

Submission to the Review of Disability Standards for Accessible Public Transport



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Council of Social Service of NSW (NCOSS)

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About NCOSS

The Council of Social Service of NSW (NCOSS) is a peak body for the not-for-profit community sector in New South Wales. NCOSS provides independent and informed policy advice, and plays a key coordination and leadership role for the sector. We work on behalf of disadvantaged people and communities towards achieving social justice in NSW.

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Summary of recommendations

1. The Report should provide clear direction about the Governance arrangements needed to ensure successful implementation of the Review's Recommendations.
2. The lead agency responsible for progressing a national framework for reporting should be identified and clearly stated within the Review Report.
3. An independent audit of compliance across all jurisdictions should be conducted to establish a baseline set of data against which future progress can be measured.
4. The national framework for reporting on the Disability Standards should focus not just on compliance but also on accessibility outcomes.
5. The Australian Human Rights Commission should be given powers to bring complaints before the courts on behalf of people with disability.
6. The Report should include a concrete timeframe for the development of additional options for strengthening the complaints process and making it easier for people with disability to identify and raise issues relating to non-compliance with the Transport Standards.
7. The existing and agreed timeframes for compliance with the Disability Standards should not be extended as part of a process to update and modernise the Standards.
8. The Australian Government should play an active role in ensuring adequate funding is made available to meet the existing compliance milestones.
9. School buses should be included in the transport standards, commencing as soon as practicable, with a requirement that all new and replacement buses should comply, and with full compliance required by 2032.
10. All new community transport vehicles with 8-seat capacity or more should be required to comply with the Transport Standards, with full compliance by 2032.

Introduction

The Council of Social Service of NSW (NCOSS) welcomes this opportunity to comment on the 2012 Review of the Disability Standards for Accessible Public Transport.

The life experiences of people with disability are strongly affected by the extent to which the social and physical structures of the society in which they live cater for a diversity of physical and intellectual abilities. Transport is an integral part of our society, and its accessibility has a significant impact on the opportunities available to people with disability.

The introduction of the Disability Standards for Accessible Public Transport (2002) was an important step towards a more inclusive transport system – towards a system that enables greater participation in life, rather than one that presents barriers to opportunity and independence.

Since the introduction of the Standards there have been significant improvements in the accessibility of public transport, particularly in metropolitan Sydney.

There is still a long way to go, however, and the Standards should play an important role in facilitating a process of continual improvement. We are therefore disappointed in a number of aspects of the 2012 *Draft Report: Review of the Disability Standards for Accessible Public Transport 2002*.

Many of the recommendations contained in the 2012 Draft Report are weak and non-specific. Given that limited progress has been made in relation to the 2007 Review recommendations, this does not bode well for the success of these recommendations. The 2012 Report is discussed in more detail in Part 1 of this submission.

We are also disappointed that the 2012 Draft Report has walked away from many of the recommendations made following the 2007 Review. This is despite the fact that these issues have not been satisfactorily addressed, and remain of concern to people with disability and disability advocates. We discuss the 2007 recommendations we believe should be reinstated in Part 2 of this submission.

In preparing this submission we have consulted with NCOSS members through various forums. We would particularly like to acknowledge the feedback provided by the NCOSS Transport Policy Advice Group, and by the members of the NSW Disability Network Forum.

Part One: The 2012 Draft Report

1. Governance and accountability

We are concerned about the absence of clear direction in the 2012 Draft Report in relation to how the recommendations arising from the review will be progressed, and who will be held accountable for coordinating this work.

The 2007 Review called for new governance arrangements that would establish accountability for progressing recommendations from the five-yearly Reviews. The Accessible Public Transport Jurisdictional Committee (APTJC), comprising representatives from all jurisdictional transport agencies, was established to lead and coordinate this work. The Accessible Public Transport National Advisory Committee (APTNAC), comprising representatives from disability sector peak bodies, public transport industry peak bodies, governments, the AHRC and the Attorney-General's Department, would provide advice to APTJC.

Given that only three of fifteen recommendations have since been completed, it is clear that existing governance arrangements should be improved. While the 2012 Draft Report acknowledges the need to consider other governance models – and suggests a possible alternative – it makes no specific recommendation. The status of the APTJC and the APTNAC following this review process is therefore unclear.

The 2012 Final Review Report should provide clear direction about the Governance arrangements needed to ensure successful implementation of the Review's recommendations.

Any arrangement involving jurisdictional representation should include agencies responsible for both transport and for disability. If a consultative committee is established, broad representation from the disability sector, including from Aboriginal and Torres Strait Islander people should be ensured.

Recommendation 1: The Report should provide clear direction about the Governance arrangements needed to ensure successful implementation of the Review's Recommendations.

2. Reporting on compliance

The absence of easily accessible information about transport operators performance in relation to accessibility improvements limits the capacity of people with disabilities to use the Disability Discrimination Act 1992 (DDA) as a mechanism to enforce the Transport Standards.

The 2012 Draft Report acknowledges that where data on compliance with the standards is available it is often aggregated, and that information from private providers is hard to access and cannot always be verified. The Report therefore recommends that: *"...the Australian Government, jointly with state and territory governments, establish a national framework for reporting on compliance by 30 June 2016"*.

We strongly support this recommendation. However, given a similar recommendation was made following the 2007 review and that limited progress has since been made, we remain

sceptical about the implementation process – particularly in the absence of improved governance arrangements. The lead agency tasked with developing a national framework for reporting should be therefore be identified in the report.

As an initial step towards improved reporting processes we recommend that an independent audit of compliance across all jurisdictions be conducted in order to establish a baseline set of data against which future progress can be measured. This audit should be completed by the end of 2015.

We also recommend that the national reporting framework should focus not only on compliance but also on accessibility outcomes. This is in line with Recommendation 4 in the 2012 Draft Report, which supports a whole-of journey approach to accessibility.

Recommendation 2: *The lead agency responsible for progressing a national framework for reporting should be identified and clearly stated within the Review Report.*

Recommendation 3: *An independent audit of compliance across all jurisdictions should be conducted by the end of 2015 to establish a baseline set of data against which future progress can be measured.*

Recommendation 4: *The national framework for reporting on the Disability Standards should focus not just on compliance but also on accessibility outcomes.*

3. The complaints process

The complaints process is currently the only way of ensuring that non-compliance with the Transport Standards is addressed. Indeed, the 2012 Report acknowledges that some operators see the Transport Standards as ‘trivial’ until a complaint arises. However, the complaints process is not straightforward: it is time-consuming and potentially costly to individuals who wish to pursue a complaint. The process effectively excludes some groups and individuals – such as Aboriginal and Torres Strait Islander people – from exercising their rights.

While the 2012 Report agrees that that the complaints process is problematic for individuals and for operators, the recommendation it contains is weak: *“That the Australian Government considers the concerns raised about the complaints process.”*

The 2007 Review Report contained a more specific recommendation: *“The Australian Human Rights Commission be tasked with providing greater support for representative complaints on behalf of people with disability, reducing the legal cost burden on individuals.”*

Given that the Human Rights and Anti-Discrimination Bill 2012 has not progressed as expected, the role of the AHRC should be reconsidered as part of this Review. We support the recommendation made by numerous submissions to the Review that the AHRC should be given powers to bring complaints before the courts on behalf of people with disability¹. The AHRC should be appropriately resourced in order to do this: this is particularly important in light of recent cuts that have reduced its capacity to deal with issues affecting people with disability.

¹ For example, this recommendation was made by the Public Interest Advocacy Centre and by the Victorian Council of Social Service.

Furthermore, the Report should include a concrete timeframe for the development of additional options for strengthening the complaints process and making it easier for people with disability to identify and raise issues relating to non-compliance with the Transport Standards.

Recommendation 5: *The Australian Human Rights Commission should be given powers to bring complaints before the courts on behalf of people with disability.*

Recommendation 6: *The Report should include a concrete timeframe for the development of additional options for strengthening the complaints process and making it easier for people with disability to identify and raise issues relating to non-compliance with the Transport Standards.*

4. Modernising the standards

The 2012 Draft Report recommends that the Australian Government should commence a process for updating and modernising the transport standards.

We support this recommendation and believe such a process would present an opportunity to address various emerging and ongoing access issues for people with disability. These include:

- Ensuring the standards adequately address the accessibility issues that occur during service disruptions (such as breakdowns), and during planned maintenance;
- Ensuring the standards address new technologies, such as transport apps and smart ticketing;
- The provision of information, particularly the provision of information about the accessibility of services, including the timetabling of these services;
- The application of the Standards to airlines, particularly in relation to the two-wheelchair policies used by low-cost carriers.

We also strongly support the proposal to carry out this work in close consultation with the disability sector. The consultation process should ensure broad representation from the sector, including from Aboriginal and Torres Strait Islander people. This process should result in a set of Standards that better address the diversity of experiences of people with disability, beyond just physical disability.

We are concerned, however, that this process may allow for renegotiations around the existing milestones for compliance, and that the agreed timelines may be further extended. We believe that the milestones for implementation agreed in 2002 were generous in regards to the time given for Governments and operators to comply with the Standards. We acknowledge there are significant resourcing issues associated with compliance and this is addressed in more detail below. However, the timeframe for compliance currently contained within the Disability Standards should not be extended.

Recommendation 8: *The existing and agreed timeframes for compliance with the Disability Standards should not be extended as part of a process to update and modernise the Standards.*

5. Funding the standards

As noted above, significant resources must be invested in order to implement the transport standards. This is an investment in an inclusive society – an investment that will benefit people with disability, older people, carers, parents, and anyone travelling with luggage or shopping – and as such an investment that will benefit our society as a whole.

Developed as part of an agreement between the State and Federal Government, both levels of Government should also play a role in ensuring that adequate funding is allocated to support the implementation of the Standards. To date, however, the Australian Government has not provided any funding towards implementation. The current Australian Government's position that funding for *all* public transport projects is a matter for the States may further impede timely compliance with the Standards.

We also note that many local councils believe they are unable to resource the required works in the target timeframes under the Transport Standards. The issue of resourcing for local governments was recognised in the 2007 Review Report, which recommended that: *“Commonwealth, State and Territory governments provide funding for projects in regional and rural regions where local governments are unable to resource upgrades of public transport infrastructure.”* The Transport for NSW Disability Action Plan 2012 - 2017 similarly acknowledges that: *“the inability of local government authorities to fully fund the task of making existing infrastructure accessible has been identified as the major impediment to delivering completely accessible bus routes in NSW.”*²

In light of ongoing concerns about the resources implications associated with the Standards, we believe the Australian Government should play an active role in ensuring adequate funding is made available to meet the existing compliance milestones.

Recommendation 8: *The Australian Government should play an active role in ensuring adequate funding is made available to meet the existing compliance milestones.*

² Transport for NSW (2012) Disability Action Plan 2012-2017, p. 18.

Part Two: The 2007 Recommendations

1. The accessibility of school bus services

The 2007 Review Report recommended: *“The phased application of dedicated school bus services to physical access requirements in the Transport Standards, commencing in 2029 and being fully required by 2044.”*

NCOSS is disappointed that the 2012 Draft Report does not reiterate this recommendation. Existing transport arrangements for students with disability often require the segregation of these children from their class mates. This is discriminatory, and not only affects students on their daily journey to and from school, but also impacts their ability to participate in school activities such as excursions and camps. Furthermore, the transport arrangements made for students who are not able to access school buses can be expensive, expose children to risk, and are not always reliable.

As the 2012 Draft Report acknowledges, school buses are also the only form of transport in some regional and rural areas. The inaccessibility of school buses therefore contributes to the isolation of people with limited mobility in these areas.

Recommendation 9: *School buses should be included in the transport standards, commencing as soon as practicable, with a requirement that all new and replacement buses should comply, and with full compliance required by 2032.*

2. The accessibility of community transport services

The 2007 Review Report recommended: *“Transport Standards be amended to require new community transport vehicles greater than 12-seat capacity to comply with the Transport Standards commencing in 2017.”*

Community transport is the only form of transport available to many people with disability. Given that one of the core tasks of community transport is to provide services to people with disability, it does not make sense that the standards would not apply to this form of transport. In addition, the exclusion of community transport does not align with the National Disability Strategy, which includes a focus on developing a public, private and community transport system that is accessible to the whole community.

We therefore recommend that all new community transport vehicles with the capacity to seat eight or more people should be required to comply with the standards, with full compliance required by 2032.

Recommendation 10: *All new community transport vehicles with 8-seat capacity or more should be required to comply with the Transport Standards, with full compliance by 2032.*

Conclusion

NCOSS appreciates this opportunity to comment on the 2012 *Draft Report: Review of the Disability Standards for Accessible Public Transport*.

As noted above, the 2007 review process resulted in very little change toward more efficient and effective Transport Standards. Not only has progress on the recommendations arising from that review been slow, but many of the recommendations are now in danger of being completely discarded. This calls into question the usefulness of the five-yearly reviews. Despite this, we have responded to the 2012 Draft Report in good faith, and our recommendations are intended to provide a clear path forwards. We sincerely hope they will be given due consideration.

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