available to the PTO to resolve the conflict of evidence, the PTO was unable to determine the complaint. Full information on the investigation and outcome was provided to the complainant.

Priority 2 – better public transport services

In undertaking our work, we have access to a unique cross-section of information. We will make submissions where this information might assist inquiries or reviews.

Outlined below are some of the inquiries we assisted during 2008-09.

ALTERNATIVE DISPUTE RESOLUTION

We made a submission to the *Enquiry into Alternative Dispute Resolution and Civil Proceedings* by the National Alternative Dispute Resolution Advisory Council. We noted the crucial importance of informing the community about their right to access external dispute resolution services, and outlined the actions taken by public transport operators and the PTO to promote our scheme. We also highlighted mechanisms used by the PTO, including the National Benchmarks¹¹ and a strong internal governance framework, to drive our service standards and improvement.

TRAIN SERVICES

We responded to an invitation from the Legislative Council's *Select Committee on Train Services* to provide a brief submission highlighting the importance of providing timely and relevant information to commuters about delays or disruptions. We also raised the need for effective responses to complaints. We noted here that compensation codes for delayed public transport services are quite restrictive, resulting in

people who make complaints being dissatisfied where they have been significantly inconvenienced by service disruptions and not eligible for compensation.

ASSISTANCE DOGS

We met with the Victorian Law Reform Commission to provide information for the Commission's *Assistance Dogs and Guide Dogs Review*. We noted the importance of a consistent definition for assistance animals, to make sure any person who genuinely required an assistance animal was able to use one. We also emphasised that clear and simple rules are necessary to help drivers, conductors and attendants, who may be required to make decisions about animals' access to public transport vehicles.

OPERATOR POLICIES

In addition to making comments for public enquiries, the PTO is sometimes asked to review and comment upon the policies and procedures of public transport operators. This year, we provided comments about matters including:

- the public transport industry *Complaints Handling Procedure*
- the complaints processes and customer charters of a number of operators.

¹¹ National Benchmarks for Industry-Based Customer Dispute Resolution Schemes – released by the Commonwealth Department of Industry, Science and Tourism in 1997.

Priority 3 – effective relationships

We want effective relationships with scheme participants and those in the community with a stake in effective and responsive public transport, not only to promote confidence in our service, but also to increase our understanding of the needs of commuters and public transport operators.

Our board – with a balance of industry and community representation – provides a solid foundation for diverse and expert views to inform our strategic priorities and operational procedures. This year, operators agreed to changes to allow V/Line to be represented on the PTO Ltd board. As a consequence, Rob Barnett, V/Line's chief executive officer, joined the board, as did Chris Lowe, the executive director of the Bus Association of Victoria.

THE COMMUNITY

This year, we continued our focus on speaking to community groups with an interest in our work, undertaking more than 30 outreach activities, including meetings, visits and presentations. For example, representatives from the Public Transport Users Association, the Victorian Council of Social Service and the Consumer Action Law Centre attended a meeting of the PTO Ltd Board. We also presented to groups such as Emergency Relief Victoria and the Infringements Working Group, and attended Public Transport Access Committee meetings as an observer.

The Ombudsman and other officers met with peak agencies representing various ethnic communities. The PTO conciliation manager met with community representatives and bus operators in Swan Hill and Mildura. Our staff also attended V/Line consultation trips to Seymour, Bendigo, Ballarat and Gippsland.

We have been actively involved in the Australian and New Zealand Ombudsman Association (ANZOA), the professional organisation for industry and statutory ombudsman. The Ombudsman is a member of the ANZOA executive committee, and we attend working groups focused on learning and development, promotions and human resources. PTO officers joined other ombudsman staff at university 'O-week' open days, to provide information to new students about the work of ombudsman.

PUBLIC TRANSPORT OPERATORS

We began sourcing training for public transport operators this year to target specific areas of complaint management:

- ✚ in July 2008, we arranged for the NSW Ombudsman's Youth Liaison Officer to attend a meeting of the Customer Feedback Industry Roundtable to present guidelines for dealing with youth complaints
- ✚ in November 2008, we convened a complaints-handling course for public transport operator customer-feedback staff
- ✚ in March 2009, we organised a workshop focused on practical measures to deal with unreasonable complainant conduct.

Our 2008 company planning session resulted in agreements for public transport operators to actively promote the PTO, and for the PTO to review its recording and referral practices. We established a taskforce to monitor these agreements, which were fully implemented by early 2009.

Other regular meetings with operators included:

- ✚ the PTO Ltd Chair or Ombudsman met with operators' chief executive officers on a number of occasions during the year
- ✚ the PTO conciliation team met quarterly with operators' customer feedback officers
- ✚ PTO officers gave presentations at training sessions for all authorised officers, including new authorised officers, and our conciliation manager met with new Metlink call-centre staff
- ✚ the Ombudsman and conciliation manager implemented a visit program to bus operators, including those in Bendigo, Ballarat and the La Trobe Valley, and a number of metropolitan bus companies.

Priority 4 – a leading ombudsman

The PTO aims to provide effective services that meet or exceed the expectations of commuters and public transport operators. We aim to be a leading ombudsman's office.

We are always looking to improve our workplace, develop our officers and refine our procedures and systems.

NEW INITIATIVES

In 2008-09, we completed a review of our workplace arrangements. This included benchmarking PTO salaries with other industry ombudsman schemes and making arrangements for both paid parental and study leave. We also introduced flexible work arrangements to assist PTO officers in balancing their work and other commitments, while increasing our ability to cope with changing work pressures. We overhauled our performance management and development processes, closely linking officers' performance agreements to our business plans, and substantially increasing our investment in professional development.

2008-09 has also seen the following initiatives:

- ✎ We adopted a new Code of Conduct¹², with 4 key standards: to act responsively and with respect, integrity and accountability.
- ✎ We reviewed the way we record cases and issues, to enhance the accuracy of our reports and the information about our case work.

- ✎ We put in place a management strategy and plan to reduce our environmental footprint. Our actions focused on energy, paper and water use, waste generation and carbon impact from transport. Achievements in the first 6 months of the program include reductions of 13 per cent or more in our energy usage, waste generation and paper usage.

- ✎ We revised our approach to risk management – an essential component of good corporate governance – with the assistance of our insurers, the Victorian Managed Insurance Authority. Our review has resulted in a more strategic focus to risk management and improved reporting to our Audit Committee.

BENCHMARKING OUR WORK

The PTO takes a range of actions to assess and improve the quality of our work. This includes:

- ✎ Measuring the timeliness of our case handling. During this year:
 - ✎ we finalised 84 per cent of all case issues¹³ within 14 days, including 98 per cent of referred issues
 - ✎ we finalised 90 per cent of all case issues within 31 days

- ✎ most matters finalised by PTO assessment, investigation and resolution¹⁴ – 51 per cent – were completed within 31 days.

- ✎ Measuring the satisfaction of people who complain: we have reported (above) on our surveys of those people we refer elsewhere – . Since the commencement of the PTO, we have also sent a survey to most complainants seeking feedback about our service standards. It is pleasing to see that the results of this year's survey continue to record high levels of satisfaction with our services, consistent with previous years – ¹⁵.

- ✎ Reviewing our decisions: the Ombudsman personally reviews any matter where a person making the complaint or a public transport operator is not satisfied with the outcome or handling of a case. This year, 3 case reviews were finalised by the Ombudsman:

- ✎ in one matter, substantial additional investigation did not result in the complaint being substantiated
- ✎ in the second matter, the review could not substantiate the person's individual concerns. However, a number of

12 Available on the PTO website: www.ptovic.com.au

13 1583 case issues were finalised during 2008-09.

14 324 case issues were finalised by PTO assessment, investigation and resolution.

15 365 surveys sent and 58 responses received. Survey results do not include surveys where persons did not respond to the question/s asked; these have been removed for the purpose of calculating survey results.

Priority 4 – a leading ombudsman

GRAPH 7
SATISFACTION WITH PTO SERVICES

	Jul–Dec 08	2007–08	2006–07
Promptness of service	91%	93%	92%
Courtesy	95%	90%	98%
Staff knowledge	85%	92%	81%
Quality of advice	75%	82%	76%
Professionalism	89%	93%	90%
Clarity of communication	88%	91%	93%
Overall satisfaction	72%	77%	70%

additional outcomes were identified, including recommending changes to a bus operator's policy for access to CCTV footage so that it was consistent with privacy laws

- the third matter identified opportunities to improve the PTO's handling of claims cases, and the information we provide parties about the progress of our investigations.
- Dealing with complaints about our services: this year, 4 complaints about PTO officers were finalised, raising issues about customer service, partiality and case handling. The complaints provided an opportunity to review aspects of our services, to apologise where we could have done a better job, and to remind PTO officers about complaint-handling requirements and expectations.

This year, the PTO was also the subject of 2 independent audits:

- an audit by the Victorian Auditor General's Office focused on our handling of complaints about authorised officers
- a 5-year review of PTO operations, conducted by independent reviewers from The Navigator Company.

Both reports have found the PTO's complaint processes to be fair and consistent with National Benchmarks – an important finding. Each report makes recommendations to improve the PTO's operations. Many of these recommendations have already been implemented, and a number of others are in process. The reports and our response reflect our commitment to ongoing improvement.

THE YEAR AHEAD

The coming year holds significant change for Victoria's public transport and the PTO:

- new metropolitan train and tram operators means new PTO scheme members

- a new ticketing system, with the PTO as the external dispute resolution service, means a possible substantial increase in our work

- public transport infrastructure improvements may mean commuters bear short-term pain for better services in the long run; if this is not managed well, they may voice their concerns.

Our business plan for 2009-10 aims to lock in some of the improvements made in the recent past. Our planned actions include audits of public transport operators to make sure they are informing commuters about the PTO, reviewing our demographic information to target outreach activities, and providing new learning opportunities for customer feedback staff.

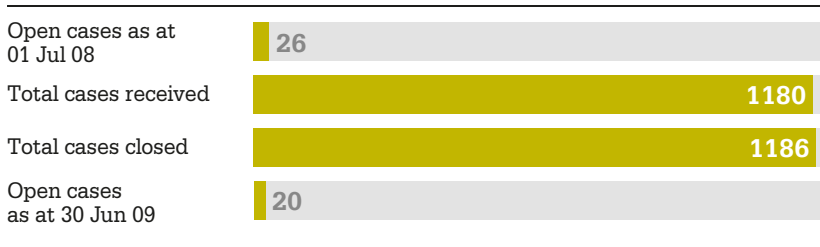
We have also targeted improving our resolution services, with publications planned to assist people in making complaints, and to provide comprehensive information about our procedures for public transport operators. We will also develop a disability action plan, and review our privacy arrangements.

The independent 5-year scheme review by The Navigator Company provides a focus, in the longer term, for considering the PTO's activities. The review has provided us with an opportunity to focus on our leadership role and to consider the reach of the PTO scheme. We are currently reviewing our Vision, Mission and Values statements, and finalising our priorities for the next 3 years, based around the 6 key principles in the National Benchmarks: Accessibility, Independence, Fairness, Accountability, Efficiency and Effectiveness.

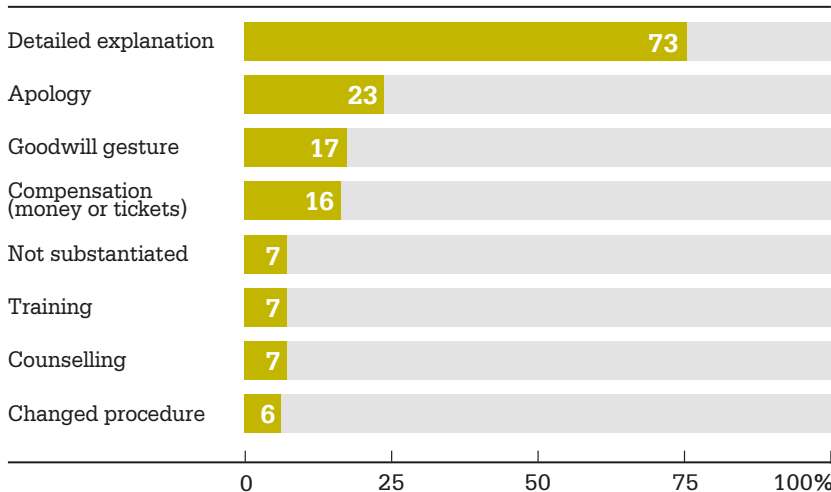
Operations report for 2008-09

The PTO operations report includes information about cases handled during 2008-09, results of PTO investigations and individual reports for each public transport operator.

**GRAPH 8
CASES HANDLED¹⁶**



**GRAPH 9
RESULTS OF PTO INVESTIGATIONS¹⁷**



OPERATOR REPORTS

There were 8 members of the PTO scheme during 2008-09:

-
-

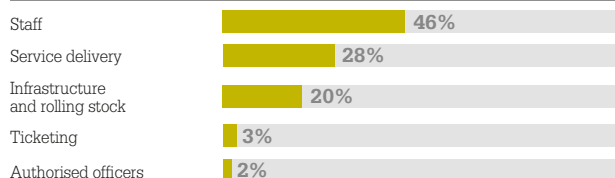
16 The PTO registers a new case when a person contacts the PTO to raise a new issue or issues.
 17 227 complaint issues were investigated and finally determined by the PTO in 2008-09. The results are expressed as a percentage of these 227 complaint issues.
 18 A case may include more than one issue. For a detailed description of case issues,
 19 There are no reports for VicTrack, as no cases were received or SCS Authority, as only 2 cases were recorded.

Operations report for 2008-09

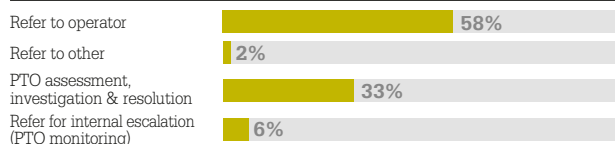
BUS OPERATORS

Cases received 2008-09 **88** 2007-08 **100**

Top 5 issues



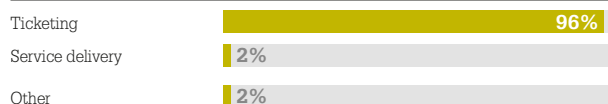
PTO actions



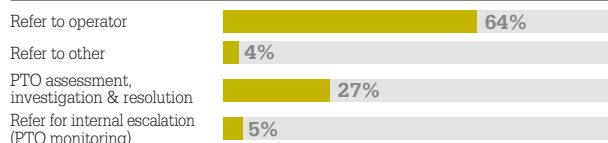
TRANSPORT TICKETING AUTHORITY

Cases received 2008-09 **49** 2007-08 **26**

Top 3 issues



PTO actions

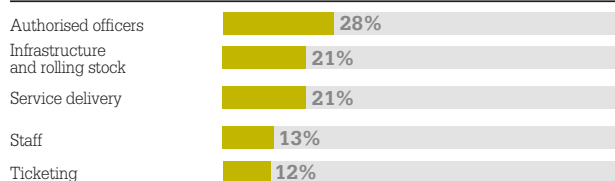


During 2007-08, the Transport Ticketing Authority assumed responsibility for most complaints about ticketing, a role previously performed by Metlink.

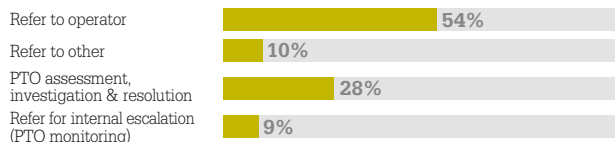
CONNEX

Cases received 2008-09 **348** 2007-08 **392**

Top 5 issues



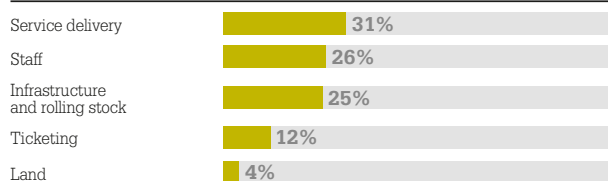
PTO actions



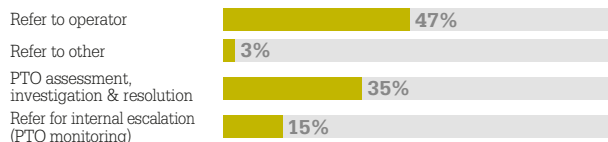
V/LINE

Cases received 2008-09 **73** 2007-08 **100**

Top 5 issues



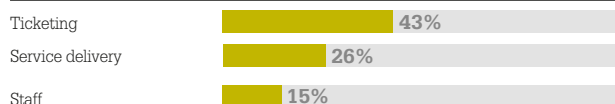
PTO actions



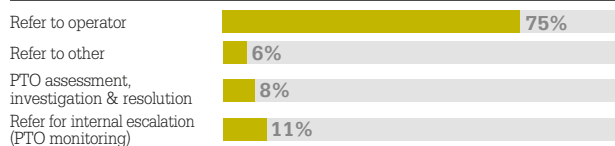
METLINK

Cases received 2008-09 **44** 2007-08 **92**

Top 3 issues



PTO actions

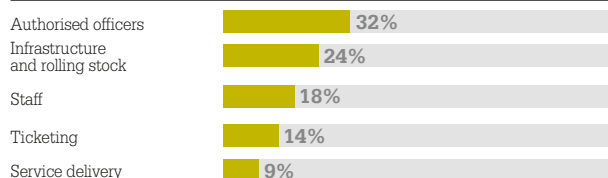


For Metlink, issues about service delivery include complaints about timetable availability/accuracy.

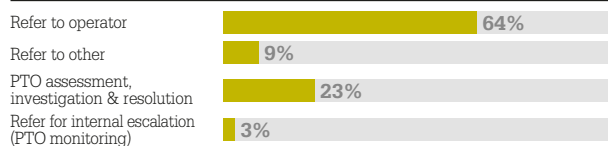
YARRA TRAMS

Cases received 2008-09 **163** 2007-08 **149**

Top 5 issues



PTO actions



Summary financial statements

The following is a concise version of the Financial Reports for the Public Transport Ombudsman Ltd for the year ending 30 June 2009. The financial statements and specific disclosures contained in this concise financial report have been derived from the full financial report and the concise financial report cannot be expected to provide as full an understanding of the financial performance, financial position and cash flows of the entity as the financial report. Audited Financial Statements and Directors' Report for the Public Transport Ombudsman Ltd have, in accordance with the Corporations Act 2001 requirements, been lodged with the Australian Securities and Investments Commission (ASIC).

INCOME STATEMENT

	2009 \$	2008 \$
Revenue from operations	1,320,186	1,042,486
Depreciation and amortisation expense	114,938	38,811
Employee benefits expense	795,955	836,827
Occupancy costs	140,885	136,182
Telephone and IT expenses	53,209	38,223
Consultancy expenses	87,109	34,360
Other expenses from ordinary activities	98,311	126,999
Profit/(loss) before income tax expense	29,779	(168,916)
Income tax expense relating to ordinary activities ²⁰	-	-
Net profit/(loss) after income tax expense	29,779	(168,916)

BALANCE SHEET

	2009 \$	2008 \$
Current assets		
Cash and cash equivalents	538,359	125,950
Trade and other receivables	474,820	677,970
Total current assets	1,013,179	803,920
Non-current assets		
Plant and equipment	74,092	171,136
Total non-current assets	74,092	171,136
TOTAL ASSETS	1,087,271	975,056
Current liabilities		
Trade and other payables	808,269	742,480
Provisions	31,497	16,868
Total current liabilities	839,766	759,348

Non-current liabilities

Provisions	4,940	2,922
Total non-current liabilities	4,940	2,922
TOTAL LIABILITIES	844,706	762,270
Net assets	242,565	212,786
Equity		
Retained profits	242,565	212,786
TOTAL EQUITY	242,565	212,786

CASH FLOW STATEMENT

	2009 \$	2008 \$
Cash flows from operating activities		
Receipts from customers	1,506,040	380,761
Payments to suppliers and employees	(1,093,033)	(474,914)
Interest received	17,298	15,086
Net cash inflow/(outflow) from operating activities	430,305	(79,067)
Cash flows from investing activities		
Payments for plant and equipment	(17,896)	(22,232)
Net cash inflow/(outflow) from investing activities	(17,896)	(22,232)
Net increase/(decrease) in cash and cash equivalents	412,409	(101,299)
Cash and cash equivalents at the beginning of financial year	125,950	227,249
Cash and cash equivalents at the end of financial year	538,359	125,950

²⁰ The Australian Taxation Office has issued a private tax ruling declaring that the company is deemed exempt from income tax for the financial years 30 June 2008 to 30 June 2011.

Contacting the Public Transport Ombudsman

The Public Transport Ombudsman provides a fair and independent way to resolve complaints about trains, trams, buses, ticketing or other public transport services.

The Public Transport Ombudsman can help if you cannot solve your complaint with the public transport provider. Our services are cost-free, and available to anyone who travels on, or is affected by, public transport in Victoria.

Office Hours:	Monday-Friday 9am-5pm
Free Call:	1800 466 865
TTY:	1800 809 623
Fax:	03 8623 2100
Email:	
Website:	
Mail:	PO Box 538, Collins St West, Melbourne VIC 8007

Italiano *Italian*

Chiama il numero gratuito: **1800 466 865**
Per il servizio interpreti chiama: **131 450**

Ελληνικά *Greek*

Τηλεφώνημα χωρίς χρέωση: **1800 466 865**
Τηλέφωνο υπηρεσίας διερμηνέων: **131 450**

繁體中文 *Chinese (Traditional)*

免費電話: **1800 466 865** 電話傳譯服務: **131 450**

简体中文 *Chinese (Simplified)*

免费电话: **1800 466 865** 电话传译服务: **131 450**

Tiếng Việt *Vietnamese*

Số điện thoại gọi miễn phí: **1800 466 865**
Số thông dịch qua điện thoại số: **131 450**

العربية *Arabic*

مكالمة مجانية: **1800 466 865**
خدمة الترجمة الهاتفية: **131 450**

МАКЕДОНСКИ *Macedonian*

Бесплатен повик: **1800 466 865**
Телефонска преведувачка служба: **131 450**

Türkçe *Turkish*

Ücretsiz telefon: **1800 466 865**
Telefon tercüme servisi: **131 450**