

DRAFT SUBMISSION

Greater Wellington Submission to the HRC Inquiry in Accessible Public Land Transport

Greater Wellington

Wellington

June 2004

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Table Of Contents

<u>1</u>	<u>Introduction</u>	3
<u>2</u>	<u>Consultation Question Responses</u>	4
<u>2.1</u>	<u>Consultation Question Three: The Legal Framework</u>	4
<u>2.2</u>	<u>Consultation Question Four: Overseas Experience</u>	6
<u>2.3</u>	<u>Consultation Question Five: The New Zealand Policy Environment</u>	8
<u>2.4</u>	<u>Consultation Question Six: Policy in the Transport Sector</u>	9
<u>2.5</u>	<u>Consultation Question Seven: Training</u>	11
<u>2.6</u>	<u>Consultation Question Eight: Options</u>	13

1 Introduction

The Human Rights Commission (HRC) is conducting an inquiry into accessible public land transport for people with disabilities. The Wellington and Otago regions were selected as case studies.

The HRC undertook research into international best practice and has consulted with interested parties. As a result of this, a summary consultation report (*Inquiry into Accessible Public Land Transport: Consultation Report*) was released in April 2004 which identifies issues that need to be addressed. The purpose of the report was not for the Commission to make recommendations on what they believe should happen but to outline the situation as they see it. Therefore the purpose of the submission process is to seek views on the Commission's assessment of the situation and gather thoughts on what interested parties think should happen with regard to this issue.

This submission sets out the response from Greater Wellington to the consultation questions put forward in the HRC summary consultation report. Only those questions relevant to Greater Wellington have been responded to. Booz Allen Hamilton have been engaged to write this submission on behalf of Greater Wellington after previously completing a scoping paper on accessible public land transport in Wellington.

2 Consultation Question Responses

2.1 Consultation Question Three: The Legal Framework

Do New Zealand's laws that relate to accessible public land transport provide adequate legal protection for people with disabilities and a framework for providing and funding accessible public land transport services?

Current legislation is primarily aimed at protecting people with disabilities from direct discrimination. While New Zealand has a general piece of legislation governing discrimination (Human Rights Act (HRA) 1993) this is not specifically related to disabilities but covers discrimination against other grounds such as age and gender. This Act does make it specifically unlawful for people to refuse 'any person' access to public vehicles.

Where existing legislation does not protect people with disabilities is from indirect discrimination. For example the HRA makes exceptions to the rules if the service provider '*cannot reasonably be expected to provide..*' specialised facilities and infrastructure. Statements like these indicate that there are circumstances where apparent indirect discrimination is tolerated, although it is not clear what these circumstances are. In many areas throughout New Zealand people with disabilities are not able to use public land transport because conveyances are not designed to accommodate wheel chairs people with vision impairments cannot not easily access timetable information or identify their bus. This is where apparently neutral treatment has the effect of treating someone with a disability differently.

There are no specific regulatory texts that provide standards for public land transport providers and the level of provision of accessible vehicles is generally governed by each regional council through their Regional Land Transport Strategies and Passenger Transport Plans.

Greater Wellington, with the cooperation of public transport operators, has made significant inroads to removing these unintentional barriers to people with disabilities. Like many other regions including Canterbury and Auckland, the Greater Wellington region has, among other initiatives, been steadily increasing the levels of SLF buses on routes. This is discussed further in Consultation Question 8.

Greater Wellington proposes that these barriers can be more effectively removed by creating non-mandatory guidelines so that operators, regional councils and territorial councils concerned with the provision of public land transport will have detailed guidance on how best to make their public land transport services accessible. Guidelines will also ensure that eventually conveyance and infrastructure will be constructed to a consistent standard nationally.

While not related to public transport, the Wellington City Council has, as a result of the NZ Disability Strategy, been working with banks to remove the barriers that ATMs present to wheelchair users or those that are visually impaired for example. This is a specific example of how voluntary methods can be successfully used to help protect people with disabilities from indirect discrimination.

In conclusion the current system protects people with disabilities from direct discrimination, this however cannot be said about indirect discrimination. Greater Wellington believes that the development of non-mandatory guidelines will help protect people from this. Significant headway has already been made under the current voluntary system.

2.2 Consultation Question Four: Overseas Experience

What measures used in other countries to provide accessible public land transport could be adopted for use in New Zealand?

While a number of approaches have been taken to provide accessible public transport internationally, there is an increasing trend for governments to pursue the removal of barriers that reduce access through legislative means. This has tended to be an initial introduction of general legislation aimed at prohibiting discrimination against people with disabilities e.g. Australia's Commonwealth Disability Discrimination Act (DDA) 1992. This is often later followed up with specific standards for public transport services, information and infrastructure that ensure appropriate accessibility for people with disabilities, e.g. Australia's Disability Standards for Accessible Public Transport 2002.

Greater Wellington feels that the approach taken by the Australian Government is too prescriptive for the New Zealand situation but feels that there are a number of positive aspects if legally enforceable standards were to be introduced in New Zealand:

- ▶ Meeting of standards is phased in over a considerable time period. Standards have to be met in Australia from anywhere between 2007 and 2032 depending on whether it is information, infrastructure or conveyances.
- ▶ Unjustifiable hardship provision included in legislation if operators are financially unable to make changes to their vehicles
- ▶ Covers all disabilities as far as 'practicable'. This acknowledges that it is impossible to make public transport accessible and that the cost of doing so will outweigh the benefits.
- ▶ Periodic review of the standards undertaken every five years to determine whether discrimination has been removed according to compliance timeframes. GW believe periodic reviews are essential for whatever option is adopted by the New Zealand government.

Countries other than Australia also have positive aspects about their accessible public transport legislation. Sweden recognises that no community can be fully and effectively serviced with a single transportation mode. Because of this special transport services are created that run as closely as possible to a normal bus system.

The US also recognises that para-transit services are required to complement the existing bus services. Greater Wellington acknowledges that there is the danger that these services have the potential to be seen as a solution for all people with disabilities resulting in a reduced need to make traditional public transport conveyances accessible to people with less severe disabilities if mandatory

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guidelines are not established. Again GW note that it is impossible to cater for all people with disabilities and that a complementary service like Total Mobility is needed but one that is more accessible and convenient.

In conclusion, Greater Wellington believe that the system implemented by the Australian Government is too prescriptive for the New Zealand situation. However, if mandatory standards were to be introduced, the Australian system contains a number of positive aspects.

A number of government strategies have an impact on accessible public land transport for people with disabilities. Amongst these are the New Zealand Disability Strategy, the New Zealand Positive Ageing Strategy, Pathways to Inclusion and the various health strategies. Considered together, will all these strategies be effective in delivering accessible public land transport services for people with disabilities? What changes are needed if any?

2.3 Consultation Question Five: The New Zealand Policy Environment

Talk about the progress that WCC has made under the NZDS

As described in Consultation Question 8, Greater Wellington have made a significant attempt to make public land transport in the Wellington region more accessible to people with disabilities. This has been carried out through the RLTS and with the cooperation of

Why did they do this voluntarily what strategies made this happen

Talk about what the GW have or have not done

What changes are needed if any – need to involve PT operators etc changes need to be more descriptive about how things can be made accessible. There needs to be a plan of attack rather than an ad hoc system where things get – sort of

NZDS will not deliver because it is aimed at government departments only. It is TLA and regional councils that have the most impact on accessible transport. Here is not central government directive of how it should be made accessible that goes directly to the operators but goes through the regional councils. Left up to each individual

The New Zealand Transport Strategy states that transport should support social interaction and well-being by requiring that improved access and mobility is a key objective of all government policy and funding mechanisms. Considered together, will the current funding and policy arrangements deliver accessible public land transport service?

2.4 Consultation Question Six: Policy in the Transport Sector

Whether this statement can be supported or not depends on the degree of accessibility that is being sought after: *how accessible is accessible?*

As the HRC correctly points out, there are different levels of severity in types of disability. The more severe the disability the higher the need for that person to have very specialised equipment available to them. A person with a mild form of vision impairment may be able to read the bus route numbers and read the timetables. However a person with severe vision impairment will not be able to do any of these tasks without aid from someone else or will need expensive and specialist aids, such as talking bus stops and tactile or auditory maps for example.

To make public land transport accessible to disabled people at every level of severity is potentially a very costly operation that would take significantly more funding than is currently available. To put the financial onus on the operators could possibly make bidding for contracts virtually impossible for some smaller PT operators and could also make some smaller rural services unviable.

The cost of implementing this level of accessibility must be carefully weighed up against the likely benefits of doing so. The HRC report notes that of those people with a disability in New Zealand only 13% have a severe form, this equates to just over 96,500 nationally. Comparing the benefits gained by a relatively small group must be weighed up against the financial costs but also the costs imposed on other passengers, for example delayed departure times due to the increased time it takes to board wheelchairs. There is also no guarantee that once conveyances and infrastructure have been made accessible to a suitable standard that people with severe disabilities will make use of public transport services. A study by Booz Allen Hamilton (1999) noted that providing SLF buses increased patronage by 1-4% and the majority of this increased patronage came from people with strollers and/or young children and people with luggage.

The funding that is available needs to make public land transport accessible for as many people with disabilities as possible. With the Total Mobility Scheme there is a lot of public expectation, but this cannot be met because appropriate levels of funding is not available to provide an adequate and affordable on-demand service.

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In conclusion, before we can address whether the transport policy current system will deliver an accessible land transport service, the definition of 'accessible' needs to be clarified, how accessible is accessible?

In what ways, if any, does staff training for those involved in public land transport services need to be improved?

2.5 Consultation Question Seven: Training

The public land transport operators in Wellington are currently provided with adequate training for their customer service staff and drivers when dealing with disabled passengers.

As an example Stagecoach Wellington driver training is carried out as part of their Customer Services Training, Typically this covers:

- ▶ How to operate the wheelchair ramps on the various buses
- ▶ Instruction on how to get wheelchair passengers on and off the bus
- ▶ Dealing with blind or partially sighted passengers
- ▶ The carriage of Guide Dogs
- ▶ Recognition of the Blind Pass used by passengers (Wellington)
- ▶ Treating Customers with Dignity and Respect
- ▶ How to assist passengers with physical disabilities
- ▶ Working with Intellectually disabilities.

In the past training has been developed with consultation with the various representatives of these disability support groups. Currently Stagecoach are in the process of splitting out the disability training into a separate module. Once completed all staff, including current drivers, will be put through the new module. Prior to this module being finalised it will be sent to groups such as the Foundation for the Blind, the DPA and perhaps the HRC for their comments.

As can be seen significant effort has gone into developing appropriate training practices. Operators have found that it is not a lack of training given, but the lack of opportunities for staff to put this training into practice. This is particularly true of bus drivers having to deal with passengers in wheelchairs. It is such an infrequent event in Wellington that many drivers have never had to help a wheelchair passenger onto the bus. Stagecoach Wellington reported that 47 wheelchair passengers in three months compared to 50,00 passenger trips on a typical week day. TranzRail have estimated that there are only 1-2 wheelchair users on the rail network daily.

For the specific task of helping wheelchair users to board a bus, there are a number of issues that can make the task difficult for drivers regardless of what training has been given. For example:

- ▶ health and safety – regardless of training there are significant issues where for example a small female driver has to help manoeuvre a large male in a wheelchair.
- ▶ unwanted personal contact, some people with disabilities want help and others don't and find it very offensive if people try to help them.
- ▶ consistency between drivers is not always present with some more willing and capable of helping than others.

In conclusion the current training provided is adequate but the main concern with dealing with people with disabilities is the lack of practice that the drivers get.

What option(s) do you favour for providing accessible public land transport for people with disabilities?

2.6 Consultation Question Eight: Options

There are four main factors that affect the way in which the current issues of public land transport can be addressed:

a). Degree of regulation: requirements for PT services to make them accessible for people with disabilities could be set up as 'guidelines' for operators and agencies, with no regulatory authority; or, as regulations with standards which must be complied with.

Greater Wellington believes that non-mandatory guidelines rather than mandatory standards would be more effective. As the HRC points out, this option would improve consistency and compatibility across all sections of the industry. Accessible public land transport in Wellington has already come a significant way on the basis of voluntary changes instigated by the regional and city councils with support from public transport operators.

As an example of this, the Wellington PTP, contained in the RLTS, includes a specific section on Transport for people with disabilities. This states that:

"The Regional Council will encourage public transport operators to provide for physically disabled people on ordinary services (largely by means of super low floor and "kneeling" vehicles and the provision of wheelchair ramps) where this can be achieved economically and where the measures contribute to the comfort or convenience of other customers."

Under "Vehicle Quality and Safety" the PTP states:

"Where operators have introduced SLF buses on particular routes, the Regional Council will require such vehicles to be used by any operators who are subsequently contracted to operate those services."

For a number of routes, GW specifies that wheelchair accessible vehicles are to be used on a significant number of services in the interpeak and on 50% of peak services. SLF vehicles now make up more than 75% of the diesel fleet in Wellington.

There has also been a gradual shift of contracts to SLF. Greater Wellington expects to specify SLF buses for contracted services increasingly in the future although it does not have specific targets in this respect. For example, the three core routes in the recently revised Hutt network are tendered as SLF, as are all interpeak and half the peak services in Kapiti.

Trolley buses have not, until now, kept up with the movement towards greater accessibility. Trolleybuses have not been replaced on a rolling basis like diesel vehicles. Since the GW made the decision that trolleybuses would stay, they are now in a position to update the fleet with SLF trolley buses. It is anticipated that replacement of the existing fleet will take place over the next five years at a rate of 12 per year, once negotiations are complete between Greater Wellington, Stagecoach and Transfund.

In addition to making significant headway on a voluntary basis, the cost of regulation is prohibitive (as mentioned in Consultation Question 6). Undoubtedly very high standards of access could be achieved but the cost is potentially enormous. There is also the question of who would be paying for this and there is the possibility that the high cost of providing for people with disabilities effectively prevented the operation of some services, for example trains running to the Wairarapa or rural bus services.

b). Level of Prescription: these requirements could be set at a general 'outcome based' level, or be very prescriptive at a detailed level (or somewhere in between).

Greater Wellington believes that a more outcome based approach rather than prescription would be most beneficial.

Greater Wellington's (GW) approach to providing for the needs of people with disabilities has been to 'encourage' operators to provide SLF wheelchair vehicles, and to require SLFs in future contracts for areas where operators have introduced these. GW's approach relies on operator initiative and is not a prescriptive one.

This approach has been reasonably effective in regard to accessibility for bus services given that the major operators have been steadily introducing wheelchair accessible SLF vehicles in their bus replacement programmes.

GW's approach has not, however, been as successful in regard to the Wairarapa bus services, trolleybuses, rail services, and information provision. A more prescriptive approach may be required to achieve higher levels of accessibility in these areas.

c). Coverage: the extent to which differing levels of severity of disability will be catered for, and the level of geographic coverage is also an issue.

As mentioned in Consultation Question 6, it is potentially very costly to make public transport fully accessible to all people with disabilities including those with very severe forms.

The level of geographic coverage is also an issue. For a region like Wellington where it is extremely hilly it is not always possible to make every bus stop fully accessible with correct curb heights etc. In many cases it would not be a pleasant experience for disabled people to even reach the bus stop because of the steepness of some of the roads in Wellington. Coverage extending to rural areas is also a problem where there is much less population densities and therefore much fewer people with disabilities.

d). Timing: would any requirements be introduced immediately, or be phased in over a 'reasonable' time period.

The timing for meeting requirements from any legislation should be phased in over a 'reasonable time period'. The length of which will differ with each aspect of the public transport service. For example requirements for information provision and infrastructure can be more readily phased in over a shorter time frame than vehicles because of the long life of buses and trains.

In conclusion Greater Wellington supports the *Non-mandatory Guidelines* option. GW have made significant progress with the public land transport services in Wellington with regard to making them more accessible. However less progress has been made with regard to information provision and infrastructure and feel that a prescriptive approach may be more appropriate for these aspects of public land transport.