



PUBLIC TRANSPORT OMBUDSMAN FIVE-YEAR REVIEW

Update on Progress – June 2024

Introduction

Under the PTO Charter we are required to have our performance independently reviewed every five years. We provide our services in line with the six benchmarks for industry-based customer dispute resolution (The Benchmarks) which are *accessibility, accountability, effectiveness, efficiency, fairness* and *independence*. The last such review was conducted in 2019 by Dr Gavin McBurnie from the Consumer Dispute Resolution Centre at Queen Margaret University (Scotland, United Kingdom).

The 2019 scheme review contained 35 recommendations; all except one were accepted or supported by the Board. In 2019, the Board, as with society more generally, did not anticipate a global pandemic that radically changed the way we lived our lives for a period of time. With lockdowns in place in Melbourne for much of 2020 and 2021, public transport patronage significantly reduced as did the number of complaints made to the PTO. The PTO operated in a leaner way than usual during this time to support our members and this reduced our capacity to undertake major reform. At the same time, government was very much focused on the pandemic and reform in other areas of policy were not possible. As such, many of the recommendations that were beyond the control of the PTO and required significant time and/or investment, as well as major collaboration outside of the organisation were not progressed.

Noting changes in the sector, including the expansion of the membership of the PTO and changed commuter patterns, the Board is pleased to provide this Update on Progress against the 2019 Scheme Review Recommendations. Some recommendations previously accepted by the PTO have now been reconsidered and this Update provides an overview of the Board's current position.

The PTO Board is currently undertaking a review of its Charter and Constitution. It is intended that some of the changes recommended in 2019 be actioned as part of that process.



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1. ACCESSIBILITY

1.1 Raising awareness

- It is recommended that the PTO works with operators on the development of a consumer engagement strategy to promote both the overall public transport complaints system and, specifically, the role of the PTO at transport facilities.
- It is recommended that the PTO develops a fully resourced overarching awareness promoting strategy.

1.2 Vulnerability

- It is recommended that the PTO should particularly focus its awareness raising activities on under-represented socio-demographic groups.
- It is recommended that the PTO reviews its provision of material for those with additional needs.

2024 Update

- The PTO's *Member Awareness Policy* has been updated to incorporate the provision of information about the PTO's complaints handling services at public transport facilities.
- In 2020, the PTO implemented the *Awareness & Communications Operational Strategy (2020-2022)* and *Accessibility & Inclusion Action Plan (2020-2023)*. The former offered an over-arching approach to awareness-raising through communications. A core focus of the latter was the accessibility of PTO written communications and digital channels.
- Since 2020, the PTO has implemented a range of accessibility tools and process in relation to its website, its provision of printed documents, and its social media channels. Consumer information is now available in Plain and Easy English formats, and in ten non-English languages.
- In 2022, increased internal resourcing allowed for the development of an integrated *PTO Communications, Outreach and Engagement Plan 2022-2025*. This has delivered a more structured framework for advancing the PTO's promotional and community engagement goals. It incorporates a focus on outreach to under-represented individuals and offers broad definitions of the demographics that comprise this category.



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2. INDEPENDENCE

2.1 Structure of the Board

- It is recommended that the Board of PTO consider reducing its Board size to five members.
- It is recommended that as, well as reducing the Board from seven members to five members, the Board should be established on the basis of an independent chairperson, one industry director, one consumer director, drawn from consumer interest groups active in the area of public transport, and two independent directors.
- It is recommended that the Board assumes responsibility to appoint directors. In implementing this change, the Board of the PTO should review the activities of consumer ombudsman that have such a role and agree a revised process based upon this experience.
- The Chairperson of the PTO should also be appointed by the Board following a recommendation from the nominations committee, but in this case the nomination should also be passed to the Department of Transport for consideration but not approval.
- It is recommended that the Constitution of the PTO be amended to include the length of appointment for both directors and the chairperson.

2024 Update

- The PTO is reviewing its Charter and Constitution in 2024/2025. The scope of the PTO Charter and Constitution Review includes consultation on the Board's composition and size, Board member recruitment and appointment processes, and terms of appointment.

2.2 The position of the Ombudsman

- It is recommended that the Board consider appointing the Ombudsman as an additional sixth board member.

2024 Update

- This recommendation was not supported in 2019 as the Board was not persuaded that this would add value to the effectiveness of the Board given the size of the organisation.

2.3 The role of the Board

- It is recommended that the Board reviews its role in the development of organisational strategies and policies and work with the senior staff members to create a culture which encourages senior staff to implement these strategies and policies as freely as possible while being held to account.
- It is recommended that the PTO establish an Advisory Committee, consisting of relevant industry and consumer interests to support the work of the Board.



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2024 Update

- The Board has reviewed its role in organisational strategy and policy development. The Strategy Committee has been disbanded, and its functions assumed by the Board as a whole. This recognises the need for all Board members to input into all aspects of organisational strategy.
- The recommendation to establish an Advisory Committee was made on the basis that it would enable the Board to inform itself about current public transport issues from relevant consumer and broader industry perspectives. The Board notes that the PTO's *Communications, Outreach and Engagement Plan (2022-25)* offers a structured approach to PTO engagement activities, with a core focus on canvassing public transport-related issues and access barriers. As such, the Board has determined that the establishment of an advisory committee is not necessary at this time.

2.4 Funding of the PTO

- It is recommended that the requirement for members of the PTO to approve the annual budget figure at a general meeting is removed, with this responsibility being delegated to the Board.

2024 Update

- The Board recognises the value in engaging members in the annual budget approval process and the opportunity it provides to have positive and productive discussions with members. It also reflects the PTO's commitment to accountability and providing a service that is of value to its members. As such, the Board has determined not to pursue this recommendation at this stage.

2.5 Other governance issues

- It is recommended that references to the PTV or any subsequent replacement entity are removed from the Charter of the PTO.
- It is recommended that the PTO discuss with the relevant Department and/or Minister the establishment of the PTO on a statutory footing.

2024 Update

- References to PTV in the Charter will be reviewed as part of the Charter and Constitution Review.
- Having considered the effectiveness of the PTO's current operating arrangements and the challenges associated with seeking to establish the PTO on a statutory footing, the Board has determined that it will not pursue this recommendation.



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3. FAIRNESS

3.1 Procedural fairness

- It is recommended that where versions of events differ on significant points, in seeking further evidence by which to take a view, caseworkers conduct interviews of all relevant witnesses or participants, enabling the caseworker to establish a view on the weight that should be given to the competing versions, thus helping make a robust decision.

2024 Update

- This recommendation has been actioned. Where versions of events differ, PTO staff now routinely seek statements from relevant staff of the member in addition interviewing consumer complainants and any other witnesses identified.

3.2 The fair and reasonable test

- It is recommended that the PTO keep under review its approach to the fair and reasonable test and its use by casework staff.

2024 Update

- This recommendation has been actioned. A review of this aspect of PTO complaints handling procedure has been integrated into ongoing quality assurance processes.

4. ACCOUNTABILITY

4.1 Data

- It is recommended that the PTO publishes more of its complaints data, decisions, particularly the result of systemic investigations along with information about its other activities.

2024 Update

- Outputs from the PTO's Annual Report routinely incorporate "at a glance" complaint theme summaries that are shared to the PTO's website, social media channels and news media contacts.
 - In 2024, case studies from PTO Annual Reports were re-purposed for a general consumer audience and published to the website. These stories showcase some of the major complaint themes borne out by PTO case data and aim to evidence the PTO's capabilities and effectiveness.
 - The PTO's *Communications, Outreach & Engagement Plan (2022-25)* details a range of deliverables that will support the PTO's ability to share data, decisions, and information, including information about PTO systemics work.
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5. EFFICIENCY

5.1 The public transport complaints system in Victoria

- It is recommended that the potential for complainant confusion, dissatisfaction and complaint fatigue be reduced by removing the role of the PTV from the complaints process other than for those issues for which they have sole responsibility.
- It is recommended that the PTO should liaise with the PTV about the provision of data which the PTV would find of assistance in its role as provider, co-ordinator and promoter of the public transport system in Victoria.

2024 Update

- The Board recognises the substantial role that PTV plays in public transport complaints and does not support the removal of the role of PTV.
- The Ombudsman meets regularly with senior staff from the Department of Transport and Planning and is liaising with the Department on opportunities to share data.

5.2 Review of investigations

- It is recommended that the PTO review its complaint handling process to clarify the process for when a case should move from attempted conciliation to case assessment and ultimately adjudication.
- It is recommended that the PTO reviews its criteria by which it decides whether or not to treat a complaint as a Refer for Internal Escalation (RFIE) or as an investigation. Should a complaint be treated as an RFIE, there should be more active follow up by the PTO with the complainant, of action taken by the operator.

2024 Update

- In 2021, the PTO revised its Complaint Handling Procedures in response to these recommendations. They are due for review again in 2024, as part of ongoing quality assurance processes.

5.3 The PTO as design authority

- It is recommended that, based upon its expertise and knowledge, the PTO should lead the system in designing a good complaint system.

2024 Update

- The PTO continues to work with members to improve their complaints handling processes and to address underlying consumer issues. The Ombudsman and relevant senior staff proactively engage members in opportunities to improve complaints handling, including but not limited to the PTO 's formal systemic enquiry and improvement opportunity processes.



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5.4 Assessing performance

- It is recommended that the Board of the PTO review its set of performance indicators with a view to developing a more holistic view of office performance.
- It is recommended that the PTO provides detail of its performance against its KPIs in its Annual Report.

2024 Update

- The PTO has reviewed Key Performance Indicators (KPIs) that measure timeframes for the resolution of non-investigated and investigated cases. Outputs of these measures have been included in PTO Annual Reports since 2021.
- In 2021, the PTO implemented an annual Customer Satisfaction Survey. It asks PTO services users to rank their satisfaction with key aspects of PTO services, including interactions with staff, information sharing, and processes. From 2022, this included optional demographic questions, including questions around individuals' accessibility needs and their satisfaction with the PTO's response to those needs. Survey findings have been included in PTO Annual Reports since 2021.

6. EFFECTIVENESS

6.1 The Public Transport Ombudsman

- It is recommended that the mission and aims of the PTO and contained within the PTO Charter should explicitly incorporate each of the five functions of a modern CDR scheme, namely, consumer advice, individual dispute resolution, data analysis, data publication and improving market behaviour, as part of its formal role.
- It is recommended by the review team that the data analysis conducted by the PTO on complaints is not only produced and provided to members but is also published on its website.

2024 Update

- The inclusion of the functions of a modern consumer dispute resolution scheme will be considered as part of the Charter and Constitution Review.
- Annual Report outputs routinely include "at a glance" complaint theme summaries that are shared to the PTO's website, social media channels and news media contacts. In 2024, a selection of consumer case studies was published to the PTO website, which showcases some of the major complaint themes borne out by PTO case data. The PTO continues to consider opportunities to translate its case data into useful insights for its public-facing communications channels and stakeholders.



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6.2 Jurisdiction

- It is recommended that the role of the PTV, described in paragraphs 1.8, 5.1(a) and (b), and 7.1(d) are removed.
- It is recommended that the PTO discuss with the DoT the inclusion under its jurisdiction both VicRoads and all infrastructure projects being developed under the auspices of Victoria's Big Build.
- It is recommended that the PTO discuss with the DoT the issue of it having the ability to take on complaints about travel infringement notices in certain circumstances.
- It is recommended that the PTO should be able to exercise discretion in multi-faceted complaints, including some complaints about TINS, where there are special or exceptional circumstances.

2024 Update

- The scope of the PTO Charter and Constitution Review includes consideration, and consultation, on references to PTV in the Charter.
- The Board notes that public transport infrastructure projects under the auspices of Victoria's Big Build can and do operate as PTO Scheme members. The Board's view is that VicRoads and road infrastructure projects are beyond the scope of the PTO's intended functions. Expanding the PTO's jurisdiction to include road infrastructure projects would be unlikely to garner government support and would risk diluting the PTO's core function as a dispute resolution scheme for public transport complaints.
- The PTO entered into a Memorandum of Understanding (MoU) with the Department of Transport and Planning (DTP) in August 2022. This now allows the PTO to consider complaints about fines where a consumer has applied to DTP for an internal review and that application has been unsuccessful. A key objective of the MoU is to promote collaboration and information sharing between the PTO and DTP with the aim of promoting continuous improvement in the fines review system.

6.3 Other jurisdictional issues

- It is recommended that the PTO discuss with the Department of Education whether there is a second-tier complaints service for those using free school bus services, and, if there is not, it is further recommended that the PTO should become the second-stage complaints operator for those services.
- It is recommended that the PTO is established as the single public transport complaints body which enables easy access by complainants to a single body able to deal with almost all their complaints.

2024 Update

- The Board has considered the existing complaint avenues available for free school bus services and has determined that assuming the role of a second-tier complaints service would cause additional complexity and unnecessary confusion for consumers.
- The Board has determined that it will not pursue the expansion of PTO jurisdiction to include complaints about commercial passenger vehicles and toll roads. The Board notes that there are existing complaint avenues (e.g. Safe Transport Victoria) that are more appropriate to these functions.



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6.4 Binding limits

- It is recommended that the PTO reviews its binding limits.

2024 Update

- The PTO reviewed its binding limits and resolved that they should be increased to \$20,000. This will form part of the PTO Charter and Constitution Review.

6.5 Systemic investigations

- It is recommended that the PTO revises its approaches to systemic investigations to adopt a broader range of approaches and work with operators on the development of this policy.

2024 Update

- In 2020, the PTO revised its Systemic Framework and Procedures model in response to this recommendation. This Framework is due for review in 2024, as part of ongoing quality assurance processes.