

Time To Respond

Realising Equality for people with a disability utilising taxi services

A report by the Victorian Equal Opportunity & Human Rights Commission



Victorian Equal Opportunity
& Human Rights Commission



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& Human Rights Commission**

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The VEOHRC wishes to thank the staff of the Victorian Taxi Directorate for their cooperation in the development of the survey and for their involvement in this process. The VEOHRC also wishes to thank community representatives on the Taxi Working Group and members of the VEOHRC Disability Reference Group.

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November 2007

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EXECUTIVE SUMMARY

The Victorian Equal Opportunity and Human Rights Commission (VEOHRC) is a statutory body that has responsibilities in relation to equal opportunity and human rights for all Victorians.

Consistent with the VEOHRC's responsibility to seek to eliminate discrimination, research has been completed into the rights of people with a disability to equality in their access to taxi services in Victoria, and for reasonable adjustments to be made to facilitate that equality of access. In many situations equal treatment of people with disabilities requires some accommodation by providers of goods and services. The concept of "reasonable accommodation" or "reasonable adjustment" is central to equality and non-discrimination principles generally. It relies on an acknowledgement that creating equal opportunity does not equate with providing identical treatment to every person and every group. Rather, non-discrimination often requires that a group or individual be treated differently in order to generate an equal and just outcome.¹

This report identifies aspects of the provision of taxi services which may discriminate against people with a disability, and the need for reasonable adjustments to be made.

The report is important for the following reasons:

- Existing provisions under the *Equal Opportunity Act 1995* which protect the rights of people with a disability against unlawful discrimination. Whilst we do not receive large numbers of individual complaints about taxi services, equality of access to taxi services has been identified as a priority by the VEOHRC's Disability Reference Group;
- A requirement outlined in section 38 of the *Charter of Human Rights and Responsibilities Act 2006* (the Charter) for all public authorities, including State Government departments and statutory entities including the Victorian Taxi Directorate as a component of the Department of Infrastructure, to act in a

¹ For an early articulation of this principle, see the judgement of Judge Tanuka in the *South West Africa* cases ICJ Rep. 1962, 318 (1st phase) and ICJ Rep. 1966, 4 (2nd phase).

manner that is compatible with the civil and political rights contained in the Charter from 1 January 2008: these rights include the right to be free from discrimination;

- The State Government policy framework, *Meeting our Transport Challenges: Connecting Victorian Communities*² in which the Government outlines its long-term plan to meet future transport challenges, including the requirement to make accessible the delivery of taxi services for the community;
- The current review of the federal Disability Standards for Accessible Public Transport (DSAPT) under the *Disability Discrimination Act 1992* (DDA), which is due to report to the Minister for Public Transport and Regional Services in consultation with the federal Attorney General by 14 December 2007.³ While the DSAPT imposes substantial obligations on government and transport providers such as bus, train and tram operators to have their infrastructure and vehicles more accessible for people with disabilities, the DSAPT imposes only one objective for Wheelchair Accessible Taxis (WATs) to achieve before the end of 2007: that WATs have the same response time as that for other taxis.⁴

The Victorian government is to be congratulated for developing a long-term transport plan, and consistent with the vision outlined in that plan, this report provides an important focus on the future provision of taxi services.

“Our ageing population means that more people will rely upon public transport to move around.”⁵

The need to ensure accessibility of taxi services is critical given that plans for Melbourne’s bus, tram and train networks will not be completely accessible for another 25 years, (2032). This means that ensuring taxi services for people with a disability and our ageing population are accessible is central to meeting the Victorian Government’s commitments for the future. Whilst it is acknowledged that economic and social considerations will drive future travel needs, the State Government’s own

² *Meeting our Transport Challenges. Connecting Victorian Communities. The Plan.* May 2006

³ www.ddatransportreview.com.au

⁴ Schedule 1 Part 1.2, *Meeting our Transport Challenges*, p 17

⁵ *Ibid*, p iii

policy framework⁶ indicates that 80% of travel trips are short trips within and between local areas, and 40% of travel trips are less than 2 kilometres. This emphasizes the need for taxi services to reasonably accommodate all people with a disability, irrespective of age.

The VEOHRC believes that the overriding objective for Victorian taxi services should be to achieve effective equality by specifying reasonable adjustments to be made for people with a disability. The provision of taxi services forms an important component of the overall provision of public transport for Victorians with a disability. Given the substantial length of time (in some cases decades) given to public transport operators to meet the DSAPT in relation to buses, trams and trains, the reliance on taxi services is in many cases the only form of public transport available to younger and older Australians. As our population ages and future demands on taxi services grow, realising equality in service provision takes on a greater urgency.

Victoria's *Meeting our Transport Challenges* policy framework outlines a sophisticated plan with resources allocated to realise a connected, safer and accessible transport system to allow Victorians to access community services and employment opportunities. This plan could be strengthened by a stronger vision and allocation of resources which recognises the importance of taxi services for Victorians with a disability, and the role of taxi services in the overall provision of public transport.

In finalising this report, the VEOHRC wishes to acknowledge the significant contribution made by the staff of the Victorian Taxi Directorate (VTD), both in their participation in the Taxi Working Group, in securing funding for the conduct of the survey and in providing comments to the report. In particular, it should be noted that the development of the 'Taxi-Cab Accreditation Regulation and Service Standards'⁷ proposes significant changes to the regulation of taxi services across the board.

The findings and recommendations contained in this report are those of the VEOHRC, and are seen to reinforce and extend these proposed regulatory reforms.

⁶ Ibid

⁷ "Public transport - Changes to transport legislation and regulations"
www.taxi.vic.gov.au/DOI/Internet/transport.nsf

Summary Findings

1. The VEOHRC notes the substantial planning that has been undertaken by the Victorian Government in relation to improving transport generally and specifically as it relates to taxi services. The VEOHRC intends this report to be a further contribution to refining the focus of planning on the needs of people with a disability, particularly as it relates to the making of reasonable adjustments to ensure equitable participation in public and private life in Victoria.
2. The VEOHRC has found that on the basis of a survey of taxi drivers, owners and operators, and people with disabilities, undertaken in Victoria, current standards that apply to the taxi industry in the DSAPT do not clearly articulate an effective plan to achieve equality in access to taxi services. Similarly, the aspirations outlined in Victorian policy documents for future improvements in Victoria's transport system do not specifically spell out reasonable adjustments to be made for people with a disability wishing to access taxi services: that is the need for taxi services to complement or fill gaps in people's current access to other forms of public transport as part of people with a disability's social and economic inclusion in the life of the Victorian community.
3. The survey results highlight the inadequacy of existing regulatory mechanisms to monitor and enforce the DSAPT standard in relation to equal response time between regular taxis and Wheelchair Accessible Taxis (WATs). Given the response time standard contained in the DSAPT was to be met by December 2007, the VEOHRC in its response to the review of the DSAPT, has called for a more effective standard to achieve specified response times and for this standard to be enforced.
4. Further concerns relate to the use of taxis by people who utilise wheelchairs. These relate not only to response times, but also to safety concerns in terms of travel, availability of taxi rank services for those people in a wheelchair who utilise regular taxis, and driver knowledge of dealing with wheelchair users.
5. Notwithstanding the small number of formal complaints made to the VEOHRC about taxi services, the evidence of the organisations representing people with a disability or older Victorians, and the VTD suggests that many people who utilise taxi services do not pursue the lodgement of a formal complaint, either on the basis of discrimination or some other sort of behaviour. The systemic

nature of much of the discrimination against people with a disability utilising taxi services makes individual complaints challenging to pursue.

Recommendations

1. Involvement of people with disabilities in the development of taxi services

The VEOHRC notes that the Public Transport Access Committee (PTAC) currently includes a role to liaise with the Victorian Taxi Directorate on access to taxi services. It is our view that the issues in relation to provision of taxi services to people with a disability are pressing and urgent, and at a time when other initiatives involving regulation and reform of the taxi industry are being implemented, that this requires a consistent and regular focus and input from people with a disability. The VEOHRC strongly endorses the proposed establishment of a **Disabled Persons Taxi Advisory Committee (DPTAC)** by the VTD, which is resourced to provide advice and feedback to the VTD and the taxi industry in relation to a range of issues identified in this report. This will build on the existing initiatives that are currently being developed to improve service provision, communication, training of drivers and provide direct input from people experiencing difficulties with the current taxi services. In finalising membership of the Advisory Committee, the VTD should ensure that it comprises agencies representing the interests of people with a disability and should include direct representation of people with a disability and older people who regularly use taxis.

2. Accreditation of Taxi Industry

The Victorian Government's proposals to revise and strengthen the accreditation of the taxi industry is to be congratulated. This will enable the VTD to receive specific information regarding the entire service delivery standards, leading to greater transparency about the provision of taxi services generally.⁸

⁸ "Taxi-Cab Industry Accreditation. Draft Business and Service Standards." DOI, October 2007

The VEOHRC notes that proposed standard 18⁹ relates specifically to those customers utilising WATs, and that conventional bookings or orders for the hiring of taxi-cabs will not be offered until that booking has been accepted. The intention is to significantly reduce the waiting time for WAT users wishing to book a taxi. It is out view that other aspects of the proposed standards relating to:

- safety
- customer service
- complaint handling
- education and training

should incorporate reporting on the utilization of both conventional and WAT taxis by people with a disability as a means of gaining regular feedback to the proposed Disabled Person Taxi Advisory Committee, to identify future enhancements that may be required in the enforcement of the Industry Accreditation Program.

3. Timeliness of Taxi Services

Notwithstanding the proposed industry standard 18,¹⁰ the VEOHRC believes that further initiatives should be taken in relation to timeliness of wheelchair accessible services. It is our view that the VTD should as a matter of urgency develop a pilot program to introduce a micro management system, as currently being utilised within South Australia, which also incorporates the ability to take mainstream bookings. The purpose of this pilot would be to implement a system which provides responsiveness in the provision of WATs. In doing so, a particular focus should be to collect data on the 'two wheelchair' usage of the WATs to identify the likely future demand for single wheelchair trips to assess adequacy of WAT numbers as well as, monitor timeliness as a key feature for ensuring equal access to taxi services for people with a disability and older people.

⁹ Ibid, p.9

¹⁰ Ibid, p.7

The pilot proposal should be prepared for implementation within six months and after consultation with the proposed Disabled Persons Taxi Advisory Committee and other interested stakeholders.

4. Driver training

Driver education and training has been identified as an important initiative, and with the assistance of the proposed Disabled Persons Taxi Advisory Committee, and in conjunction with the taxi industry, the VTD should continue its commitment to innovative means of raising awareness of drivers about the varied and diverse needs of PWD utilising taxi services, and knowledge of the safety requirements specifically in relation to the use of taxi's by people in wheelchairs. Compulsory driver education for all drivers of WAT vehicles should be continued, regardless of how casual their employment status may be.

Driver training is also required beyond the needs of wheelchair passengers. Driver education should be developed to include awareness of:

- i. all communication needs of people with disability or older passengers;
- ii. ambulatory challenges in getting in and out of conventional taxis;
- iii. needs of people in wheelchairs who utilize conventional taxis;
- iv. use of guide dogs or assistance animals and their travel in taxis;
- v. assistance for passengers utilising other ambulatory assistance aides (e.g. walking frames);
- vi. dealing with agitated passengers who may have difficulty in specifying their needs.

5. Communication Strategy

A communication strategy or campaign should be developed to raise awareness among drivers, owners and taxi depot operators and taxi users with a disability of their legal obligations and rights, and specific initiatives that are aimed to improve the experience of taxi usage by people with a disability. This should include a focus on:

- the rights and responsibilities of people with a disability,
- how people with a disability can lodge a complaint,
- how drivers and operators can provide assistance with communication, with passengers who have communication challenges,
- how to respond to mobility issues with respect to regular taxi usage,
- legal issues related to the transport of guide dogs and assistance animals.

Such a strategy can build on the existing awareness raising amongst taxi drivers as part of the Taxi-Cab Industry Accreditation, as well as complementing the existing training initiatives specifically related to transporting people in wheelchairs.

The VEOHRC notes that the VTD has begun the development of a communication strategy and is also proposing a trial of a 'Communication Board', which offers a Personal Journey Card for passengers with communication challenges. These further initiatives should utilize the expertise of the Disabled Persons Transport Advisory Committee to identify additional information and communication needs of passengers with a disability or older passengers.

Further, the peak bodies representing the interests of people with a disability may be contracted to assist in the development of this campaign to ensure relevance and applicability of proposed communication and information to people with a disability.

6. Making a complaint

Whilst not a major focus for the report, the VEOHRC notes that the ability to lodge a complaint provides the VTD with important insight into the regulation and prioritises improvements within the taxi industry. The complaint handling processes should be distinguished by their level of transparency, accessibility and accountability.

The VEOHRC notes that the Business and Service standards propose:

23. "A network service provider will operate a complaints management system that complies with Australian Standard AS 10002, including procedures for complaint resolution and referral to other parties"¹¹

This is to be commended.

However, in addition, in relation to the complaints process with the Victorian Taxi Directorate, there are barriers that are inherent with the formal requirements of the complaints process developed by the Directorate, and more accessible complaint handling functions could be implemented. The model of accessibility demonstrated through the work of the Public Transport Ombudsman Victoria¹² where complaints are facilitated by the receipt of complaints in varied formats beyond written complaints, to accommodate the different abilities of people to meet formal requirements are commended to the Directorate for examination.

A reform of the current VTD complaints process should aim to achieve the following principles:

- i. Accessibility for all taxi users, through the use of oral, written, email or SMS complaints and identified turnaround times for responses to complaints;
- ii. Internal investigation processes to review complaints and identify any systemic issues arising from complaints, and recommendations about how these may be addressed in the future; information about avenues for complaint, including the VTD and the VEOHRC;
- iii. Publication of number of complaints received, issues arising and changes to practice regularly made available on the VTD website and available to the public and the proposed Disabled Persons Taxi Advisory Committee, to ensure transparency and accountability. At a minimum, a public annual report should be prepared.
- iv. Clear promotion of avenues through which customers can make a complaint. This includes promotion of all complaint avenues, information available in easy to read language and in accessible formats.

¹¹ "Taxi-Cab Industry Accreditation. Draft Business and Service Standards." DOI, October 2007

¹² http://www.ptovic.com.au/content/complaintpto_making.html

The reform of the network service provider complaint system, as proposed by the Business and Service Standards, and the VTD processes, will collect valuable insights into further responsiveness and equity in the provision of taxi services to people with a disability and older Victorians.

7. Future planning to achieve reasonable adjustments to realise equality for people with disabilities.

The Victorian Government's report, *Meeting our Transport Challenges*, outlines an ambitious and far-reaching plan for connecting Victorian communities into the future. However, it is noted that the Plan does not allocate additional resources to implement changes to taxi services into the future, but identifies funding from within the Departmental budget to implement further changes. The strengthening of the current regulatory framework through training, accreditation, communication and the implementation of specific reforms to implement a micro management system, as proposed in this report, lead to the need to provide evidence of a demonstrable willingness to ensure that taxi services are an active part of the transport plan for the future.

The VEOHRC has provided this report as evidence of the need to develop a **long-term regulatory strategy** to address the inequitable access to service provision, and also to manage the industry liability in relation to the DSAPT. The revision of the strategy should address:

- the provision of taxi services to enhance the current transport planning as it relates to flexibility of transport options,
- the improvement of metropolitan interchanges, including the development of modal interchanges, which by definition, are identified places for commuter accessibility within the city, with taxi users with disabilities specifically in mind.

Taxi services are an important avenue for people with a disability and older Victorians to connect to existing public transport options and to ensure full participation in public life in Victoria. The continued reform of taxi services, active regulation against the proposed Business and Service Standards and the move to greater transparency to the public generally about the provision of taxi services requires adequate allocation of resources in forward budgets.

The financial accessibility of taxi services for people with a disability has been noted in this report, and this remains an issue that should be addressed in the future reform of taxi services.

Action Arising

The VEOHRC believes that the recommendations arising from this research are critical to the involvement and inclusion of people with a disability to achieve active involvement and inclusion in the Victorian Community. The report has been forwarded to the Minister for Public Transport seeking her response and to the Attorney General, the Minister with responsibility for the *Equal Opportunity Act*.

The VEOHRC has released the report to the general public, members of the Taxi Working Group and the VEOHRC Disability Reference Group. It is available on the VEOHRC website at www.humanrightscommission.vic.gov.au

The research undertaken as part of this report has also formed the basis of a submission to the Review of the Transport Disability Standard, with a view to calling for greater specificity in the standard in relation to the provision of taxi services to reduce the inequitable access to services for PWD. This is available at www.humanrightscommission.vic.gov.au

The VEOHRC wishes to thank the staff of the Victorian Taxi Directorate for their cooperation in the development of the survey and for their active and ongoing involvement in this process. The VEOHRC also wishes to thank community representatives on the Taxi Working Group and members of the VEOHRC Disability Reference Group, and to the many people who shared their stories and experiences to allow this report to be completed.

1. INTRODUCTION

1.1.1 The VEOHRC is a statutory body that has responsibilities in the following areas:

- To advocate for civil and political rights contained in the *Charter of Human Rights and Responsibilities* (the Charter) and for equal opportunity with a view to reducing discrimination;
- Raise awareness about human right and equal opportunity with a view to developing an understanding of human rights and the elimination discrimination in the state of Victoria;
- To report annual to the Attorney General on human rights and the operation of the Charter of Human Rights and Responsibilities;
- To provide a free and impartial alternative dispute resolution service;
- To undertake additional functions under the *Equal Opportunity Act 1995* (EOA), the *Racial and Religious Tolerance Act 2001* (RRTA) and the *Charter of Human Rights and Responsibilities Act 2006*, including intervention in a court or tribunal where human rights or anti discrimination rights are raised, by invitation to review a public authority in relation to the Charter.

1.1.2 Consistent with the VEOHRC's responsibility to seek reduce discrimination, and the provisions of section 162 of the EOA, the following research was undertaken into the rights of people with a disability to access taxi services in Victoria.

1.1.3 This report identifies:

- aspects of the provision of taxi services which may discriminate against people with a disability; and
- possible breaches of human rights of people with a disability wishing to access taxi services.

1.1.4 This report has been assisted by members of the VEOHRC Disability Reference Group (membership outlined in Appendix A), the Taxi Service Working Group

(membership outlined in Appendix B), and the Department of Infrastructure (DOI), who allocated funding for a survey of consumers, and stakeholders in the taxi industry.

- 1.1.5 The report has been adopted by the VEOHRC to seek improvements in the rights of people with a disability in their utilisation of taxi services.

2 BACKGROUND

2.1.1 In 2006 the Victorian Equal Opportunity and Human Rights Commission¹ formed a Working Group involving VEOHRC staff, disability advocacy groups, the taxi regulator, the Victorian Taxi Directorate (VTD - a part of the Department of Infrastructure), and industry representatives, the Victorian Taxi Association (VTA).*

2.1.2 The Working Group aimed to “identify issues affecting quality of service provision to consumers with disabilities, including the booking and dispatch system, safely transporting taxi users, effectively communicating consumers’ needs and drivers’ attitudes and training.”² In doing so the working group hoped to “create strategies to develop taxi services that are more responsive to the needs of people with disabilities.”³

2.1.3 Whilst the focus of this research is in relation to the accessibility of taxi services from a service perspective, the VEOHRC is aware that issues in relation to the financial accessibility of taxi services, eligibility criteria for subsidized travel and limitations on those criteria remain issues of concern for many people with a disability.

2.1.4 The VTD supported the efforts of the VEOHRC to obtain information from the disabled community and the taxi industry about this issue, and in August 2006 Market Solutions Pty Ltd was engaged to undertake a survey to obtain further information. The results of this survey are presented in section 6.

¹ On 1 January 2007 the Equal Opportunity Commission of Victoria became the VEOHRC. For the sake of simplicity the organisation will be always be referred to VEOHRC.

² ‘Taxi Accessibility Working Group Project Design’, VEOHRC, 2005, p 3

³ Ibid

* See Appendix A.

3 THE EXPERIENCE OF PEOPLE WITH A DISABILITY

3.1 About people with a disability

- 3.1.1 Approximately 20 per cent or one million Victorians⁴ have some form of disability, and this number is expected to increase as the population ages. Many of these people utilise public transport, and this makes the need for accessible public transport pressing. Statistics show that approximately one third of these people, or up to 300,000 people, have difficulties using public transport.⁵
- 3.1.2 People with disabilities who utilise taxi services are not one homogenous group. 'Disability' may include difficulties with ambulation requiring a wheelchair or crutches, vision, hearing and/or speech impairment and/or a diverse range of cognitive or mental impairments. The ageing process is a significant contributor to mobility impairment.
- 3.1.3 A considerable proportion of these people utilise taxi services because large sections of the mass public transport system remain inaccessible to them.

"Despite the progress made in these ... transport areas, the day when most people with disabilities will be able to use bus, train or tram systems which are fully accessible is, in most cases, still many years away."⁶

- 3.1.4 This is borne out by statistics; the Victorian Accessible Public Transport Plan Update of March 2006 states that only 23% of trams are accessible to wheelchairs, and only 4% of tram stops are on raised platforms (and therefore wheelchair accessible). In addition, only 4% of Victoria's 30,000 bus stops are compliant with the Australian Disability Standards for Accessible Public Transport 2002 (DSAPT).
- 3.1.5 This is despite the fact that a welcome by-product of improvements to make public transport more accessible for people with disabilities are the 'significant improvements in amenity, safety, travel time (and)

⁴ Australian Bureau of Statistics, cat. No. 4430.0 *Disability, Ageing and Carers*, Table 11 'Persons with a disability, disability status by main health condition' Victoria 2003

⁵ *Accessible Public Transport in Victoria Action Plan 2006-2012*, p 6

⁶ *Report of Wheelchair Accessible Taxi Inquiry*, HREOC, March 2002, p 7

convenience,⁷ which usually result. These benefits are enjoyed by the entire travelling public, but are of added significance to many other people with mobility issues, such as people with prams or young children, the elderly, or people with minor injuries.

- 3.1.6 Among all forms of public transport, taxis provide a convenient and sometimes accessible form of transport for passengers with disabilities. Taxis can potentially provide door-to-door service, operate when requested, and allow for personal attention and care by the driver if required. Despite these features, there is an identified need for improvement of service delivery for people with a disability.
- 3.1.7 The VEOHRC notes that the current provision of taxi services does not provide the economic accessibility which is available to bus, tram and train travellers, and in some cases cannot match the physical accessibility arising from incremental improvement in train and some tram routes. Whilst this is not the main focus of this report, this must not be neglected in any reform in the future provision of taxi services.
- 3.1.8 A significant focus of this paper is wheelchair accessible taxis (WATs), which some wheelchair users must use. Other wheelchair users (and people with other disabilities) are able to transfer into a regular taxi. While the challenges of taxi use are similar for both groups, there are specific issues that relate to WATs.
- 3.1.9 Passengers with disabilities have also encountered problems with the carriage of hearing or seeing eye dogs. While these passengers can access regular taxis, some drivers are hesitant to take them. The recent experiences of the HREOC Disability Commissioner who is sight impaired and uses a guide dog, and was refused carriage by two taxi drivers, highlighted this problem.⁸ Mr Innes noted that the problem was becoming more widespread, and that taxis had driven off from taxi ranks in Melbourne and Sydney upon seeing his guide dog.⁹

⁷ *Accessible Public Transport in Victoria Action Plan 2006-2012*, p 6

⁸ See AHREOC Media Release 'It's a guide dog mate', 6 March 2007

⁹ While some drivers may be concerned about the perceived risk that a dog may soil their vehicle, drivers are required by law (see section 7) and the terms of their licence to pick up passengers and their guide dogs. When this issue arose in London it became clear that a number of drivers were refusing to pick up dogs because of Islamic law, which considers dogs as unclean. The Sharia Council of Britain subsequently put out a ruling stating that guide dogs must be picked up according to the law and that failure to do breached Islamic law. It is not clear if this is a reason for Australian drivers not picking up guide dogs and their owners, but it is obvious that drivers prefer not to take them.

3.2 Complaints about taxi services

- 3.2.1 The VEOHRC has received a small number of complaints about taxi services in the past. The lodgement of complaints poses challenges to people with a disability utilising taxi services as a result of the complexity of the taxi industry and identifying an appropriate respondent to the complaint, and the experience of discrimination or the lack of reasonable adjustments, which often mean people with a disability face many discriminatory acts, and may feel powerless to complain.
- 3.2.2 The VEOHRC is also advised by our Disability Reference Group and through consultation with community organisations, that lack of equity in accessibility of taxi services is a significant issue for people with a disability.
- 3.2.3 It is important to note that while the VEOHRC has received few complaints about this issue, members of the VEOHRC convened taxi working group report that complaints are often lodged with them by their members. These organisations have advised the VEOHRC that they are in regular contact with the VTD about these complaints. Similarly, the VTD receives complaints.
- 3.2.4 Several complaints received by the VEOHRC in the past arose from incidents where the complainant was left waiting for a WAT for several hours. Another complaint involved an incident in which a regular taxi driver refused to pick up a wheelchair user, insisting that only a WAT could provide carriage. A further incident arose from circumstances of animosity between a WAT driver and a passenger with a disability, where the driver refused to ever carry the passenger.
- 3.2.5 Where a depot was a party to a complaint over driver conduct (such as not picking up wheelchair users), they relied on the defence raised in the Federal Magistrates Court case of *Ball v SilverTop Taxi Service Ltd*¹⁰ and accepted by the court, that the depot is not a party to the relationship between the driver and passenger and as such does not bear any liability for what occurs between them. It should be noted that this case involved a complaint under the *Federal Disability Discrimination Act 1992*, which differs to the EOA in its authorising and assisting provisions in that it does not allow for joint and several liability.

¹⁰ *Ball v SilverTop Taxi Service Ltd*. [2004] FMCA 967

3.3 Complaints made directly to the Victorian Taxi Directorate

3.3.1 The VEOHRC is advised that the formality of the complaint handling process of the Victorian Taxi Directorate often mitigates against pursuing complaints. Complaints are to be made in writing and the complexities of the structure of the taxi industry often mitigates against clearly identifying the respondent to a complaint. For many people with a disability, the formality of this structure poses a real impediment to the lodgement of a complaint with the VTD.

3.4 Conclusions from complaints

3.4.1 It is clear that response times are an issue of concern for many passengers with disabilities. However, it is worthwhile to note the comments of the HREOC:

“[The problem of poor response times] does not appear readily able to be dealt by the use of complaint mechanisms established by taxi regulators, since it appears to involve more systemic issues of booking systems, proportions of accessible vehicles in fleets, and the economics of providing service to passengers requiring WAT service.”¹¹

3.4.2 The complex nature of the taxi industry may result in the lodgement of complaints incorrectly, which means they are declined as misconceived. For a person with a disability to correctly identify a respondent who is responsible for discriminatory behaviour may not be an simple endeavour given the complex business structure of the taxi industry and the specific role of the taxi regulator.

3.4.3 In relation to the complaints process with the VTD, there are barriers that are inherent with the formal requirements of the complaints process developed by that directorate, and more accessible complaint handling functions could be entertained. The model of accessibility demonstrated through the work of the Public Transport Ombudsman Victoria¹² may provide a basis where complainants are facilitated by the receipt of complaints in varied formats beyond written complaints, to accommodate the different abilities of people to meet formal requirements.

¹¹ *Report of Wheelchair Accessible Taxi Inquiry*, HREOC, March 2002, p 10

¹² http://www.ptovic.com.au/content/complaintpto_making.html

4 VICTORIAN POLICY CONTEXT

4.1 Social Inclusion. The Next Steps for Victoria

4.1.1 The Social Inclusion Plan was released in May 2007,¹³ prepared by the Ministerial Advisory Committee for Victorian Communities (MACVIC). The plan outlines a detailed approach to addressing social inclusion in Victoria.

4.1.2 The report recognises the discriminatory barriers that face Victorians with a disability including the restrictions which they may face to full participation as a result of limited access to transport.¹⁴

4.1.3 The MACVIC proposes the report as a framework for public dialogue and future Government policy practice, investment and action.¹⁵ This provides an important social policy framework for the future planning of transport needs for people with a disability.

4.2 The Government's Accessible Public Transport Action Plan

4.2.1 The Victorian Government's Accessible Public Transport in Victoria - Action Plan 2006-2012 provides a framework for achieving accessible public transport for people with disabilities in accordance with the DDA and DSAPT. It covers mainstream public transport for which the Victorian Government has direct responsibility including metropolitan and regional rail, tram, coach and bus services, and taxi services. The Action Plan specifically concentrates on achieving certain progress milestones every five years, with particular focus on the 2007 and 2012 milestones.

4.2.2 With regard to taxis, the Action Plan states that every WAT in Victoria complies with the DSAPT, 'except for installation of raised identity numbers and response times'¹⁶. However, the Action Plan does not call for equality in response times, but only the 'monitor(ing) and improve(ment of) response times'¹⁷ for WATs.

4.2.3 In meeting the DSAPT, the Action Plan recognises that 'the biggest single consideration is for people using wheelchairs scooters and other mobility

¹³ "Social Inclusion is an approach that builds social and economic participation for all individuals, groups and communities without leaving anyone behind." *Social Inclusion. The Next Steps for Victoria*. May 2007, p 5.

¹⁴ *Ibid*, p 6

¹⁵ *Ibid*, p 46

¹⁶ *Ibid*, p 45

¹⁷ *Ibid*, p 11

aids.¹⁸ The Action Plan also states that ‘... arguably (passengers using wheelchairs) need the greatest provision in terms of infrastructure and vehicle modification.’¹⁹

- 4.2.4 In relation to the DSAPT generally, the Victorian Government has already given notice that while it will make significant investment and progress towards reaching them, the progress milestones will not be met by the required dates. The government does expect, however, that Victoria’s public transport system will be fully accessible for people with disabilities by 2032 in accordance with the DSAPT.²⁰
- 4.2.5 The Action Plan’s aims for the period until 2012 are to ‘monitor and improve response times for WATs, and continue the [Multi Purpose Taxi Program] MPTP.’²¹ The focus of the DSAPT on response times for taxis as the key requirement for taxi services is an acknowledgement of the fact that equality of opportunity in hailing taxis on the street is not a goal that is achievable within the foreseeable future; this would require that every taxi in the fleet be accessible for disabled passengers.²²
- 4.2.6 It appears that a major reason behind the differing requirements between the modes of public transport is the complex ownership structures under which the taxi industry operates. While buses, trams and trains are all subject to some level of government ownership (with management rights being put out to tender, and currently being held by large companies), the large majority of taxis are independently owned and operated by small business owners.
- 4.2.7 What is not clear is whether in fact, given the level of subsidisation of aspects of the taxi industry, that these small business owners could be construed as contractors for the purposes of their obligations to make reasonable adjustments for people with a disability.
- 4.2.8 Mandating the conversion of all taxis to accommodate wheelchairs is claimed to put a substantial financial burden on taxi owners which may not be economically viable. The current DSAPT characterises the conversion of taxis to WATs as an unachievable goal at this point in time.

¹⁸ Ibid, p 14

¹⁹ Ibid

²⁰ Ibid, p 6

²¹ Ibid, p 8

²² *Report of Wheelchair Accessible Taxi Inquiry*, HREOC, March 2002, p 7

4.2.9 The DSAPT do require some steps from taxi operators in other areas, and Victoria's taxi fleet has already achieved full compliance in these areas, including manoeuvring, allocated space, headroom, doorways and doors, payment of fares, and information²³ (see 7.1.7 below).

4.2.10 The Action Plan states that the release of further taxi licences is dependent on 'assessed consumer need'. How the needs of a 'consumer' who is a passenger with a disability is not defined.

4.3 Meeting our Transport Challenges. Connecting Victorian Communities. The Plan

4.3.1 The Plan addresses the full range of challenges related to developing a world class transport system over the next 25 years.

4.3.2 It outlines a range of Actions that propose solutions for the interface of various components of Victoria's public transport system. Changing travel needs have been identified, including dispersed origins and destinations,²⁴ which are different to the travel patterns for which the public transport system was designed, and shorter local trips.²⁵

4.3.3 The Plan specifically identifies the need for a safer and secure system of transport²⁶ and a better integrated system.²⁷

4.3.4 Action 5 of The Plan - delivering first class public transport to regional Victoria - proposes better taxi services,²⁸ including training and increased support to purchase WATs.

4.3.5 Action 9 of The Plan - Creating accessible, connected communities²⁹ identifies the key role to be played by taxi services in supporting the liveability of Melbourne including providing mobility for people with disabilities. The Plan proposes a new accreditation scheme for taxi drivers, measures to improve the availability and reliability taxi services for people utilising wheelchairs plus the regulation of timeliness of these services.

²³ *Accessible Public Transport in Victoria Action Plan 2006-2012*, p 46

²⁴ *Meeting our Transport Challenges*, p 15

²⁵ *Ibid* p 17

²⁶ *Ibid* p 25

²⁷ *Ibid* p 28

²⁸ *Ibid* p 48

²⁹ *Ibid* p 62

4.4 Reform of the Taxi Industry

4.3.1 In August 2007, the Victorian Government announced the Victorian Taxi Safety Strategy aimed to improve the taxi industry through specific initiatives such as increased driver education, stricter industry accreditation, protections for drivers and on-going driver support and representation. Information about protection under the EOA has been included as part of the "Victim of Crime Information" (www.doi.vic.gov.au). Some recommendations are to address cultural issues relating to taxi drivers.

4.3.2 In October 2007, the DOI, VTD has instituted a significant reform to the regulation of the taxi industry. Through the Transport (Taxi-Cab Industry Accreditation) Regulations 2007,³⁰ Taxi-Cab Industry Accreditation and Business Standards have been released for consultation. The standards cover a range of areas including:

- compliance with applicable legislation including the *Equal Opportunity Act 1995*, the *Racial and Religious Tolerance Act 2001*, and the *Disability Discrimination Act 1992 (Cth)*;
- business capability;
- information and records management;
- financial viability;
- safety of taxi-cab drivers, customers and members of the public;
- customer service;
- dealings with industry participants, customers and members of the public;
- complaint handling process; and
- education and training.

These standards provide an important opportunity to improve the provision of taxi services to all Victorians, including people with a disability and older Victorians.

³⁰ Transport (Taxi-Cab Industry Accreditation) Regulations 2007 and Taxi-Cab Industry Accreditation Draft Business and Service Standards. www.taxi.vic.gov.au

4.4.3 The VTD has also instituted a number of other reforms which address issues identified as a concern in this report, including the establishment of a Disabled Persons Tax Advisory Committee, initiatives in relation to communication aides for people with communication challenges, and increased data collection about the reporting on the overall performance of the taxi industry.

5 CURRENT TAXI INDUSTRY STRUCTURE

The following information has been provided by the Victorian Taxi Directorate, to outline the current structure of the taxi industry in Victoria.

5.1 Inner and Outer Metropolitan Melbourne

5.1.1 The Victorian Taxi Industry is a highly regulated industry, with several significant players. The industry regulator, the VTD, issues taxi licences which gives the owner the right to operate a taxi in a specific area, such as Metropolitan Melbourne. Licences are further divided in several categories:

- 'regular' licence - allows for operation of a standard sedan/station wagon taxi;
- M50/M51 licence - operation of a mini-bus style vehicle that must have provisions to carry two wheelchair users; licensees must give priority to bookings from these passengers;
- M80 licence - operation of the same minibus-style vehicle (maxi taxi), but specifically aimed at high occupancy trips; licensees do not need to give priority to wheelchair users. All licences can be traded on the open market through brokers licensed by BSX Services Pty Ltd, which operates a market for taxi licences. Licences for metropolitan Melbourne are currently selling for approximately \$450,000.³¹

5.1.2 All metropolitan licences issued before 2002 can be traded on the open market through brokers licensed by BSX Services Pty Ltd, which operates a market for taxi licences. Since 2002, only leased licences have been issued by

³¹ BSX Taxi market - www.bsx.com.au

the VTD. Licences for metropolitan Melbourne are currently selling for approximately \$450,000.³² There are currently 3,807 taxis in Melbourne, including 134 taxis in the Outer-suburban taxi zone (Frankston & Dandenong)³³, a ratio of one taxi for every 982 people.³⁴ The VTD also issues licences for rural and regional Melbourne, and there are obviously fewer taxis in those areas.

- 5.1.3 There are also 651 Metropolitan Hire Car Licences,³⁵ which are valued at approximately \$60,000.³⁶ These private limousines are restricted to picking up passengers who have booked trips via telephone (as opposed to picking up passengers hailing a car on the roadside), and are not considered part of the public transport system. They are not considered in this paper.
- 5.1.4 Complex relationships exist between parties in the taxi industry. As a general rule, most taxi licences and vehicles are owned and operated by one party ('the operator') who can assign a licence to another party, under a bailment agreement. The operator or the assignee then employ the drivers, and usually revenue is shared equally and the operator bears all running costs.
- 5.1.5 All taxis are required to be connected to a depot, which provide them with bookings and dispatch information, and a safer work environment via GPS-linked networking in return for a fee. The main depots in Melbourne are Silver Top Taxi Service Limited (Silver Top) and 13 CABS (incorporating Yellow Cabs Ltd and Black Cabs Combined Ltd). When customers - able-bodied or otherwise - want to book a taxi, they call one of the companies' booking numbers. This booking is then offered to the closest vacant taxi over the company's dispatch network. If the driver does not accept the offered booking, the network will offer the booking to the next closest available driver, and so on until the booking is accepted. In recent times so called 'secondary booking networks' have been established. These groups, such as Platinum Taxis, provide a back-up arrangement when a member driver receives a call directly from a passenger, but is unable to cover the booking. The secondary network is a means by which the first driver can pass the

³² BSX taxi market www.bsx.com.au

³³ Taxi industry statistics, www.taxi.vic.gov.au -Regulators and licensing - Taxi industry statistics

³⁴ Melbourne's population is estimated at 3,740,000 by the Australian Bureau of Statistics, Table 3235.0 - Population by Age and Sex, Australia, 2006, 24/07/2007, accessed on 31 July 2007 at <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/3235.0Main%20Features52006?opendocument&tabname=Summary&prodno=3235.0&issue=2006&num=&view=>.

³⁵ Department of Infrastructure website 'Structure of the Hire Car Industry', accessed on 31 July 2007, <http://www.doi.vic.gov.au/doi/internet/vehicles.nsf/AllDocs/9BC830691A2928DFCA256F320020824F?OpenDocument>

³⁶ [ibid](#)

booking on to another participating member of the secondary network group, typically by a radio system, mobile phone or pager.

- 5.1.6 The *Transport Act* 1983 establishes the criteria for taxi licence issue and the VTD, which has the responsibility for administration of this part of the Act, determines if and when it is appropriate to issue additional licences.

5.2 Regional Victoria

- 5.2.1 In regional Victoria, including Geelong, Ballarat and Bendigo, there are a total of 718 taxis, including 112 WATs, a ratio of one for every 8142 people. While larger centres can support many taxis, for example Ballarat has 55 taxis including 5 WATs, smaller towns may have only one or two taxis. These taxis are managed by smaller networks or individual operator-drivers. Almost all regional towns are serviced by a single taxi depot with all local taxis operating under the one local booking number. Due to the smaller population and demand, taxi licences in rural and regional Victoria are worth considerably less than a metropolitan taxi licence. In the same manner that the *Transport Act* regulates the number of taxis in Melbourne, the number of taxis in regional areas is also regulated to maintain a level that balances supply and demand, to ensure services meet public needs but remain sustainable and viable in the longer term.

5.3 Wheelchair Accessible Taxis (WATs)

- 5.3.1 While some people with a disability may be able to travel by regular taxis, there are also a number of wheelchair accessible taxis (WATs), which can be equipped to carry one wheelchair bound passenger (wheelchair user) and four other passengers, or two wheelchair passengers and up to six other passengers. All new metropolitan WATs must be able to accommodate two wheelchair users. Currently there are 246 WATs on Melbourne's roads (including the outer suburban zone), In rural and regional Victoria there are 112 WATs. In smaller rural centres people with disabilities may only be serviced by one or two taxis, and often must share a WAT with other towns.
- 5.3.2 Comparison between the ratio of regular taxis in city to those in the country, and between those ratios and that of the number of WATs to passengers with disabilities in both areas will not, in the view of the VTD, provide a clear answer to the availability of either taxi. Due to the smaller number of WATs

in these areas they are required to travel longer distances between hires (dead running time). This results in a less efficient utilisation of these taxis, which requires a higher proportion of WATs to users than regular taxis to passengers to deliver equivalent service. However, for 2006/07 the average metro trip cost including 'lifting fee' was \$19.81 compared to non-metro \$14.88.

- 5.3.3 A condition of a WAT licence is that priority must be given to the carriage of wheelchair passengers at all times. Drivers are allowed to take able-bodied passengers as well, but only when they are not transporting wheelchair passengers. This so called 'priority rule' recognises the fact that while there are a large number of wheelchair users, there is not a sufficient amount of work to keep a WAT in constant work and to ensure these services remain viable.

"I am not saying there shouldn't be two wheelchair carrying capacity type vehicles. I believe there is probably enough of them out there now so if you increase the number of singular wheelchair carrying capacity vehicles in the fleet that would reduce the pressure on the ones that carry two wheelchairs."³⁷

- 5.3.4 The VTD advises to assist WAT drivers cover the financial burden of taking wheelchair users, for trips made under the MPTP by people using wheelchairs the State also pays an additional amount (known as a lifting fee) of \$10 per wheelchair carried in a wheelchair accessible taxi and \$5 per wheelchair carried in a conventional taxi (rural areas only). Taxi licence conditions require that at least \$6.70 of the \$10 is retained by the driver of the wheelchair accessible taxi, the balance either to the driver or the taxi operator. The taxi meter must not be turned on until the passenger is secured in the vehicle and the vehicle is ready to depart and must be stopped prior to disembarking the wheelchair passenger. This ensures the fare paid for an MPTP subsidised trip is the same as for other passengers. The fee recognises that during this time when the meter is not running drivers and operators are missing out on income. In other states where there is no lifting fee, typically

³⁷ *Quality of Taxi Services for Passengers with Disabilities*. November 2006

the taxi meter is turned on during the loading and unloading process resulting in the passenger incurring this additional cost.

- 5.3.5 Notwithstanding these governmental initiatives, a major complaint of wheelchair users is the lack of reliability and timeliness of WATs. Primarily this displays itself through poor response times for WAT users. The VTD advises that one factor behind this is the amount of lead time WAT bookings are given: the two Melbourne networks, Silver Top and 13 CABS, both run wheelchair fleets. To access a WAT a wheelchair user must either call Silver Top's dedicated WAT number, or 13 CABS' WAT/maxi taxi booking line and select option '1' for WAT bookings. Irrespective of how long before a conventional or wheelchair booking is made, it is only broadcast to either network's WAT drivers about twenty minutes before the scheduled pick-up time. If no drivers accept the job, it is rebroadcast several times before eventually being broadcast to WAT drivers on the competing network. If the job has not been accepted by a driver within a certain time period the VTD - through a depot - will offer a financial incentive to pick up the wheelchair user. This incentive payment increases with time, so that the longer a wheelchair user has been waiting, the larger the incentive for a WAT driver to accept the booking. Understandably, this system has been criticised by some consumer groups as providing an incentive for drivers to delay their pick-ups of wheelchair users.
- 5.3.6 In some instances, one of the taxi depots will increase the incentive payment with time, so that the longer a wheelchair user has been waiting, the larger the incentive for a WAT driver to accept the booking. Understandably, this system has been criticised by some consumer groups as providing an incentive for drivers to delay their pick-ups of wheelchair users.
- 5.3.7 The VTD has advised the VEOHRC that extensive work has been undertaken to understand the cost, income and time differentials between WATs and conventional taxis. The business modelling undertaken to assess demand, capacity and economic returns for taxi operators, drivers and owners is complex. In summary however, the data indicates that the income generated for a single WAT trip exceeds that of a conventional taxi trip mainly as a result of government subsidies to WAT travel. However, the capacity of a WAT taxi to generate sufficient trips to match the average income of a conventional taxi is affected by: downtime associated with dead running, the

time taken to load/unload a WAT passenger, and the larger WAT trip length/duration, the ability to secure conventional taxi trips in addition to WAT trips. There is no conclusive evidence to suggest that WAT taxi trip income should be significantly different from a conventional taxi. However, it is generally understood that those WAT taxis that generate an equivalent income tend to be those which have a direct relationship with people with disabilities, and that schedule private booking arrangements.³⁸

5.3.8 The arrangement for equitable provision of WAT travel will need to take into account:

- a larger amount of time 'dead running' between WAT jobs, which are sparser than regular bookings. This is exacerbated by the short amount of time before jobs are sent out, and private hirings, which take bookings and WATs off the network;
- it takes a longer period of time to load and unload wheelchair users into the taxi; and
- the able bodied public dislikes travelling in the large mini-bus style WAT vehicles. The income differential may encourage WAT drivers to maximise their income, and as a consequence, WAT drivers may not comply with the priority rule, preferring to take jobs from the depot's regular network.³⁹ This appears to lead to fewer WATs being available on the WAT network for people with disabilities jobs, causing poor responses to bookings.

5.3.9 The VEOHRC is advised that a large number of people with disabilities book their WATs privately with a known driver, bypassing the network booking system. The percentage of passengers who circumvent the booking systems is estimated to be as high as 70% to 80%.⁴⁰ While this is a satisfactory arrangement for those involved it does not address the systemic issues for

³⁸ Internal DOI document 'Multipurpose Taxi Program. Desktop Review of MPTP Incentive Payments to WAT Operators and Depots (Metro Only). Draft Discussion - Work in Progress.' July 2007

³⁹ While there are no figures on the exact take up of WAT bookings by drivers (other than that in driver's log books and depot accounts), anecdotal evidence, as well as numerous court cases have involved this issue: see *Wirecko v Ministry of Transport* [2006] NSWADT 130 and *Ifedoranma v Ministry of Transport* [2006] NSWADT 119, two cases where WAT drivers had their licences revoked for failing to comply with the priority rule, and *Crowley v Canberra Cabs Ltd, 1st Respondent and Aerial Taxi Cabs Co-operative Ltd now incorporated as Aerial Consolidated Transport Ltd, 2nd Respondent* [2006 ACTDT 4], where a WAT driver was requested numerous times to accept a WAT booking and after refusing the booking logged out of the communications system.

⁴⁰ *Report of the Wheelchair Accessible Taxi Inquiry*. p 13

passengers waiting for a WAT who have booked through the depot system, as WATs that leave the booking network aggravate shortages by making even fewer of them available for booking over the network.⁴¹

5.4 The Multi-Purpose Taxi Program

5.4.1 People with disabilities are also able to access discounted taxi journeys under the MPTP, a scheme administered by the VTD which provides subsidised taxi travel for permanent residents of Victoria who suffer from a severe and permanent disability and are unable to independently access public transport. The program provides for a subsidy of up to \$30 per trip for members of the scheme.

5.4.2 As result of dramatic increases in the number of members of the scheme and a corresponding escalation in costs, in 2003 a number of restrictions to the scheme were introduced. The next year, following community backlash, these restrictions were eased somewhat, but there are still a number of limitations on the use of the program, especially for new members. These include the tightening of the eligibility criteria, the establishment of a means test for membership, excluding people permanently in a wheelchair, a subsidy cap of \$1030 per annum, unless the person is permanently in a wheelchair or possesses a listed impairment, and a \$16.50 charge for a new or replacement membership card every six years. The subsidy cap may also be increased upon application for 'exceptional circumstances' such as participating in employment, health, education, day programs, volunteering or visiting a partner in a nursing home.

⁴¹ Submission of Dr Jack Frisch to the HREOC Enquiry;
www.humanrights.gov.au/disability_rights/inquiries/taxi/jfrisch.doc

6 THE EXPERIENCE OF TAXI SERVICES FOR PASSENGERS WITH DISABILITIES: THE SURVEY

6.1 Survey Methodology

6.1.1 In 2006 the VEOHRC, with the assistance of the Department of Infrastructure, commissioned a survey of industry and consumer stakeholders to better understand the issues affecting the provision of taxi services for passengers with disabilities. Market Solutions Pty Ltd conducted a number of in-depth interviews and administered a survey of passengers, drivers and depot representatives and operators during October 2006. The report, entitled 'Quality of Taxi Services for Passengers with Disabilities'⁴² ("the report"), was presented to VEOHRC and VTD on 29 November 2006.⁴³

6.1.2 While the report contains a useful analysis of the taxi industry, it should be noted that the objective of the study (and subsequent report) was not to establish if there was any discrimination against people with a disability in the taxi industry, but rather to 'Provide a rounded view of the quality of taxi services for passengers with a disability,'⁴⁴ through interviews with stakeholders, and to 'identify areas of deficiency and proficiency to establish whether reform is required and if so, which are the main areas for attention.'⁴⁵

6.2 Passenger Surveys

6.2.1 440 passengers were surveyed. Most of the respondents (57%) use taxis at least three to five times per week. People with disabilities living in rural and regional areas are more likely to be frequent users (more than five times per week) of taxi services.⁴⁶ It was also found that there was an almost even split between passengers with a physical disability (51%) and mental impairment

⁴² This report is now available at the VEOHRC website at www.humanrightscommission.vic.gov.au

⁴³ It should be noted that the manner in which the survey of passengers was conducted, namely distributing a questionnaire via community groups and the internet, may have skewed the results. While 47% of passengers who responded to the survey disclosed an intellectual disability, this compares with the 16% of the total population which reports having a disability. This reflects the distribution methodology via peak disability and aged organisations and their capacity to generate responses.

⁴⁴ *Quality of Taxi Services For Passengers with Disabilities*, p 1

⁴⁵ *Ibid*

⁴⁶ *Ibid*, p 6

(47%).⁴⁷ In addition, almost one-third (30%) of all passengers who responded had a vision or hearing impairment.⁴⁸

6.2.2 It is a notable omission of the survey that a distinction was not made between those respondents with a disability who have a relationship with an identified driver and a private booking arrangement and those who have no relationship with an identified driver and book through the normal booking system. There is significant anecdotal evidence this can affect the experience of taxi service quality, and may impact on the survey reflections on quality of service (see 4.4.10).

6.2.3 Large numbers of passengers surveyed reported a number of difficulties in using taxi services.⁴⁹ These difficulties included:

- hailing a taxi on the street (53%),
- the length of time spent waiting for taxis (47%),
- communicating with the driver (47%) (which was particularly difficult for those with communication impairments),
- using automated booking services (40%),
- over 30% of passengers identified getting in and out of a taxi as a problem,
- a slightly lower percentage (27%) noted difficulties transferring from a wheelchair or scooter to a seat in the taxi,
- almost 30% of passengers reported difficulties handling payment or signing their name as part of payment.

6.2.4 Of particular concern, approximately one third of all passengers surveyed identified having their wheelchair secured properly in the taxi as a problem, and not surprisingly, a similar percentage reported not feeling safe during a journey.

“Some drivers weave in and out of traffic and that really frightens me.”⁵⁰

⁴⁷ Ibid, p 4

⁴⁸ Ibid

⁴⁹ Ibid, p 9

⁵⁰ Ibid

- 6.2.5 In response to questions about their satisfaction with taxi service, approximately one quarter of passengers surveyed (23%) reported that they had never received poor service. Indeed, drivers were given a rating of 'good to very good/excellent' by most passengers for their responses to the needs of passengers. Passengers seemed to place a great deal of importance on the pleasantness of drivers; drivers received high ratings for treating passengers with respect, patience and politeness, and specific examples of good service centred around examples of such conduct. This corresponds with sentiments expressed by drivers and operators, who recognise that passengers with disabilities require 'positive discrimination,'⁵¹ in that they require extra attention and effort that goes beyond that required to transport a regular passenger.
- 6.2.6 It was not possible from the survey to identify whether this positive result was a consequence of the private arrangements that regular passengers with a disability made with specific drivers with whom they have a relationship, or from drivers who had taken bookings off the network. These different arrangements will elicit different levels of satisfaction as by definition, as these private arrangements are built on a good relationship with the driver.

"I have often given up on taxi booking when it has failed to arrive. I am frequently not able to get to meetings and appointments at the required time due to lack of availability and timeliness of accessible taxis."⁵²

- 6.2.7 Many people with a disability have expressed concerns over waiting times to catch a taxi, especially WATs. While the report states 'it is important to note here that 53% (of passengers) do not experience difficulty with waiting times ... for many it is not an overwhelming issue,'⁵³ this masks the experience of passengers who require wheelchair accessible taxis. Some respondents to the survey who are in wheelchairs have reported multiple experiences of taxis bypassing them and/or long waiting times. One such passenger expressed his frustration as follows:

⁵¹ Ibid

⁵² Ibid

⁵³ Ibid, p 12

"I have experienced extensive delays ... I have sat at taxi ranks and watched the queue of standard taxis stretch as far as I could see, and waited over an hour while an accessible taxi made its way to me."⁵⁴

6.2.8 In relation to alternatives to taxi use, the most preferred modes of transport alternative to taxis were friend or family member or public transport, with friends or family being more prevalent in non-metropolitan areas.

6.3 Taxi Operators and Depots

6.3.1 Taxi depots and operators surveyed stated that delays were the most common difficulty in providing services to people with disabilities. This was partly due to delays which affected the entire fleet, such as during peak times, as well as general reticence by drivers to pick up people with a disability. These factors affect both WATs and regular taxis, but are of particular concern considering the requirement for WATs to prioritise people with a disability pick-ups. Maxi taxi-WAT drivers often prefer to pick up large groups of passengers (for whom they received a higher fee).

6.3.2 Operators report that there is a major difficulty in recruiting and maintaining drivers for WATs. It is unclear from the report whether this relates to a perceived income generating disparity between WAT and conventional taxi drivers, additional demands placed on WAT drivers in terms of training and addressing the specific needs of WAT passengers. Owner - operators who have paid nominal amounts for licences are better placed to undertake WAT jobs (and instruct drivers to do so) as they do not have to generate a level of income to service financing obligations to meet assignment costs or licence transfer capital costs.⁵⁵

6.3.3 There was also recognition of the fact that the current broadcasting of WAT bookings 20 minutes before the scheduled pickup was not an effective method of service delivery due to the smaller number of WATs.

6.3.4 They also reported a need for different, more flexible types of WAT vehicles, rather than the require van which can hold two wheelchair passengers.

⁵⁴ Quote of M. Bagshaw in *Report of Wheelchair Taxi Inquiry*, HREOC, March 2002, p 11

⁵⁵ DOI 'Multipurpose Taxi Program. Driver Income and Operator Return.' Draft for Discussion. October 2007

“When we see drivers who don’t get out and help passengers, we take down their details and report them to the manager who will call them in and talk to them.”⁵⁶

6.4 Drivers

- 6.4.1 89% of drivers surveyed were regular taxi drivers and 11% were WAT drivers.
- 6.4.2 Only 20% of drivers reported receiving any disability-specific training. This is despite the fact that other research indicates that approximately one third of drivers in Melbourne have received a substantial amount of training on the special requirements involved in transporting passengers with disabilities⁵⁷, and DOI changes of March 2006 requiring every WAT driver to have undergone such training before the end of 2007. However that training is only required for WAT drivers - regular taxi drivers, the bulk of the fleet (and 89% of those surveyed),⁵⁸ are not required to undergo such training.
- 6.4.3 Almost two thirds of drivers surveyed (59%) thought that there is a need to improve taxi services for passengers with disabilities.
- 6.4.4 Approximately half (48%) of all drivers were not aware of a passenger’s disability before picking them up.
- 6.4.5 35% of drivers cited communication with people with a disability as an area of difficulty, indicating that they had trouble understanding the instructions from the passenger. 9% of drivers reported encountering a problem obtaining payment from a passenger.

7 LEGAL PROTECTIONS FOR PEOPLE WITH A DISABILITY UTILISING TAXI SERVICES

7.1 The Commonwealth Disability Standards for Accessible Public Transport

- 7.1.1 Both the State and Federal Governments have recognised the importance of ‘ensuring that all members of the community can access public transport

⁵⁶ Ibid

⁵⁷ Ibid, p 8

⁵⁸ *Quality of Taxi Services for Passengers with Disabilities*, p 40

services and facilities.’⁵⁹ At a Federal level, the *Disability Discrimination Act* 1992 (DDA) allows for the creation of disability standards. This mechanism has been employed to develop the Commonwealth Disability Standards for Accessible Public Transport (DSAPT).

7.1.2 In 2002 the Commonwealth introduced the Disability Standards for Accessible Public Transport (DSAPT). The DSAPT (as amended) are a form of delegated legislation, authorised under sections 31-34 of the Commonwealth DDA for the purpose of removing discrimination ‘as far as possible against people with disabilities.’ Section 31(1)(d) specifically provides for the Minister to formulate disability standards in relation to the provision of public transportation services and facilities by government or any other person.

7.1.3 The DSAPT provides a series of milestones at five year intervals aimed at public transport infrastructure being fully accessible for people with a disability by 2022. While section 32 of the DDA makes it unlawful for a person to contravene a disability standard, acting in accordance with the Standard is a defence to an allegation of discrimination.

7.1.4 While the DSAPT imposes substantial obligations on government and transport providers such as bus, train and tram operators to have their infrastructure and vehicles more accessible for people with disabilities, the DSAPT imposes only one objective for WATs to achieve before the end of 2007: that WATs have the same response time as that for other taxis.⁶⁰ Unfortunately, even that objective is unlikely to be achieved.

7.1.5 The DSAPT require compliance from the taxi industry in a number of areas, both for vehicles and infrastructure. These include addressing the following:

- Manoeuvring areas for both infrastructure and vehicles
- Passing areas for infrastructure
- Boarding (includes the provision of boarding devices)
- Allocated space (sufficient space to fit a single wheelchair or similar mobility aid)
- Surfaces

⁵⁹ Public Transport Division of the Department of Infrastructure website, <http://www.taxi.vic.gov.au/DOI/Internet/transport.nsf/AllDocs/8A3773815437B0F64A25686C0008B211?OpenDocument#access>

⁶⁰ Schedule 1 Part 1.2

- Doorways and doors to have an unobstructed vertical height when opened to fit a person sitting in a mobility aid
- Signs - raised taxi registration numbers to be placed on the exterior of all vehicles
- Tactile ground surface indicators
- Street furniture
- Payment of fares
- Provision of information
- Equal response times

7.1.6 The infrastructure requirements such as street furniture are the responsibility of local councils. Indeed only 80% of all of the infrastructure requirements are accessible as at 2004/2005 Accessible Public Transport in Victoria Action Plan 2006-2012.⁶¹

7.1.7 Victoria's taxi fleet has already achieved full compliance in manoeuvring, allocated passing area space, headroom, doorways and doors, payment of fares, and information.⁶² The taxi industry is attempting to address the issue of raised taxi numbers but at this point has not been able to arrive at an acceptable solution.

7.2 Unlawful Disability Discrimination in the Provision of Services

7.2.1 At both a state and federal level people with disabilities are protected from being discriminated against on the basis of their disability where they are being provided with goods and services - including taxi services. The relevant laws are the *Equal Opportunity Act 1995* (Vic) (EOA) and the *Disability Discrimination Act 1992* (Cth) (DDA). The core obligations of both the EOA and the DDA are the same. However, there are some technical differences between these Acts. Further details about the operation of the DDA can be obtained from the Federal Human Rights and Equal Opportunity Commission.⁶³

7.2.2 The following legal review of the issues raised by taxi users who have a disability is intended to provide a backdrop and context to the

⁶¹ *Accessible Public Transport in Victoria Action Plan 2006-2012*, p 7

⁶² *Ibid*, p 46

⁶³ The Federal Commission's website address is www.humanrights.gov.au

recommendations contained in the report rather than to provide legal advice. The focus will be on the application and requirements of the EOA. Much of this will be equally relevant to the DDA.

7.3 Key concepts and definitions⁶⁴

7.3.1 Disability discrimination can take two forms - direct discrimination or indirect discrimination. Direct disability discrimination is more easily and commonly understood. It occurs when a person is treated less favourably *because* they have a disability,⁶⁵ for example a person with an intellectual disability is told they cannot come into a video store because they “don’t like serving retards.”

7.3.2 Indirect disability discrimination can be more subtle and difficult to identify. It occurs when everyone is treated in the same manner - which on the surface seems fair - however that identical treatment fails to take into account that sometimes a persons’ disability means that true equality or fairness requires them to be treated differently. An example would be a restaurant or café with a “no animals allowed” rule which it applies to all patrons, including a blind patron with a guide dog. Whilst other patrons can leave their pets at home without experiencing any hardship, telling the blind patron to leave his or her guide dog at home is in effect telling them they cannot come to the venue.

7.3.3 The definition of indirect discrimination is found in section 9 of the EOA and has a number of elements. For conduct to amount to indirect discrimination it must involve the application of a requirement, condition or practice:

- that a person with a disability does not or cannot comply with;
- that a higher proportion of people without a disability, or with a different disability, do or can comply with; and
- the requirement, condition or practice is unreasonable.

⁶⁴ The EOA uses the term impairment rather than disability, however, for consistency with the remainder of this report and the DDA this section employs the term disability - this does not affect the scope of the legal obligations being outlined.

⁶⁵ Section 8 of the EOA contains the definition of direct discrimination.

7.3.4 In order to be unlawful under the EOA, direct or indirect discrimination must occur in an area of public life that the law applies to. Under section 42 one of these areas is the provision of goods and services. The provision of goods and services is defined very broadly and includes refusing to provide goods and services, providing goods and services but on less favourable terms, and subjecting a person to any sort of detriment (including abuse) in the course of providing goods and services. Importantly, the EOA prohibits discrimination in the provision of goods and services regardless of whether a person is paying for those goods and services.

7.4 Exceptions

7.4.1 The law prohibiting direct and indirect disability discrimination in the provision of goods and services is not absolute and contains some exceptions. A number of these exceptions are not relevant to the provision of taxi services. However, the exception contained in section 46 of the EOA is relevant. Under section 46 a provider of services may refuse to provide those services to a person with a disability, or provide them on different but reasonable terms, where the recipient's disability means the service has to be provided in a special manner. Before this exception applies the service provider must be able to demonstrate that:

- in relation to service refusal, they cannot provide the service in that special manner; or
- in instances of differing terms, the special manner of service provision is more onerous for the service provider.

7.4.2 Another exception that may be relevant to the provision of taxi services, including the operation of the MPTP, is section 82 of the EOA. Section 82 states that providing people with a disability with special services, facilities or benefits that are designed to meet their particular needs or reduce disadvantage in relation to their welfare, will not breach the EOA.

7.4.3 Similar to the operation of an exception, if the alleged discrimination concerns a matter that is covered by the Commonwealth Disability Standards for Accessible Public Transport and a service provider demonstrates that they

have complied with the standard, the conduct in question will not be unlawful.

7.5 Enforcement

7.5.1 One of the aims of the EOA is to eliminate discrimination as far as possible,⁶⁶ however, until this occurs one of the means by which the EOA enforces its prohibition against disability discrimination in the provision of goods and services is by enabling individuals who believe they have experienced discrimination to lodge complaints with the Commission about what happened. Complaints to the Commission follow a number of steps.⁶⁷

1. Lodgement: a person who believes they have been subjected to discrimination lodges a written complaint with the Commission detailing what happened, including why they believe the matter amounts to direct or indirect discrimination. A complaint must also identify who it is they believe was responsible for the alleged discrimination. Under the EOA the Commission must assist people with the lodgement of their complaint.
2. Investigation: after a complaint has been lodged the EOA allows the Commission a period of up to 70 days to investigate a complaint - this is where the Commission will seek to obtain the "other side of the story." It is at this point in the process that the person who is alleged to have acted in a discriminatory manner will have the opportunity to either argue that a particular incident is actually covered by an exception (or disability standards if relevant) and that they have not acted unlawfully, or to identify a dispute on the allegations made or to claim that they are not the responsible entity. After the investigation the Commission will decide whether to decline the complaint (i.e. not take any further action) or refer the matter to conciliation. If the Commission declines a complaint the person making the complaint can ask for the matter to be heard and adjudicated by the Victorian Civil

⁶⁶ Section 3 of the EOA.

⁶⁷ More details of the Commission's complaint handling procedures (including some of the variations that can arise in particular matters) is available at www.humanrightscommission.vic.gov.au

and Administrative Tribunal - a body that is separate from the Commission.⁶⁸

3. Conciliation: if a complaint is referred to conciliation the Commission will assist the parties to try and resolve the matter through a voluntary agreement, if this occurs the matter is finalised and closed. If a complaint does not resolve by agreement the person making the complaint can ask for the matter to be heard and adjudicated by the Victorian Civil and Administrative Tribunal.

7.5.2 A key issue that arises in the context of complaints about discrimination is the question of who may be legally liable / responsible for discrimination if it is shown to have occurred. The EOA casts a wide net in terms of liability that extends well beyond the individual/s immediately involved in or responsible for a particular incident. Under the EOA liability can extend to the following:⁶⁹

- the employer or principal of a person whose actions were discriminatory, except where the employer or principal took reasonable precautions to prevent discriminatory conduct; and
- anyone who requests, instructs, induces, encourages, authorises or assists another person to act in a discriminatory manner.

7.6 Potential for discrimination

7.6.1 As an impartial, statutory complaint handling body the Commission must approach any complaint with a fresh mind in relation to both the factual question of whether an alleged incident of discrimination did or did not occur, as well as the legal question of whether any incident that did occur is more probable than not to amount to a breach of the EOA. Accordingly, the following section does not express a Commission view as to whether or not a particular concern on the part of users discloses unlawful discrimination, rather it simply outlines whether or not particular concerns appear able to

⁶⁸ Information relating to the procedures of the Victorian Civil and Administrative Tribunal are available at www.vcat.vic.gov.au

⁶⁹ The relevant provisions are sections 98-99 and 102-103 of the EOA.

be framed as a complaint under the EOA. Any future complaints of this type would be the subject of a full and impartial investigation.

7.6.2 For the purposes of assessing whether users' concerns might be the subject of a complaint the following broad categories have been utilised:

- eligibility criteria for the MPTP;
- availability of services; and
- accessibility of services.

7.7 MPTP eligibility criteria

7.7.1 Any complaint about the eligibility criteria for the MPTP would raise a number of technical questions the resolution of which would depend on both the facts of an individual matter and the interpretation of the law. A complaint could certainly be lodged with the Commission under the EOA and it would most likely be one that alleged either or both direct and indirect disability discrimination in the provision of services. Such a complaint would then require consideration of the following issues:

- whether the disability discrimination provisions of the EOA prohibit intra-disability discrimination - i.e. differential treatment on the basis of two people having different forms of disability;
- in the context of an indirect discrimination complaint the reasonableness of the MPTP eligibility criteria;
- the possible application of the exception contained in section 46 of the EOA; and
- the possible application of the exception contained in section 82 of the EOA.

7.8 Availability of Services

7.8.1 In the context of availability, two inherently related, but not identical issues are central. They are the number of WATs within the overall Victorian fleet, and the level of response times experienced by people with disabilities, and in particular people requiring a WAT. Both issues appear capable of being the subject matter of a complaint under the EOA. The entities that could be named as answerable for the alleged discrimination would appear to differ, however, as in any scenario would be determined by identifying those with responsibility for the issues involved, where responsibility might be evidenced by direct conduct or through control over structural issues etc. So for instance whilst an individual driver, if able to be identified, and their employer or principal (if there was one) might be amongst the respondents to a complaint about extended response times or failure to pick-up, it is unlikely they would be a respondent to any complaint about the overall level of availability of WATs. Complaints concerning availability could raise complex questions related to the reasonableness or otherwise of the existing level of service, as well as an assessment of compliance with any relevant provisions of the standards.

7.9 Accessibility of Services

7.9.1 Accessibility of services is distinguished from availability in that for current purposes accessibility is being used to describe the usability of a taxi, including the provision of assistance by a driver, once it is available to transport a person with a disability. These matters could also be the subject matter of a complaint, the precise scope of which would be determined by the particular circumstances involved. Complaints concerning the “structural accessibility” of services might often require consideration of the issue of reasonableness as well as compliance with the standards. This is less likely to be the case when a matter involves the alleged conduct or attitude of an individual driver towards a passenger with a disability who requires a reasonable level of assistance to utilise a taxi. Once again complaints about these matters could be lodged against any individual or entity with responsibility for or authority over the issues involved.

7.10 The Charter of Human Rights and Responsibilities

7.10.1 In 2006 Victoria became the first Australian state to enact a comprehensive human rights instrument - the *Charter of Human Rights and Responsibilities Act 2006* (Vic) (the Charter).⁷⁰ The Charter seeks to protect and promote the civil and political rights of Victorians - the most relevant of which for current purposes is the right to equality and effective protection from discrimination contained in section 8.

7.10.2 In order to harmonise the operation of the Charter and the EOA, the Charter uses the same definition of discrimination as that which is used in the EOA. Like the EOA, the Charter's prohibition on discrimination is not absolute. One difference between the two instruments, however, is that apart from permitting special measures, the Charter does not define specific exceptions. Instead it permits discrimination if it can be shown the discrimination is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.⁷¹ Factors that need to be considered in assessing whether discrimination is reasonable and demonstrably justified include:

- the nature of the right not to be subjected to discrimination;
- the importance of the purpose giving rise to the discrimination;
- the nature and extent of the discrimination;
- whether the discrimination furthers the purpose that makes it necessary; and
- whether less discriminatory options are reasonably available.

7.10.3 The Charter employs a number of mechanisms to promote these rights, the most relevant in the context of taxi services being:

- placing a positive duty on public authorities to act compatibly with human rights, and when making decisions, to give proper consideration to human rights (section 38);

⁷⁰ The Australian Capital Territory was the first Australian jurisdiction to do so, enacting its *Human Rights Act* in 2004.

⁷¹ Section 7 of the Charter.

- requiring that as far as possible within the parameters of their purpose, all laws must be interpreted compatibly with human rights, and permitting the consideration of international human rights law when engaging in statutory interpretation (section 32); and
- allowing for complaints to be made to the Ombudsman about administrative actions that are believed to be incompatible with human rights, provided the body in question falls within the jurisdiction of the *Ombudsman Act 1973* (Vic) (section 42 and item 2 of the Schedule to the Charter).

7.10.4 With the exception of complaints to the Ombudsman, which can already be made, the Charter's compliance provisions come into operation on 1st January 2008. Their application and relevance to the taxi industry and the provision of services to passengers with a disability differs markedly.

7.11 The positive duty to comply

7.11.1 This positive duty extends to any body or person that falls within the definition of a public authority that is contained within section 4 of the Charter. Public authorities include:

- entities established by a statute that have functions of a public nature (which specifically includes functions of a regulatory character); and
- other entities whose functions include functions of a public nature, when exercising those functions on behalf of the State or another public authority (this ensures obligations in relation to Charter compliance are not avoided by outsourcing functions to other people or organisations).

7.11.2 Determining which components of the taxi industry do or don't fall within the definition of a public authority is beyond the scope of this report. It is possible to say, however, that one of the key entities - the Victorian Taxi Directorate - given its role as the industry regulator is a section of DOI and thus is considered a public authority. As such when the VTD is making decisions regarding the structure of the taxi industry and the design and delivery of services, it must take into consideration the rights of passengers

with a disability to not be subject to discrimination on the basis of their disability. Complying with this duty means that if the VTD endorses or permits practices that result in discrimination, it must be satisfied that that discrimination is reasonable and demonstrably justified.

7.11.3 Government Ministers and each of the 10 State Government Departments are also public authorities for the purposes of the Charter, meaning both the Minister for Public Transport and the Department of Infrastructure are each required to comply with Charter when acting and making decisions in relation to public transport. Accordingly, like the VTD this obligation includes considering the rights of public transport users not to be subject to discrimination on the basis of having a disability (except where that discrimination is reasonable and demonstrably justified).

7.12 Interpretation of Statutes compatibility with human rights

7.12.1 This aspect of the Charter will require any body or person whose role involves interpreting and applying statutes to revisit and reconsider past interpretations and ask the question “is a different interpretation needed and possible in order to promote human rights compatibility?” One context where this obligation will play out is in the Commission’s interpretation and application of the EOA to individual complaints. Whilst it will still be the EOA that defines the obligation not to discriminate, the meaning and practical implications of that obligation will be informed by the Charter, and through the Charter, the standards set down in international human rights law. A specific provision of the EOA the interpretation of which will need to be revisited in light of the Charter is section 82 - the special measures exemption outlined above at para 6.5. There is a strong argument that the current interpretation of section 82 that is based on the decision of the Court of Appeal in *Collyer v State of Victoria* [1998] 3 VR 759 is not entirely compatible with human rights norms, and in future the exemption may need to be read more narrowly.⁷²

7.12.2 This is a particularly timely development in the area of disability discrimination given that at the same time the Victorian Government has

⁷² For an outline of one possible alternate interpretation of section 82 see the comments of Morris J in *Mangan v Melbourne Cricket Club* [2006] VCAT 73.

been working on the implementation of the Charter, the Federal Government has signed, and is about to initiate the processes that are likely to lead to the ratification of the United Nations *Convention on the Rights of Persons with Disabilities* ("Convention"). Assuming the Convention is ratified by Australia, and by a sufficient number of nations to become part of the body of international law, its standards will provide a means of better understanding what non-discrimination means and how it might be progressively realised, including in relation to the design and delivery of public transport services.

7.13 Complaints to the Ombudsman

7.13.1 Both the Department of Infrastructure and the VTD are already able to be the subject of a complaint to the Ombudsman. The amendments to the *Ombudsman Act* contained in the Charter do not as such create a new or additional avenue of complaint, rather they confirm that in the course of handling such complaints the Ombudsman has a specific mandate to consider whether the subject matter discloses a breach of a right contained in the Charter. The nature of this avenue of complaint is such that it provides a means of monitoring compliance with the positive duty outlined above at paragraph 6.12. As with the Commission's handling of complaints under the EOA, when assessing compliance with rights contained in the Charter the Ombudsman will be able to consider international human rights law, including the Convention should it come into force.

8 INTERSTATE AND OVERSEAS EXAMPLES OF PROVISION OF TAXI SERVICES TO PEOPLE WITH A DISABILITY

8.1 Western Australia

8.1.1 The approach taken by the Western Australian Department of Transport 'appears to have much to commend it.'⁷³ Taxi licences in that state are both owned and leased by taxi operators. To ensure that passengers can be assured of acceptable WAT response times, the government offers substantial assistance to potential WAT operators and drivers, including discounted WAT licences, vehicle modification funding, and 20 Cadetship Grants which covers

⁷³ *Report of Wheelchair Accessible Taxi Inquiry*, HREOC, March 2002, p 14

the application and training costs for a person to become a Multi-Purpose Taxi driver.

- 8.1.2 The government takes a 'hands off' approach when it comes to regulating the best approach for the taxi industry to take to ensure high service standards for people with disabilities. Instead it sets performance standards and holds taxi networks accountable for meeting those standards, without specifying in detail what approach industry should take to get there.⁷⁴

8.2 Australian Capital Territory

- 8.2.1 Experience from the ACT demonstrates that the simple addition of more WATs onto the roads will not improve service levels for passengers. In 2000-2001 twenty additional WAT licences were issued, bringing the total number in the fleet to 26. This amounted to more than ten percent of the total Canberra taxi fleet. While it was expected that the mass release of new WAT licences would improve service levels, on the contrary it had no positive impact. In fact, it eroded the standard taxi income and made the industry 'less and less viable for all involved in it, including the twenty new WAT operators.'⁷⁵ Subsequently a number of the licences were handed back by operators.
- 8.2.2 A subsequent report stated that a contributing factor to the poor response times that were achieved by WATs was the Canberra Cabs Booking system, which only allocated booked jobs to selected taxis ten minutes before the booked time. The report stated that 'while this might be adequate for standard taxis with a likely spread throughout the ACT region, it is unlikely to be adequate notice for the fewer number of WATs,'⁷⁶ considering their spread throughout Canberra.
- 8.2.3 In an attempt to remedy this situation, a second cab network, 'Cabexpress', commenced operations in March 2007 as an operator of a regular and wheelchair accessible taxi network. Cabexpress has expressed a commitment to 'providing the best wheelchair accessible taxi service in Australia.' To do this it introduced micro-management of WATs in March 2007. This means that all WATs who join Cabexpress are on the same WAT network and receive the

⁷⁴ Ibid

⁷⁵ Nicolls, D. 'Enquiry into the *Road Transport (Public Passenger Services) Amendment Bill 2003*', Submission to the ACT Legislative Assembly Standing Committee Planning & Environment, p 12

⁷⁶ Tania Parkes Consulting, *Evaluation of the ACT Action Plan for Accessible Public Transport: A Report for the ACT Department of Urban Services*, 2003, cited in Wheelchair Accessible Taxi Reference Group Report prepared by the ACT Department of Urban Services and the WAT Reference Group Secretariat in September 2005, p 16

same bookings. In addition, Cabexpress provides for operators to answer all booking enquiries, rather than the use of voice recognition software which is used by the competing taxi network (and causes problems for people with speech impediments)

8.2.4 As the network only recently commenced operations there are no statistics on its efficiency or service results.

8.3 South Australia

8.3.1 Experience in SA suggests that a separate, micro-managed WAT network, with reasonably high incentive payments for WAT drivers, may offer a means of increasing the efficiency and effectiveness of Victoria's WAT system.

8.3.2 The Adelaide WAT fleet has noticeably improved its performance since micro-management was phased in from April 2003, and Government subsidies provided a vital impetus to getting the program up and running.⁷⁷ Indeed the system is heavily incentive based, and also allows for WAT bookings to be reserved by drivers at the beginning of each day.

8.3.3 The SA Government pays WAT drivers a lift fee of \$5, conditional on the passenger being picked up within 30 minutes. In addition, an on time bonus of \$1.00 is paid to the WAT networks, such as Adelaide Access Taxis (AAT), for pick ups within twelve minutes of the booked time, and 50 cents is paid for pick-ups between 13-31 minutes after the booked time.

8.3.4 The government also pays WAT networks a lump sum for each WAT it has on the road each year, to compensate for the higher level of intervention required for allocating bookings. The AAT booking system works as follows:

- All WATs have a two-way radio system to communicate with the dispatch operators
- Passengers are able to request a particular driver
- No private hirings occur outside the booking system
- Drivers 'bid' for pre-booked pick-ups each morning, allowing them to choose pick-ups that provide them with as little dead running as possible

⁷⁷ Quoted in Wheelchair Accessible Taxi Reference Group Report prepared by the ACT Department of Urban Services and the WAT Reference Group Secretariat in September 2005, p. 35

- A dedicated micro-manager intervenes using the radio where necessary to allocate bookings
- The micro-manager attempts to link pick-ups in such a way so as to minimise dead running
- The bookings call centre calls back customers if their taxi is running late, or when their booked time is unavailable, and gives passengers the option to consider a revised time.

8.3.5 As stated, the micro-managed WAT network has provided substantial benefits for wheelchair users and provides a useful model of an efficient WAT network.

8.4 New South Wales

8.4.1 Sydney's taxi market is the largest in Australia, with the most drivers and taxi vehicles, and fourteen taxi networks. There are also a substantial number of WATs with a number of these networks, including Taxis Combined, Silver Service, Yellow Cabs, ABC, St George, South Western, Manly, RSL, Premier and Legion. All WATs are linked to a single network, Zero 200, which is accessed through a separate phone number. Those taxis are also linked to their respective networks, and are entitled to take booking off both networks.

8.4.2 In a similar manner to other locales, the New South Wales Ministry of Transport provides a number of incentives to ensure a quality taxi service for wheelchair users. This includes a number of financial incentives, including the provision of short term WAT licences at a fee of \$1000 (as opposed to the cost of a regular metropolitan Sydney taxi licence of several hundred thousand dollars) and the granting of interest free loans of up to \$30,000 to operators for the purchase of new or additional WAT vehicles in areas outside of metropolitan Sydney where there is a demand for additional WAT services. Operators who wish to operate a WAT are required to provide a vehicle which complies with the DSAPT and the Australian Standards on securing wheelchairs.

8.4.3 All drivers are required to pass a knowledge test which contains a module on passengers with special needs, and WAT drivers are required to take a special training course on providing 'a quality service for passengers with a

disability.⁷⁸ All WAT drivers are required as a term of their licence to give priority to WAT passengers (as was discussed in the two NSWADT decisions of Ifedioranma and Wirecko), and to be connected to a WAT network which provides bookings to such passengers.

8.4.4 Passengers with disabilities are able to access a MPTP similar to that of Victoria's, which provides a subsidy of up to \$30 or half the total fare for each taxi journey (whichever is less). Membership is restricted on similar grounds to Victoria's scheme.

8.4.5 In 2006, the Sydney WAT landscape received a shake with the entrant of a new participant. Bill Moss, who has muscular dystrophy, is an executive with investment bank Macquarie. Together with trucking magnate Lindsay Fox and former government minister John Brown, Macquarie Bank launched Lime Taxis, using universally accessible vehicles and with a brief to improve taxi services for passengers with disabilities and all passengers generally. A stated principle of the network is that passengers with disabilities will be given priority.⁷⁹

8.4.6 Using a franchise model the company aims to have 240 taxis on the road by the end of 2007.⁸⁰ Whether or not this will occur remains to be seen, but reports as to Lime's success in its stated aims of improving WAT service have been mixed. There has also been criticism as to the Bank's motive in entering the lucrative taxi industry, and its use of the franchise model; the Bank charges franchisees a substantial franchise fee and then 'assists' the operator apply for a WAT licence from the Government. With operators required to make a substantial financial investment, the pressure to ignore WAT jobs and focus on the more lucrative airport or other work is great. As such, the progress of Lime will be closely watched by industry observers. Recent reports suggest that that Lime is unlikely to continue to operate.

8.5 London and the UK

8.5.1 The approach taken by authorities in England provides an illustration of policies aimed at fully integrating people with disabilities into society through the provision of fully accessible transportation.

⁷⁸ Zero 200 website, 'About Us', <http://www.zero200.com.au/about.htm>

⁷⁹ Lime Taxis website, 'About Us', http://www.limetaxis.com.au/corporate/about_us.htm

⁸⁰ Ibid

- 8.5.2 *The Good Practice Guide on Making Private Hire Services More Accessible to People with Disabilities*, published by the Disabled Persons Transport Advisory Committee (DPTAC) in 2003, instructs when dispatching taxis from a depot, 'callers who have a disability which might make them particularly vulnerable should be given priority over non-disabled customers, to minimise the anxiety that is caused by waiting.' Dispatchers are also instructed to inform passengers immediately if there is going to be a delay in their car arriving.
- 8.5.3 Nearly 30,000 taxis - or half the fleet - in England are purpose built taxis which are designed to be wheelchair accessible with assistance from drivers. Of that number almost 21,000 are based in London, where the entire taxi fleet is wheelchair accessible. Other localities' taxi licensing authorities - such as West Midlands - also require purpose-built WATs, while many smaller localities do not mandate WATs as yet.⁸¹
- 8.5.4 In addition to vehicles which fit the vast majority of wheelchairs, newer taxis have a swivel seat and step that can be fitted to allow a passenger to get into the cab more easily. It is claimed that, due to the time required to fit the step and ensure that the passenger is safely inside, some drivers will not pick up some disabled passengers who they suspect would need to use the assistance and thus take more time.
- 8.5.5 A large drawback is the UK's reliance of private hire vehicles (PHVs). Such vehicles are only ever booked (although operators do cruise for business at airports illegally), and as a result the requirements of the DDA to be available for 'spontaneous access' do not apply. When the number of PHVs are taken into account, only one third of England's private transport vehicles are wheelchair accessible.
- 8.5.6 To qualify as a London 'cabbie', London's drivers are also required to sit a knowledge test, which requires knowledge of different routes, customer care and disability awareness. This ensures a higher level of knowledge, and thereby providing a better standard of service to all passengers. It is estimated that it takes five to seven years to learn the required information to pass the test.⁸²
- 8.5.7 Edinburgh City Council requires taxi drivers to undertake a compulsory training course which covers wheelchair accessibility and disability awareness.

⁸¹ *A Bulletin of Public Transport Statistics: Great Britain*, Department for Transport, 2005

⁸² Gary Kemp, of Advisory Committee, p 6.

It also provides specific assistance information about working with partially sighted, hearing impaired passengers or passengers with walking difficulties. The training includes practical sessions showing how to assist such people into a taxi.⁸³

8.5.8 The UK taxi industry does not expect that all of its taxis will meet the relevant Disability Standards by 2008 because of the cost of compliance - by comparison the Victorian Action Plan only requires WATs to comply with the Standard, something which will not be achieved.

9 KEY ISSUES ARISING FROM THE SURVEY AND LEGAL ANALYSIS

9.1 Enforcement of the priority rule

9.1.1 An almost universal grievance with the current system appears to be the failure of drivers to comply with their licence requirement and give priority to picking up passengers in wheelchairs. If drivers were to comply with this rule, it is likely that response times would drop significantly.

9.1.2 The financial impacts of the enforcement of the priority rule would have to be assessed in terms of the potential for lower incomes for drivers. If this were to lead to an increased turnover of drivers, this would have implications for the training and experience of the drivers providing services to passengers with disabilities.

9.1.3 The MOTC action plan included plans for VTD officers to monitor the Melbourne Airport taxi rank to ensure WAT drivers are picking up wheelchair passengers, and also gave VTD the power to take disciplinary action against a driver for a continual refusal to do wheelchair work. Whilst the responses, undertaken in October 2006, five months after the MOTC plan was issued, indicated continued problems in this area, it is possible the scheme is not fully operational yet. The VTD needs to continually monitor the impact of this on the accessibility of WATs to people with disabilities.

9.2 Contracting of Salaried WAT Drivers

9.2.1 It has been suggested that the most efficient solution to the problem of long waiting times for passengers requiring WATs is the contracting of a small fleet

⁸³ *Making Private Hire Services More Accessible to People with disabilities*, Good Practice Guide, published by DPTAC, 2003, p 18

of WATs to exclusively serve disabled passengers between 8am to 6pm, and pay drivers a salaried rate, irrespective of the number or length of bookings. Indeed, this suggestion was raised by the VTD in 2002. At that time it was estimated that such an arrangement would cost approximately \$2.4 million.⁸⁴ A cost-benefit analysis is required to identify the business and service delivery case of such a service versus subsidies currently provided to WAT drivers.

- 9.2.2 Such a scheme would give priority to services for passengers requiring wheelchair access and ensure a pool of drivers who are trained in the basic safety requirements of loading and unloading passengers' wheelchairs, ensuring customer care is not compromised for speed.

9.3 Universal Taxis

- 9.3.1 The current government policy has determined that the number of WATs on the road is satisfactory and 'meeting current demands.'⁸⁵ However, poor response times result from a combination of a number of the factors outlined above, including WAT drivers ignoring wheelchair passengers, and drivers taking private bookings, thereby taking themselves off the network.
- 9.3.2 It is claimed that universal taxis have potential to broaden the accessibility of taxi services for people with disabilities. It eliminates the need for many passengers in wheelchairs to book a taxi days in advance (despite the ten minute call system), as they can hail a taxi on the street in the same way as an able bodied passenger. In addition, with conversion to such taxis it will be necessary for drivers to have some training in securing wheelchairs and other mobility devices. The problem of large amounts of down time between WAT bookings would also be eliminated.
- 9.3.3 As regular taxis in Victoria must be vehicles less than six years old, the introduction of a requirement for all taxis to be wheelchair accessible would be fully implemented across the fleet within six years. However, the economic basis for conversion would be more expensive than turnover of regular taxis.
- 9.3.4 A frequent passenger who has a disability suggests that the introduction of universal taxis would result in 'wheelchair users ... no longer suffer(ing) segregation and long waits for a limited number of special vehicles ... this is a

⁸⁴ *Report of Wheelchair Accessible Taxi Inquiry*, HREOC, March 2002

⁸⁵ *Accessible Public Transport in Victoria Action Plan 2006-2012*, p 45

long term solution ... and should be gradually implemented and will put Australia in the forefront of providing universal access to taxis.’⁸⁶

- 9.3.5 The challenge of universal taxis, however, is the expectation that they will carry more than one wheelchair passenger at a time, which would reduce demand on the system for wheelchair accessibility. Whilst this may be the case in relation to students or older people attending educational or day care activities where there are groups requiring transportation at the same time, this is not necessarily the case for other wheelchair passengers. The needs of single wheelchair users should also be taken into account with any further planning in this area. Analysis should be undertaken and reported on the number of trips where two wheelchairs are transported as a proportion of overall trips to clarify this demand.

9.4 Micromanagement

- 9.4.1 The use of a Adelaide type micro-managed WAT network is claimed to be another avenue for improvement in services. The success of such a system relies on drivers submitting private bookings to the network. The system’s provision for drivers to continue taking private bookings but to log them on the network, and an increased amount of time before jobs are communicated to drivers, are the foundations of such a system.
- 9.4.2 There are sound reasons for high occupancy WATs also being linked into the regular networks as well: able bodied passengers are able to book maxi taxis when they are in a large group, and WAT drivers are able to access non wheelchair bookings, supplementing their incomes.
- 9.4.3 The use of such a system would require the creation of a new network, which would obviously have substantial costs associated with it. However, such a system may provide substantially better service to passengers with disabilities.

9.5 Increase in amount of time before WAT bookings were offered to drivers

- 9.5.1 It has been highlighted by numerous enquiries and authorities that a substantial factor for delays in response times is the short lead time that WAT

⁸⁶ Quoted in Email from Leonie Walker, Acting Senior Advocate, People With Disabilities Western Australia, 12 June 2007

bookings are allocated on.⁸⁷ Networks could offer WAT bookings to drivers at the beginning of the day, which would allow them to plan their day to incorporate those hirings. This would result in less dead running time for the driver and faster response times for passengers.

9.6 Passenger education regarding complaint procedures

9.6.1 To ensure the value of any feedback received by the VTD passengers with disabilities should be reminded of the phone numbers to call when they have a problem. In addition, passengers should be informed of their right to make a complaint to the VEOHRC. This will allow complaints to be followed up, rather than merely logged by organisations representing the disabled.

9.6.2 A campaign to better inform passengers of their rights and that complaints should be directed to the VTD, the taxi industry regulator. In addition, organisations such as the MS Society, Scope, etc, which appear to be receiving these complaints should also be asked to direct all complaints to either the VTD or VEOHRC.

9.6.3 In tandem with such an educational program however is the need to ensure accessibility of complaint handling processes. This may require adjustments to the current VTD complaint handling services.

9.7 Driver training

9.7.1 A number of passengers surveyed, as well in the ACT WAT Reference Group Report raised concerns about drivers failing to properly secure wheelchairs (and scooters) in WATs. This is a serious matter that requires consideration as soon as possible.

9.7.2 The failure to secure wheelchairs may be due to a lack of the correct equipment or faulty equipment, or to a driver's lack of the appropriate knowledge as to securing a wheelchair or scooter.

9.7.3 A short term approach may involve trainers visiting taxi depots or ranks and checking to ensure WATs have the correct equipment and/or that it is in good working order. The trainer can then show the driver the correct way to secure a wheelchair. While this may take 10-15 minutes, that would be quicker than the time required to attend a seminar on the topic.

⁸⁷ *Report of the Wheelchair Accessible Taxi Inquiry*, op. cit., p 81

- 9.7.4 It is encouraging to note that the Government has already identified training of WAT drivers as an area which requires attention. To this end it has previously announced as part of the Meeting Our Transport Challenges Strategy Plan that was released in May 2006 that all current and prospective drivers of WATs are required to complete an accredited Course in Wheelchair Accessible Taxi Services by 30 November 2007. ⁸⁸This should ensure that all WAT drivers are well versed on securing wheelchairs.
- 9.7.5 The current practice of the Government subsidising the above-mentioned course in its entirety for taxi drivers, as well as providing an \$80 payment for additional out of pocket expenses for those who successfully complete the course, should be encouraged and continued.

10 RECOMMENDATIONS

1. Involvement of people with disabilities in the development of taxi services

The VEOHRC notes that the Public Transport Access Committee (PTAC) currently includes a role to liaise with the Victorian Taxi Directorate on access to taxi services. It is our view that the issues in relation to provision of taxi services to people with a disability are pressing and urgent, and at a time when other initiatives involving regulation and reform of the taxi industry are being implemented, that this requires a consistent and regular focus and input from people with a disability. The VEOHRC strongly endorses the proposed establishment of a **Disabled Persons Taxi Advisory Committee (DPTAC)** by the VTD, which is resourced to provide advice and feedback to the VTD and the taxi industry in relation to a range of issues identified in this report. This will build on the existing initiatives that are currently being developed to improve service provision, communication, training of drivers and provide direct input from people experiencing difficulties with the current taxi services. In finalising membership of the Advisory Committee, the VTD should ensure that it comprises agencies representing the interests of people with a disability and

⁸⁸ *Meeting our Transport Challenges*, p 62

should include direct representation of people with a disability and older people.

2. Accreditation of Taxi Industry

The Victorian Government's proposals to revise and strengthen the accreditation of the taxi industry is to be congratulated. This will enable the VTD to receive specific information regarding the entire service delivery standards, leading to greater transparency about the provision of taxi services generally.⁸⁹

The VEOHRC notes that proposed standard 18⁹⁰ relates specifically to those customers utilising WATs, and that conventional bookings or orders for the hiring of taxi-cabs will not be offered until that booking has been accepted. The intention is to significantly reduce the waiting time for WAT users wishing to book a taxi. It is out view that other aspects of the proposed standards relating to:

- safety
- customer service
- complaint handling
- education and training

should incorporate reporting on the utilization of both conventional and WAT taxis by people with a disability as a means of gaining regular feedback to the proposed Disabled Person Taxi Advisory Committee, to identify future enhancements that may be required in the enforcement of the Industry Accreditation Program.

3. Timeliness of Taxi Services

Notwithstanding the proposed industry standard 18,⁹¹ the VEOHRC believes that further initiatives should be taken in relation to timeliness of wheelchair accessible services. It is our view that the VTD should as a matter of urgency develop a pilot program to introduce a micro management system, as currently

⁸⁹ "Taxi-Cab Industry Accreditation. Draft Business and Service Standards." DOI, October 2007

⁹⁰ Ibid, p.9

⁹¹ Ibid, p.7

being utilised within South Australia, which also incorporates the ability to take mainstream bookings. The purpose of this pilot would be to implement a system which provides responsiveness in the provision of WATs. In doing so, a particular focus should be to collect data on the 'two wheelchair' usage of the WATs to identify the likely demand for single wheelchair trips, and to monitor timeliness as a key feature for ensuring equal access to taxi services for people with a disability and older people.

The pilot proposal should be prepared within six months and presented to the proposed Disabled Persons Taxi Advisory Committee and other interested stakeholders with a view to identify implementation requirements including resources and transparency about current demand and waiting times and other issues arising.

4. Driver training

Driver education and training has been identified as an important initiative, and with the assistance of the proposed Disabled Persons Taxi Advisory Committee, and in conjunction with the taxi industry, the VTD should continue to explore innovative means of raising awareness of drivers about the varied and diverse needs of people with a disability utilising taxi services, and knowledge of the safety requirements specifically in relation to the use of taxi's by people in wheelchairs. Compulsory driver education for all drivers of WAT vehicles should be continued, regardless of how casual their employment status may be.

Driver training is also required beyond the needs of wheelchair passengers. Driver education should be developed to include awareness of:

- i. all communication needs of people with disability or older passengers;
- ii. ambulatory challenges in getting in and out of conventional taxis;
- iii. needs of people in wheelchairs who utilize conventional taxis;
- iv. use of guide dogs or assistance animals and their travel in taxis;
- v. assistance for passengers utilising other ambulatory assistance aides (e.g. walking frames);

- vi. dealing with agitated passengers who may have difficulty in communicating their needs.

5. Communication Strategy

A communication strategy or campaign should be developed to raise awareness among drivers, owners and taxi depot operators and people with a disability of their legal obligations and rights, and specific initiatives that are aimed to improve the experience of taxi usage by people with a disability. This should include a focus on:

- the rights and responsibilities of people with a disability,
- how people with a disability can lodge a complaint,
- how drivers and operators can provide assistance with communication, with passengers who have communication challenges,
- how to respond to mobility issues with respect to regular taxi usage,
- legal issues related to the transport of guide dogs and assistance animals.

Such a strategy can build on the existing awareness raising amongst taxi drivers as part of the Taxi-Cab Industry Accreditation, as well as complementing the existing training initiatives specifically related to transporting people in wheelchairs.

The VEOHRC notes that the VTD has begun the development of a communication strategy and is also proposing a trial of a 'Communication Board', which offers a Personal Journey Card for passengers with communication challenges. These further initiatives should utilize the expertise of the Disabled Persons Transport Advisory Committee to identify additional information and communication needs of passengers with a disability or older passengers.

Further, the VEOHRC and peak bodies representing the interests of people with a disability may be contracted to assist in the development of this campaign to ensure relevance and applicability of proposed communication and information to people with a disability.

6. Making a complaint

Whilst not a major focus for the report, the VEOHRC notes that the ability to lodge a complaint provides the VTD with important insight into the regulation and improvements of the taxi industry. The complaint handling processes should be distinguished by the level of transparency, accessibility and accountability.

The VEOHRC notes that the Business and Service Standards propose:

23. "A network service provider will operate a complaints management system that complies with Australian Standard AS 10002, including procedures for complaint resolution and referral to other parties"⁹²

This is to be commended.

However, in addition, in relation to the complaints process with the Victorian Taxi Directorate, there are barriers that are inherent with the formal requirements of the complaints process developed by that directorate, and more accessible complaint handling functions could be entertained. The model of accessibility demonstrated through the work of the Public Transport Ombudsman Victoria⁹³ may provide a basis where complainants are facilitated by the receipt of complaints in varied formats beyond written complaints, to accommodate the different abilities of people to meet formal requirements.

A reform of the current VTD complaints process should aim to achieve the following principles:

- i. Accessibility for all taxi users, through the use of oral, written, email or SMS complaints and identified turnaround times for responses to complaints;
- ii. Internal investigation processes to review complaints and identify any systemic issues arising from complaints, and recommendations about how these may be addressed in the future; information about avenues for complaint, including the VTD and the VEOHRC;

⁹² "Taxi-Cab Industry Accreditation. Draft Business and Service Standards." DOI, October 2007

⁹³ http://www.ptovic.com.au/content/complaintpto_making.html

- iii. Publication of number of complaints received, issues arising and changes to practice which are regularly made available on the VTD website and available to the public and the proposed Disabled Persons Taxi Advisory Committee, to ensure transparency and accountability.
- iv. Clear promotion of avenues through which customers can make a complaint. This includes promotion of all complaint avenues, information available in easy to read language and in accessible formats.

The reform of the network service provider complaint system, as proposed by the Business and Service Standards, and the VTD processes, will collect valuable insights into further responsiveness and equity in the provision of taxi services to people with a disability and older Victorians.

7. Future planning to achieve reasonable adjustments to realise equality for people with disabilities.

The Victorian Government's report, *Meeting our Transport Challenges*, outlines an ambitious and far-reaching plan for connecting Victorian communities into the future. However, it is noted that the Plan does not allocate additional resources to implement changes to taxi services into the future, but identifies funding from within the Departmental budget to implement further changes. The strengthening of the current regulatory framework through training, accreditation, communication and the implementation of specific reforms to implement a micro management system, as proposed in this report, lead to the need to provide evidence of a demonstrable willingness to ensure that taxi services are an active part of the transport plan for the future.

The VEOHRC has provided this report as evidence of the need to develop a **long-term regulatory strategy** to address the inequitable access to service provision, and also to manage their liability in relation to the DSAPT. The revision of the strategy should address:

- the provision of taxi services to enhance the current transport planning as it relates to flexibility and connecting of transport options,

- the improvement of metropolitan interchanges, including the development of modal interchanges, which by definition, are identified places for commuter accessibility within the city.

Taxi services are an important avenue for people with a disability and older Victorians to connect to existing public transport options and to ensure full participation in public life in Victoria. The continued reform of taxi services, active regulation against the proposed Business and Service Standards and the move to greater transparency to the public generally about the provision of taxi services requires adequate allocation of resources in forward budgets.

The financial accessibility of taxi services for people with a disability has been noted in this report, and this remains an issue that should be addressed in the future reform of taxi services.

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- the improvement of metropolitan interchanges, including the development of modal interchanges, which by definition, are identified places for commuter accessibility within the city.

Action Arising

The VEOHRC believes that the recommendations arising from this research are critical to the involvement and inclusion of people with a disability to achieve active involvement and inclusion in the Victorian Community. The report has been forwarded to the Minister for Public Transport seeking her response and to the Attorney General, the Minister with responsibility for the *Equal Opportunity Act*.

The VEOHRC has released the report to the general public, members of the Taxi Working Group and the VEOHRC Disability Reference Group. It is available on the VEOHRC website at www.humanrightscommission.vic.gov.au. Also available is the report which outlines the response to the survey of operators, owners, drivers and people with a disability. This can also be found at www.humanrightscommission.vic.gov.au.

The research undertaken as part of this report has also formed the basis of a submission to the Review of the Transport Disability Standard, with a view to calling for greater specificity in the standard in relation to the provision of taxi services to reduce the inequitable access to services for PWD. This is available at www.humanrightscommission.vic.gov.au

The VEOHRC wishes to thank the staff of the Victorian Taxi Directorate for their cooperation in the development of the survey and for their active and ongoing involvement in this process. The VEOHRC also wishes to thank community representatives on the Taxi Working Group and members of the VEOHRC Disability Reference Group, and to the many people who shared their stories and experiences to allow this report to be completed.

APPENDIX A - MEMBERSHIP OF THE VEOHRC DISABILITY REFERENCE GROUP

Name	Position	Organisation
Lesley Hall		Action for Community Living
Licia Kokocinski	Manager	Action on Disability within Ethnic Communities
Diane McCarthy		Association of Children with a Disability
Jan Ashford	Executive Officer	Communication Aid Users Society
Anthony Kolmus	Deputy Vice-President	Council of Intellectual Disability Agencies
Kairsty Wilson	Human Rights - Legal Advocate	Disability Employment Action Centre
Ann Campbell	Executive member	Headway
Tony Clark	Manager - Business Development	National Information Library Services
Steve Doran	Chief Executive Officer	Regional Information and Advocacy Council
Amanda Hiscoe	Treasurer	REINFORCE
Rachel Miers	Manager	Victorian Council of Deaf People
Isabell Collins	Director	Victorian Mental Illness Awareness Council
Trisha Malowney	Convenor	Victorian Women with Disabilities Network

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APPENDIX B - MEMBERSHIP OF TAXI SERVICE WORKING GROUP

Name	Position	Organisation
Eilis Hughes	MetroAccess Officer	City of Maribyrnong
Rhonda Joseph	Manager Scope Client Unit	Scope Victoria
Amanda Spillare	Client Services Coordinator	Parkinsons' Victoria
Katie Lyon	Speech Pathologist	ISIS Primary Care
Jessica Zammit	Victorian Advocacy and Information Officer	Blind Citizens Australia
Robert Pask	MS Advocate	MS Society
Kate Colvin	Policy and Public Affairs Manager	VCOSS
Glenn Cardwell	Project Officer	VCOSS
Jess Fritze	Transport and Disadvantage Project Officer	VCOSS
Tricia Malowney	Convenor	Women with Disabilities Network
Maree Ireland	Systemic Advocate	Action for Community Living
Sue Hendy	Executive Director	Council of the Ageing Victoria
Peter Garbellini	Manager Operational Services	Victorian Taxi Association
Ingrid Sevilla	MPTP - Team Leader	Victorian Taxi Directorate
Jeff Dalman	Deputy Director Operations	Victorian Taxi Directorate
Andrew Dickson	MPTP - Manager	Victorian Taxi Directorate
Helen Szoke	Chief Executive	VEOHRC
Michael Uniacke	Policy and Project Officer	VEOHRC
Michael Atkinson	Senior Advisor, Policy & Projects	VEOHRC

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GLOSSARY

DDA	Disability Discrimination Act 1992 (Commonwealth)
DDA	Disability Discrimination Act 1995 (Victoria)
DOI	Department of Infrastructure
DPTAC	Disabled Persons Taxi Advisory Committee
DSAPT	Disability Standards for Accessible Public Transport
EOA	Equal Opportunity Act 1995 (Victoria)
MACVIC	Ministerial Advisory Committee for Victorian Communities
MPTP	Multi Purpose Taxi Program
PTAC	Public Transport Access Committee
RRTA	Racial and Religious Tolerance Act 2001
VEOHRC	Victorian Equal Opportunities and Human Rights Commission
VTA	Victorian Taxi Association
VTD	Victorian Taxi Directorate
WAT	Wheelchair Accessible Taxis

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