

cameron. ralph. khoury

Independent Review of Public Transport Ombudsman Victoria (PTO)

Report to Board

October 2024

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1. Introduction

1. PTO was established 20 years ago to resolve complaints about Victorian public transport where the individuals had been unable to resolve their complaint directly with the public transport operator. In the 2023/24 financial year, PTO finalised 3,169 approaches about public transport-related issues. 478 complaints were conciliated or investigated.
2. In July, PTO appointed *cameron. ralph. khoury* (CRK), a consultancy with expertise in external dispute resolution, to conduct a review of the scheme. We have been asked to:
 - a. Provide the Board with assurance and clear information about the current operation of the PTO against:
 - the Australian Government's *Benchmarks for Industry-based Customer Dispute Resolution* ('the Benchmarks') – accessibility, independence, fairness, accountability, efficiency and effectiveness;
 - the membership requirements of the Australian and New Zealand Ombudsman Association – again accessibility, independence, fairness, accountability, efficiency and effectiveness;
 - the requirements for recognition and accreditation of external dispute resolution schemes set by the Office of the Australian Information Commissioner (OAIC) – as well as the six Benchmarks, the OAIC considers the sufficiency of the scheme's remedial powers for privacy-related complaints, the scheme's commitment to privacy and the impact on credit providers of not recognising a particular EDR scheme; and
 - the PTO's Value Proposition and the mission, aim and objectives of the PTO scheme as set out in clause 1 of the PTO Charter – this commits PTO to being cost-free, efficient, effective, fair, informal and accessible and specifies PTO's complaint resolution mission as being founded on the principles of independence, natural justice, access, equity, effectiveness, accountability and community awareness with the aim of independent and prompt resolution of complaints with regard to what is fair and reasonable, good industry practice and current law; and
 - b. Independently consider the governance structures of the PTO, with particular focus on the impact of the increase in the number of PTO scheme members and industry representation on the PTO Board.
3. In undertaking our assessment against the Benchmarks, our review has been informed by the Australian Government's companion document to the Benchmarks, the *Key Practices for Industry-based Customer Dispute Resolution*.
4. We have also taken into account our experience with ombudsman schemes in other jurisdictions. We have conducted more than 25 reviews of ombudsman schemes located in Australia, New Zealand, Canada, Malaysia and United States of America, spanning financial services, telecommunications, energy and water services, legal services, public transport services and internet services.

5. Our review process has included:
 - Meetings with PTO staff to gain an in-depth understanding of PTO processes and approaches
 - Review of PTO documents and data
 - One-on-one or small group meetings with PTO's stakeholders (scheme participants, consumer representative bodies and government bodies)
 - Review of 53 closed complaints and interviews of 15 past complainants.
6. As part of our preparation, we read the previous independent review and noted that, amongst other things, the Board had resolved not to accept recommendations that went to exploring potential growth into other areas of transport complaints. We have accepted the guidance from the Board that, for this review, the focus should be on ensuring that the PTO is building a sustainable, effective and efficient platform – from which enhanced operations and growth can be progressively achieved.

Acknowledgments

7. The Reviewers would like to acknowledge the openness and great assistance provided by PTO staff and the assistance and contribution to this report from stakeholder organisations – all of whom generously offered their time to assist in our understanding.

Structure of report and terminology

8. This report is structured as follows:
 - Key themes from our review are summarised in Chapter 2.
 - The context in which PTO operates is briefly described in Chapter 3.
 - Chapters 4 to 11 address the issues we have been asked to review. The subheadings in the Chapters 4 to 9 are for the most part drawn from the subheadings in the Australian Government's *Key Practices for Industry-based Customer Dispute Resolution*.
 - A listing of all the Recommendations is at Chapter 12.
9. In this report, we refer to PTO members as public transport operators when referencing a consumer's interaction with them.
10. We refer to the Department of Transport and Planning as follows:
 - Public Transport Victoria or PTV where discussing non-fines complaints or public transport operator issues.
 - Where our reference relates to fines complaints, we refer to Transport Regulatory Operations or TRO.
 - Otherwise we refer to the Department of Transport and Planning or the Department, for example, when discussing the Government's oversight of transport role.

2. Executive Summary

11. Our Review found that PTO is meeting the Benchmarks for Industry-based Customer Dispute Resolution, the membership requirements of the Australian and New Zealand Ombudsman Association and the external dispute resolution scheme requirements set by the Office of the Australian Information Commissioner. The PTO operates with independence, fairness and impartiality. It provides an accessible service that is accountable and transparent. PTO is, in our view, an effective and efficient ombudsman scheme.
12. Compared with our last review of the PTO, some ten years ago, we found a scheme that has matured into its space. It has built a depth of experience and skill amongst its staff. It has matured its processes, is implementing a modern case management system, is shown palpably greater respect by PTO member staff and regularly receives highly positive feedback from consumers that have used the service.
13. There are, however, always opportunities for an Ombudsman scheme to enhance its effectiveness. We have made some recommendations that we hope will assist the PTO to do this.
14. A full list of our recommendations are set out in Chapter 12 of this report. Generally they fall into the following key themes for improvement:
 - a. Issues relating to the Constitution and Charter
 - b. Linking internal and external complaint resolution
 - c. Building a sustainable and effective platform for complaints handling
 - d. Timeframes – investigations, tail of conciliations
 - e. Systemic issues
 - f. Complaints about PTO
 - g. Reporting

3. Context

15. The PTO is a company limited by guarantee. Its Constitution defines PTO's purpose as the external dispute resolution service for PTO's public transport members and provides that it must operate in accordance with a Charter. The PTO plans this year to undertake a review of its Constitution and Charter and aims to modernise these.
16. PTO's members comprise private sector providers to the public of bus, train and tram services, the private sector and government bodies responsible for key infrastructure used by those services and other parts of government that interact with the public in relation to public transport. Accordingly, its members are:
 - a. Bus companies contracted by the Victorian Government – some bus companies are members in their own right and others are members through their industry association, Bus Association Victoria (BusVic)
 - b. Public Transport Victoria – to the extent of its role in providing information to the public about public transport and delivering and managing the myki ticketing system (the Department is otherwise the 'owner' of the system, managing the contracts and overseeing performance)
 - c. Level Crossing Removal Project (LXRP) – the project office within the Victorian Infrastructure Development Authority (VIDA) responsible for level crossing removals, Regional Rail Revival, Melbourne Airport Project and network improvement projects
 - d. Metro Trains Melbourne
 - e. Metro Tunnel Project – the project office within VIDA responsible for the Metro Tunnel Project
 - f. Southern Cross Station – the private company responsible for the management of the station
 - g. Suburban Rail Loop Authority – the Victorian government body responsible for planning and delivering the loop
 - h. VicTrack – the Victorian government business enterprise that is the custodial owner of land and infrastructure used for train and tram services
 - i. V/Line
 - j. Yarra Trams
17. Over the last couple of years, following the COVID-era restrictions, the public has returned to public transport usage, and the PTO's workload has increased, as the following table shows.

Figure 1 PTO workload (source: PTO provided data)

Period	Number of approaches to PTO finalised in the financial year	Number where the person was referred to a PTO member	Number of PTO conciliations/ investigations finalised*
FY 2023/24	3,169	2,182	478
FY 2022/23	3,113	2,225	408
FY 2021/22	1,999	1, 507	251
FY 2020/21	2,065	1, 524	249

* Where a complaint begins as a conciliation and then is escalated to an investigation, it is not counted as a finalised conciliation.

18. Complaints handled by the PTO span a broad range of issues, categorised in figure 2 below.

Figure 2 Issues raised in PTO conciliated/ investigated complaints received in 2023/24 (source: PTO)

Period	Number of approaches to PTO	Percentage
Accessibility	27	6%
Authorised officers	12	3%
Land and infrastructure	125	28%
Myki	122	27%
Non-myki ticketing	7	2%
Privacy	4	1%
Service delivery	109	24%
Staff	430	96%
Trams, trains and buses	54	12%

Nb. More than one issue can be assigned to a complaint.

19. During the last financial year, the PTO underwent a period of significant change. In September 2023, the previous Ombudsman left the PTO for another role. The new Ombudsman, Ann Jorgensen, was not confirmed in the role until December 2023 and a new Deputy Ombudsman was appointed in March 2024. Early this year, the Ombudsman undertook a review of the PTO's organisational structure. A couple of staff redundancies resulted, a Dispute Resolution Team Leader role was created, strengthening supervision, and the finance function was partly outsourced. Other change included the implementation of a new case management system in the final months of 2023/24. During 2023/24, the PTO also had to adapt to an increased conciliations/ investigations workload - some 17% greater than in 2022/23.
20. The PTO's organisational structure now allows for 13 staff. A hybrid model of working has been adopted, with staff performing some work in the office and some from home.
21. As for all small organisations, hybrid working has its challenges. While the communication and remote system access technology has matured and is much higher quality and more reliable than pre-COVID, the PTO needs to encourage a high degree of intra-office communication, sharing good practice and access to specialised knowledge within the staff. All of which ideally needs some degree

of face-to-face interaction. We think that the PTO has struck a reasonable balance between those needs and meeting the staff desire for flexibility.

4. Accessibility

The office makes itself readily available to customers by promoting knowledge of its services, being easy to use and having no cost barriers.

Benchmark 1

Our review terms of reference ask us to give specific attention to the following questions:

- Is the PTO easy to access for people who may face barriers to using PTO services or public transport services?
- Are the consumer engagement and outreach activities of the PTO appropriate given the size of the organisation?

Awareness/ promotion

22. PTO's Strategic Plan 2022-2025 specifies Increased Awareness as one of PTO's four key objectives.
23. To facilitate this, the PTO has developed a Communications, Outreach & Engagement Plan 2022-2025. The PTO's plan analyses:
 - a. Those who use PTO's services (its general audience segments).
 - b. Those who may face barriers using public transport or who are more likely to be reliant on public transport or who may be less likely to be aware of their right to complain (key audience segments). This includes people with disabilities and people experiencing financial hardship.
24. As is appropriate, particularly given the PTO's size, PTO's strategies to increase general audience awareness are largely online strategies, for example, optimising the 'findability' of PTO's website, improving PTO's website to make it more navigable and user friendly, publishing consumer stories on PTO's website to instil confidence in the benefits of raising a complaint with the PTO and posting social media links to consumer advice pieces on the PTO's website.
25. For key audience segments, the PTO plans to work through community stakeholders and also use data-driven consumer insights to target and tailor communications and outreach activities for greater effectiveness. The PTO's goal for 2022/2023 was participation in 20 community events or community visits, building to 40 community events or community visits in subsequent years.
26. We think that the PTO's outreach plan is thoughtful, well targeted and demonstrates a worthy ambition. It is clear that PTO is thinking ahead to the challenge of adapting to changing consumer preferences. Staff told us that they will need to continue to improve their own social media skills and implement software tools that enable more efficient and timely distribution to social media channels.

27. With resourcing of a full-time Communications and Engagement Officer and a part-time Digital Designs and Projects Lead, PTO's recent achievements include:
 - In 2022/23, 57 engagement and outreach activities across 15 regional and 9 metropolitan local government areas (exceeding the PTO's Communications, Outreach & Engagement Plan target)
 - Early in 2024, completing a revision of PTO's website to meet accessibility guidelines
 - Developing and publishing on the PTO's website eight People's stories to demonstrate the types of outcomes that PTO can achieve.
 - In early 2024, implementing a new case management system that will provide better capability to collect and mine complainant data to drive insights and outreach activities.
 - In 2023/24, the Communications, Outreach & Engagement Plan community event target was not met. However, the PTO did participate in significant community events including Melbourne Disability Expo, Geelong Disability Expo, VALID's Having a Say Conference and Have a Say Bendigo's Transport forum
28. As well as its own awareness initiatives, the PTO recognises the importance of public transport operators playing their part in informing complainants about the PTO's role, services and contact details. The PTO's Member Awareness Policy (last updated in June 2024) stresses this. The Policy sets out when public transport operators must provide information about the PTO. Examples of standard scripting are provided, including for use on public transport operator websites.
29. The PTO's annual Customer Satisfaction Survey tests whether in fact complainants are learning about the PTO from their public transport operator or how else they found out about the PTO.

Figure 3 Customer Satisfaction Survey – Question 1: How did you find out about the PTO? (source: PTO)

Answer	Percentage (and number) of respondents: 2023/24 survey	Percentage change from 2022/23 survey*
PTV	32.47% (50)	-8.4%
Public transport operator or agency eg V/Line, Metro Tunnel Project, Yarra Trams	7.79% (12)	-3.89%
Online search	24.68% (38)	0.65%
Word of mouth	7.14% (11)	
Already knew about PTO	18.18% (28)	-10.39%
Other	5.22% (8)	
Can't remember	4.55% (7)	-9.13%
Total	100% (154)	(105)

* Not all of the choices available in the 2023/24 survey were offered to respondents in 2022/23 survey.

30. We caution against assuming from these survey results that public transport operators are failing to inform complainants about the PTO. In our experience, complainants can struggle to accurately recall whether or not they were informed during the internal dispute resolution process about the availability of the external dispute resolution scheme.

31. To accurately establish whether public transport operators are complying with their obligations to inform consumers about the PTO, we think that the PTO needs to undertake regular audits of its public transport operator members. The Member Awareness Policy states that the PTO will do this. But we understand that, because of competing resource requirements, audits have not occurred for some time. Given the critical role played by public transport operators in building awareness of PTO, we think that these audits are important and should be prioritised.

Recommendation 1

The PTO should commit the resources to undertake annual reviews of public transport operator compliance with PTO's Member Awareness Policy.

Access, cost, staff assistance

32. The PTO's website provides standard information for complainants. This includes how to contact the PTO and how to submit a complaint, the complaints that the PTO can and cannot help with, what PTO does when someone approaches with a complaint and the types of outcomes that PTO can bring about. There is also information about what the PTO can do to try and improve public transport. Background information is provided about the PTO, its members and its key documents. The PTO's website includes information in 11 languages. Our assessment is that PTO's website provides sufficient information, without becoming overly complex and detailed.
33. The PTO makes itself accessible to complainants free of charge by phone (1800 number, National Relay Service number and Translating and Interpreting Service number), a user friendly website complaint form, email, mail and Facebook. The PTO complainants who we interviewed reported no difficulty in making their complaint to the PTO.

Figure 4 Channel of approach to PTO in 2023/24 (source: PTO)

Channel	Number of approaches to PTO	Percentage
Email	1,444	46.7%
1800 number	936	30.3%
Complaint form - website	690	22.3%
Letter	11	0.4%
In person	11	0.4%
Facebook	1	-
Total	3,093	100%

Use, acceptance by PTO, non-adversarial and non-legalistic approach

34. A consumer approach to the PTO is registered and assessed by a PTO case officer. Where the consumer approach is by email or webform, the consumer is usually phoned.
35. Where the consumer approach does not relate to a PTO member, the case officer will, where appropriate, suggest to the consumer another avenue they may pursue.

36. In the case of complaints about a public transport operators:
- Typically the consumer will be asked to contact the public transport operator if they have not already done so. This provides the operator with an opportunity to resolve the matter (usually 7 business days). The consumer will be advised that they can return to the PTO if their complaint does not resolve.
 - For a minority of matters, the PTO will assist with the referral to the public transport operator. This might be because the consumer has a special disadvantage that warrants extra assistance.
 - A consumer will not, however, be referred to the operator where the PTO is satisfied that the operator has already had a sufficient opportunity to resolve the complaint. Rather the PTO will proceed directly with the complaint.
37. We reviewed the records of a sample of consumer approaches to the PTO. For approaches initiated by phone, this included the call recording. We found that the PTO case officers recorded the approach accurately, directed the consumer to the public transport operator as appropriate and provided clear information to the consumer about how the process works and timeframes. Accordingly PTO's processes are from the outset simple to understand and easy to use as per the Benchmark, thereby discouraging a legalistic, adversarial approach. This was confirmed by the complainants who we interviewed.
38. The PTO's key performance target is to complete this assessment process within three days of the consumer approach in 95% of cases (approaches to the PTO that proceed to conciliation or investigation are not included in this KPI). In 2023/24, the PTO met the three day target in 91% of 2,691 approaches relevant for this KPI, (up from 87% in 2022/23). Whilst this did not quite meet the PTO's target, from our experience, this is nevertheless a very credible result.

5. Independence

The decision-making process and administration of the office are independent from participating organisations.

Benchmark 2

Our review terms of reference ask us to give specific attention to the question of whether the PTO's processes ensure that the PTO acts, and is seen to act, independently from the interests of Government and members?

Independence of Ombudsman and staff

39. The PTO's Ombudsman is appointed by the Board. To ensure the independence of the Ombudsman, the PTO Constitution specifies that the Ombudsman must not be associated with any PTO member or Director.
40. The current Ombudsman, Ann Jorgensen, was appointed in December 2023 for 3 years, having previously been the Deputy Ombudsman.
41. The Ombudsman appoints the staff and is responsible for day to day operations. The Constitution and particularly the Charter enshrines the Ombudsman's operational independence.
 - Clause 1.6 of the Charter specifies that the decision-making processes and administration of the PTO scheme are independent of public transport operators (this includes both government and private sector PTO members). Consistent with this, it is the Ombudsman (rather than the Board) who approves the PTO's Complaint Handling Procedures (most recently in 2021).
 - Clause 10.1 of the Charter specifies that the Board's oversight responsibilities includes the maintenance of the Ombudsman's independence.
42. The Ombudsman provides each Board meeting with an Operations Report. This includes statistical information about the PTO's workload and the issues it is seeing. Individual complaints are not, however, discussed at Board meetings. We were satisfied that Board processes are highly respectful of the Ombudsman's independence.
43. The Ombudsman and senior staff meet regularly with the Department and PTO members. Stakeholder engagement is important for the effective operation of an external complaint scheme. We were satisfied that PTO processes ensure that the PTO acts, and is seen to act, independently from Government and public transport operators.

Board structure and functions

44. Board composition is discussed in detail in Chapter 10 including the balance between Industry Directors and Consumer Directors.

45. The Board has the range of responsibilities expected of a governing body of an industry scheme:
 - a. Appointment and dismissal of the Ombudsman
 - b. Approving the budget to be put to a vote of PTO members
 - c. Receiving and considering recommendations for changes to the PTO's Charter and its jurisdiction.
 - d. Receiving Ombudsman reports at each Board meeting about the operation of PTO to facilitate its oversight of the scheme.
46. We think the Board could, however, have more visibility of the PTO's systemic issues activity (see paragraph 139) and complaints about the PTO (see paragraph 146).
47. Nevertheless, we are satisfied that the current framework permits the Board to fulfil Benchmark expectations of a governing body of an external dispute resolution scheme.

Transparency

48. The PTO Board has a PTO Director Code of Conduct (last reviewed in February 2022). This sets out expectations in relation conflicts of interest. PTO directors are required to disclose conflicts of interest and, if they have a material conflict of interest in relation to a Board agenda item, they must leave the Boardroom while the matter is being considered. This meets good practice standards.

Funding

49. The Constitution requires PTO's annual funding figure and budget to be submitted to a general meeting of PTO members to be voted on at least 30 days before the commencement of the next financial year.
50. The Constitution specifies that PTO member levies are paid in two tranches at six monthly intervals, with the Board responsible for determining the allocation as between PTO members.
51. The PTO Funding Model (a Board policy last reviewed in April 2024) specifies that levies are calculated by reference to each member's previous year case numbers, although some discretion is retained to adjust this where a PTO member is forecast to have an increased share of cases because of a known event or change to policy.
52. Our terms of reference do not include a review of levies. To assess the PTO in light of the Benchmarks, we do, however, need to consider whether the PTO has sufficient funding to fulfil all its functions. Whilst it was apparent at the time of the review that organisational change and some special projects, in particular, the introduction of a new case management system, have placed some pressure on PTO resources, we did not identify any basis for concern about the current funding. Although generally PTO stakeholders did not raise concerns about the PTO's current funding, a couple commented that if the PTO was to be asked to do more in the future, this may impact funding.
53. To this point, we make a few recommendations in this Report that, if accepted, may result in the need for some additional funding in the future. For example, we recommend more active monitoring of PTO member awareness activity, reintroduction of quality assurance reviews and more systemic

issues activity. Subject to how these recommendations are accepted by the Board, there may need to be some adjustment to funds raised.

Charter amendment process

54. The Charter is an attachment to the Constitution. Both the Constitution and the Charter enshrine the principle that an amendment to the Charter has no effect unless the Minister has given their prior written consent.
55. In fact, the Charter has not been amended since June 2013. As noted earlier, the PTO plans to undertake a review of both the Constitution and the Charter this year and to that end will consult with PTO members, with limited consultation with other stakeholders. If the Board decides to amend the Charter, the Minister's consent will be sought.
56. The Government's *Key Practices for Industry-based Customer Dispute Resolution* set an expectation that a scheme's participating organisations should not have the power to veto a proposed change to the jurisdiction or significant rules and procedures of the scheme. To make it clear that PTO members do not have to approve amendments of the Charter, we suggest that the Charter is separated from the Constitution - ie. that it ceases to be an attachment to the Constitution.

Recommendation 2

The PTO should use the planned review of the Constitution and Charter to explore the separation of the Charter from the Constitution.

6. Fairness

The procedures and decision -making of the office are fair and seen to be fair.

Benchmark 3

Our review terms of reference ask us to give specific attention to the following questions:

- Are the PTO's processes sufficient to ensure procedural fairness for both parties?
- Does the PTO's decision-making prioritise what is fair and reasonable in the circumstances?

Introduction

57. In 2023/24, the PTO handled 21 public transport infringement notice complaints (fines complaints). In addition, 444 non-fines complaints were finalised through a conciliation process and 34 non-fines complaints finalised after investigating them. This Chapter considers the fairness with which these complaints are handled.
58. Fines complaints and other complaints (non-fines) are separately discussed, given that quite different processes apply.

Fines complaints – procedural and substantive fairness

59. Since August 2022, the PTO has been able to consider the fairness of public transport infringement notices and whether special or exceptional circumstances apply. The PTO's role derives from a Memorandum of Understanding (MOU) with the Department of Transport and Planning.
60. For the PTO to take on the complaint, the consumer must have already utilised the internal review process with Transport Regulatory Operations (TRO) and must be before TRO has registered the infringement notice for enforcement with Fines Victoria. Under the legislation, enforcement is only possible if the infringement notice is referred to Fines Victoria within 6 months of the date of the offence or, if a request for internal review has been made, within 6 months of the outcome notice.
61. The PTO has developed and documented a bespoke process for a complaint made to it about a public transport infringement notice:
 - The PTO will check whether a TRO internal review has taken place.
 - If the internal review has been conducted, the PTO will advise TRO about the receipt of the fine complaint. TRO will put the matter on hold so that the PTO can conduct its inquiries in accordance with the MOU.
 - The PTO will collect relevant information from the consumer and TRO. The complaint may also be discussed at the PTO's next meeting with TRO (generally held monthly).

- The Deputy Ombudsman will then decide whether it is appropriate for the PTO to make a submission to TRO setting out the PTO's view as to the fairness of the infringement notice. This includes consideration of the special circumstances and exceptional circumstances for review under the Infringements Act and the Department's Standards of Service.
- If a draft submission is prepared, the Ombudsman settles this and sends it to TRO. The consumer is not provided with a copy of the PTO's submission to TRO, which we think is understandable given the regulatory nature of the matter.
- TRO is not bound by the PTO's view. However, under the MOU, TRO commits to review an infringement notice in light of the PTO's submission. Both the PTO and TRO notify the consumer of the outcome i.e. whether TRO will proceed to enforce the fine.

Figure 5 Fines complaints closed in 2023/24 (source: PTO)

Outcome	Number	Percentage of fines complaints
Consumer referred to the TRO to request an internal review	135	73.5%
Consumer otherwise referred to TRO	9	5%
Closed on basis of non-contact by consumer	2	1%
Withdrawn by TRO following PTO input	19	10.5%
Consumer referred to Fines Victoria on basis they are managing fine	13	7%
Consumer referred to Legal Advisor	4	2%
Consumer referred to Victorian Ombudsman	2	1%
Total	184	100%

62. We reviewed 5 fines complaints, interviewed 2 consumers who complained to the PTO about a fine and discussed the PTO role in relation to fines complaints with TRO. This satisfied us that the PTO's processes are substantively and procedurally fair and are a valuable contribution to the regulatory framework.

- Importantly the PTO clearly explains to the consumer the PTO's role and what it is able to do.
- Both the consumer and TRO are given opportunity to provide all relevant information.
- The PTO carefully considers all relevant information when expressing its views to TRO about the fairness of the fine and whether exceptional circumstances apply. In the fines complaints we reviewed, we found the PTO's consideration of these matters to be balanced and informed by a good understanding of the complexities of the ticketing system and the issues that consumers can experience. We also saw evidence of the PTO referring to previous fines complaints, thereby promoting consistency, an important element of fairness.
- The consumer is advised of the outcome of TRO's review of the fine, both by TRO and the PTO.

Other complaints – procedural and substantive fairness and confidentiality

63. Almost invariably, the PTO handles non-fines complaints by conciliating these.
64. The PTO may at the outset of the process ask the consumer to provide relevant information.
65. The public transport operator is issued a Hold Notice. This gives them an opportunity to dispute that they have had a sufficient opportunity to try and resolve the complaint. The Hold Notice also puts in place a protocol that applies in the majority of circumstances, whereby the public transport operator ceases direct contact with the consumer and instead deals with them through the PTO.
66. Once the complaint is allocated to a PTO conciliator, a Conciliation Notice is sent to the public transport operator (in the complaints we reviewed, this took place within days of the Hold Notice). The Conciliation Notice asks the public transport operator to provide their response to the complaint and key documents (typically within 7 business days). In the complaints we reviewed, we found that public transport operators mostly responded to these requests on time. Public transport operators told us that the PTO provides them with an extension where they can show this is needed.
67. Typically the PTO keeps public transport operator documents confidential and does not share these with the consumer. Rather the PTO summarises what emerges from these documents. Where, however, CCTV footage is critical, the PTO may invite the consumer to attend the PTO's offices to view the CCTV footage. We did see a little evidence of consumers objecting to not seeing the full detail of a public transport operators' input, however we are satisfied that these processes adequately position the consumer to rebut the public transport operator's position.
68. Frequently there is some back and forth between the PTO and the parties (shuttle negotiation), with the aim of achieving a mutual resolution. The conciliated complaints we reviewed demonstrated regular PTO phone and email communication with the consumer. Interviewed consumers typically told us that they were kept well informed as to progress with their complaint.
69. Most conciliated complaints resolve by agreement of the parties as the following table demonstrates.

Figure 6 Complaints closed through conciliation in 2023/ 24 (source: PTO)

Method of resolution	Number	Percentage
PTO resolution <i>(Consumer considers complaint resolved eg. negotiated settlement or consumer accepts public transport operator response despite no offer being made)</i>	311	70.1%
PTO resolution assumed satisfaction <i>(Contact lost by PTO with the consumer but PTO process resulted in consumer receiving what they were seeking)</i>	101	22.7%
Discontinued – no further consumer contact	18	4%
Discontinued – Withdrawn	10	2.3%
Referred to other dispute resolution scheme	2	0.5%
Referred to MP	1	0.2%

Referred to other	1	0.2%
Total	444	100%

70. This data suggests that in 2023/24 the PTO did not resolve any conciliated complaints by exercising its discretions under clause 6.3 of the Charter to decline to proceed with a complaint. These discretions are:
- the complaint is frivolous or vexatious or not in good faith
 - the consumer has insufficient interest in the subject matter of the complaint,
 - an investigation, or further investigation is not warranted, or
 - the complaint is more appropriately dealt with by another body.
71. However, our review of closed conciliated complaints identified some complaints that we considered were miscategorised as resolutions by agreement. In these complaints, the consumer's closure letter included a heading 'Terms of Agreement' and set out for the consumer some public transport operator explanations relevant to the consumer's complaint. The consumer was not, however, provided with the recourse they were seeking and clearly continued to be quite dissatisfied.
72. We think that, in reality, these complaints were closed because the PTO accepted the public transport operator explanations and considered an investigation was not warranted. The closure letter should have made this clear and the complaint should have been categorised accordingly.
73. A number of consumer closure letters of this type were also of concern because, without attribution, they cut and pasted text set out in the public transport operator's response to the PTO about the complaint. This is not good practice. Moreover if a consumer were to become aware of this (and often there were clues in the closure letter that this had occurred), this would risk the consumer's confidence that the PTO had independently and fairly considered the complaint issues itself.
74. To address these issues, we think that the PTO should review its closure letter templates and staff training about the use of these with a view to ensuring that correspondence is appropriate to the circumstances of the complaint. Quality Assurance closed complaint reviews (see paragraph 95) should include a focus on building skills and enhancing practices as to this.

Recommendation 3

- a) The PTO should review its complaint closure templates, and its training for staff about these, to improve written communications and ensure that correspondence is appropriate for the circumstances. Review of this correspondence should be undertaken as part of the PTO's Quality Assurance of closed complaint reviews.
- b) In particular, the PTO should ensure that its closure letters to consumers accurately explain the basis upon which the complaint is being closed. Where the only outcome provided to the consumer is a public transport operator explanation that the PTO accepts but the consumer rejects, the complaint resolution should not be described in the closure letter as 'Terms of Agreement'. Rather the PTO should be telling the consumer that the PTO considers that investigation is not warranted. The PTO's case management system should categorise the complaint accordingly for the purposes of annual reporting.

75. In 2023/24, 18 complaints were escalated from the conciliation phase to an investigation. In addition, 16 more complex complaints were investigated, without a conciliation process first being attempted.
76. For an investigation, the PTO collects more detailed information than in a conciliation process. In addition to the advantages that flow from this depth of scrutiny, it seems to us that the commencement of an investigation also sends a valuable implicit signal to the public transport operator that the PTO attaches a higher level of seriousness to the complaint and in some cases that the public transport operator's explanations to date have not yet satisfied the PTO.
77. As part of the investigation process, the PTO may issue a written Case Assessment setting out the PTO's views. Again this commonly leads to an agreed outcome. If the complaint does not resolve in other ways, the Charter permits the Ombudsman to make a written determination that is binding on the public transport operator. As the following table demonstrates, this is not a power that the PTO uses in practice.

Figure 7 Investigated complaints in 2023/ 24 (source: PTO)

Method of resolution	Number	Percentage
PTO resolution	27	81.8%
PTO resolution assumed satisfaction	2	6.1%
Discontinued – no further consumer contact	1	3%
Discontinued – Withdrawn	2	6.1%
Investigation or further investigation not warranted (Charter 6.3(c))	1	3.1%
Ombudsman binding determination	0	0%
Total	33	100%

78. We reviewed 44 conciliated and investigated complaints. In most, we found that the PTO 'value added' through the process by asking pertinent questions and suggesting ways forward. Public transport operators reported that the process is assisted by PTO staff's good industry knowledge.
79. It also seemed to us that public transport operator were for the most part responsive and typically provided comprehensive answers to questions put by the PTO.
80. However, there were some complaints, particularly investigated complaints, that we felt languished for a period of time or where there was some backwards and forwards between the parties without much progress towards resolving the complaint. These were complaints where the PTO's investigation target timeframes were not met (see our discussion of timeframes at paragraph 118).
81. In other external dispute resolution schemes with which we have worked, the Ombudsman's binding decision power is used to bring to resolution complaints where shuttle negotiation does not work (either because the scheme member will not accede to a reasonable consumer request or the consumer has unrealistic expectations).
82. We accept that the PTO has for the most part operated quite successfully without recourse to the Ombudsman binding decision power (we are advised that there has only been one Ombudsman

binding decision in its 20 year history). But, if recourse is not made to that power, we think that the PTO needs to strengthen its tools and approaches to bring finality to difficult-to-resolve complaints.

83. One possibility is for the PTO to evolve its Case Assessments to become more conclusive in their tone, with less invitation to the parties to not accept the Case Assessment, and to issue these earlier and more frequently (there were 4 Case Assessments in 2023/24). Another possibility would be for the PTO to meet more often with the public transport operator to discuss complaints or even have a three way phone meeting with the public transport operator and the consumer. We have seen all these approaches work well in other environments.
84. It is also of course important that the PTO staff work collegiately to help each other find the best way forward – and the staff confirmed that occurs. Senior staff advice and supervision is also important. From discussions with the PTO, it would seem that oversight of long running complaints has been enhanced since the appointment of the Deputy Ombudsman in March this year.

Recommendation 4

The PTO should enhance its tools and approaches to bring finality to difficult-to-resolve complaints. Possibilities might include evolving the PTO's Case Assessment practices, more frequently meeting with public transport operators to discuss complaints and three way phone meetings (operator, consumer and the PTO).

85. Our review also considered complaint outcomes and whether these are fair and reasonable in the circumstances. The PTO's Annual Reports do not provide statistical data as to outcomes (see paragraph 106 for our recommendation that it should provide more transparency as to this). However, the PTO provided us with the following information.

Figure 8 Outcomes from conciliated complaints in 2023/24 (source PTO)

Outcome	Number	Total \$\$ value
Apology	178	
Detailed explanation	380	
Goodwill gesture	68	Approx. \$18,773.45
Member staff disciplined/ counselled	43	
Member staff training	31	
Monetary compensation	93	\$7,144
Operator undertaking	8	
Refund/ reimbursement	58	\$17,244.73
Ticketing compensation	16	\$657
Complaints closed at conciliation stage	444	

Note: A case can record more than one outcome.

Figure 9 Outcomes from investigated complaints in 2023/24 (source PTO)

Outcome	Number	Total \$\$ value
Apology	16	
Detailed explanation	22	
Goodwill gesture	5	Approx. \$14,855.63
Member staff disciplined/ counselled	7	
Member staff training	6	
Monetary compensation	7	\$13,644.48
Operator undertaking	12	
Recommend change of policy/ procedure	10	
Refund/ reimbursement	1	\$2,031.40
Ticketing compensation	-	
Complaints closed at investigation stage	34	

Note: A case can record more than one outcome.

86. In most of the 44 conciliated or investigated complaints that we reviewed, we felt that the outcome was fair and reasonable. In a number of these, the public transport operator agreed either to compensate the consumer or to undertake work or bear an expense. Outcomes included significant repair work, bearing consumer relocation costs and correcting timetable misinformation.
87. However, there were some reviewed complaints where we were less convinced that the outcome was fair and reasonable in the circumstances. Where we thought that this was the case, we also tended to see a greater level of passivity by the PTO in dealing with the public transport operator ie. acceptance with little scrutiny of the explanations that the public transport operator provided. For example, in one complaint where the consumer was seeking financial compensation, the PTO appeared to accept the public transport operator's refusal to countenance the claim for reasons that did not appear relevant in the circumstances of the complaint. In another complaint, the operator and the consumer had different versions of events and the PTO did not draw out this difference and test the facts by obtaining relevant documents. In a third complaint, the operator argued that they were legally exempt from certain laws which was not challenged by the PTO – but was later withdrawn as incorrect by the public transport operator. Whilst it is commendable that the operator corrected its position, we were concerned about the PTO's earlier acceptance of something that was not correct.
88. The PTO's annual Customer Satisfaction Surveys provide another window through which to consider PTO complaint outcomes.

Figure 10 Customer Satisfaction Survey – Question 3: How satisfied were you with the outcome of your complaint? (source: PTO)

Answer	Percentage (and number) of respondents: 2023/24 survey	Percentage (and number) of respondents: 2022/23 survey
Very satisfied	22.45% (33)	27.64% (29)
Satisfied	21.74% (32)	13.33% (14)
Neither satisfied nor dissatisfied	14.29% (21)	9.52% (10)

Dissatisfied	14.97% (21)	20% (21)
Very dissatisfied	26.53% (39)	29.52% (31)
Total	100% (147)	100% (105)

89. Importantly the 2023/24 results show a significant drop in the percentage of survey respondents who were dissatisfied or very dissatisfied with their complaint outcome (41.5%, down from 49.52%).
90. However, a satisfaction rate of less than 45%, (in both 2022/23 and 2023/24), is lower than we would expect to see, even allowing for the public transport context. In our view, this survey result should prompt the PTO to question whether it is being sufficiently rigorous in its expectations of public transport operators' response to complaints. We would urge the PTO to use its quality assurance process to explore this issue, with a view to some re-setting of the PTO's expectations of public transport operators (see Recommendations 6 and 7).
91. Finally, we were concerned to hear during our consultations that the PTO's 'fair and reasonable' approach expected of operators and infrastructure projects and their sub-contractors has at times been at odds with the approach taken by their insurers. We understand that in some cases, public liability insurers have dictated a legalistic approach to claims for compensation, insisting that no admission of liability is made or even that minor goodwill repairs to damage or other offers to settle should not be made.
92. We do not pretend to be insurance experts, however the public interest logic should be that public transport insurers should insure or the current public transport environment, including the existence of the PTO and its approach to dispute resolution. We do not think the reported problem is universal, however it seems to us to be quite important to resolve, in particular given the plan for significant public transport infrastructure works right across Melbourne for the coming 20 to 30 years.

Recommendation 5

The PTO should enter into discussions with the Department of Transport and Planning to ensure that the approach taken by insurers in the sector is not in conflict with the Victorian public transport system commitments to and culture of customer service nor the PTO's ability to resolve disputes fairly and reasonably in all the circumstances.

Review of complaints

93. The PTO has a Quality Assurance Framework (last updated September 2021). This states that there will be monthly reviews by senior officers of a sample of closed files to ensure that they are handled in line with the PTO's Case Handling Procedures. The Framework specifies that reviews are to be reported to the Ombudsman and Deputy Ombudsman and outcomes discussed by the Senior Conciliator with the individual PTO officers. Closed file reviews are in addition to the reviews of a sample of case data to ensure data integrity and accuracy, a sample of correspondence to ensure accuracy, independence, fairness and accessibility and a sample of calls.
94. We understand from the PTO that the Quality Assurance Framework has not translated to ongoing practice. Reviews were briefly introduced in 2021 but soon lapsed.

95. We think that these reviews should be prioritised. This regular hindsight is important to test the quality of PTO correspondence with the parties, whether the PTO is sufficiently steering complaints and whether it is achieving fair outcomes including by being appropriately targeted in its questioning, clear in its expectations of both parties, willing to 'push back' where appropriate with the public transport operator and using its tools and approaches to efficiently achieve finality in hard-to-resolve complaints.

Recommendation 6

The PTO should prioritise implementation of its Quality Assurance Framework and, in particular, hindsight reviews of closed complaints to test:

- a) the quality of PTO correspondence
- b) whether the PTO is sufficiently and efficiently steering complaints, and
- c) whether it is achieving substantively fair outcomes – this should be undertaken with a view to some re-setting of PTO expectations of public transport operators' substantive response to valid consumer complaints.

7. Accountability

The office publicly accounts for its operations by publishing its final determinations and information about complaints and reporting any systemic problems to its participating organisations, policy agencies and regulators.

Benchmark 4

Our review terms of reference ask us to give specific attention to the question of whether the PTO publish sufficient information about its complaint handling to ensure that the community is aware of the work of the PTO and the outcomes achieved?

Procedures

96. The PTO has Case Handling Procedures (last revised in 2021). These cover the PTO's jurisdiction, consumer responsibilities, public transport operator responsibilities, the complaint intake process, conciliation and investigation, timeframes, case recording and so on. The Case Handling Procedures are made available to public transport operators. Whilst not available to consumers, we think that consumers are better served by the more summary information on the PTO's website.
97. In addition to the publicly available information, the PTO has a comprehensive suite of internal practice notes that provide PTO staff with more detailed procedural guidance.

Our discussions with PTO staff suggest this guidance is utilised.
98. However, most of the guidance documents have not been reviewed for many years. Some guidance has not been reviewed since 2013.
99. Whilst we recognise the resource impost, we think periodic reviews are needed to update for industry or regulatory changes, to add more detail arising from experience, to refine language that may have proven over time to be misunderstood, etc. A review could also facilitate some re-setting of expectations of public transport operator, in line with our discussion at paragraph 90.

Recommendation 7

The PTO should review and update its internal guidance for complaint handling staff. This project should be seen as an opportunity to embed into PTO procedures some re-setting of PTO expectations of public transport operators' substantive response to valid consumer complaints.

Final determinations

100. The PTO has only made one Ombudsman binding decision in its history – as discussed above at paragraph 82.

101. To provide transparency about the PTO's approach and outcomes, the PTO publishes the anonymised stories of previous complainants on its website. In addition, each year's Annual Report includes additional consumer stories.

Responding to stakeholder feedback

102. The PTO undertakes an annual survey of consumers whose complaint has been conciliated or investigated by the PTO in the previous year. The response rate to this survey is generally good, with over 100 consumers participating. The PTO's Annual Report typically reports key findings from the survey.
103. We think that the questions in the PTO's survey are well targeted and framed and the responses provide very useful information. Whilst reference is sometimes made within the PTO to the information collected in the survey, we think that the PTO could do more to use the survey to inform continuous improvement.

Recommendation 8

The PTO should undertake a comprehensive analysis each year of Customer Satisfaction Survey results and use this to inform its business planning. The Board should oversight this work.

104. The PTO meets regularly with public transport operators to exchange information. In our meetings with public transport operators, they expressed satisfaction with current PTO meeting arrangements and a sense that they are being heard.

Annual Report

105. Each year, the PTO publishes an Annual Report on its website. The 2022/23 Annual Report included:
- Statistical information about case numbers and issues
 - Number of cases per PTO member (referred complaints and enquiries, conciliations and investigations)
 - Time taken by the PTO to resolve complaints (reporting against the PTO's key performance indicators)
 - Consumer case studies
 - Other information about how complaints are handled
 - Discussion of the results of the Customer Satisfaction Survey
 - Summary financial reporting.
106. We think that the PTO's Annual Report helps to inform stakeholders about what it can do and how it goes about its work. However, to enhance accountability, we think that the PTO should provide more detailed statistical reporting about:

- The method of resolution of complaints as per Figures 6 and 7 in our report, but also identifying the number of complaints that close as a result of the PTO's exercise of its various discretions not to proceed with a complaint
- The outcomes from conciliated and investigated complaints as per Figures 8 and 9 in our report, but with more granularity as to the various categories of operator undertaking
- PTO complaint handling timeframes (see paragraph 119), and
- Systemic issues (see paragraph 139).

Recommendation 9

The PTO should enhance its Annual Report by publishing more detailed statistical information about:

- a) The method of resolution of complaints
- b) The outcomes from conciliated and investigated complaints
- c) PTO complaint handling timeframes
- d) Systemic issues.

8. Efficiency

The office operates efficiently by keeping track of complaints, ensuring complaints are dealt with by the appropriate process or forum, and regularly reviewing its performance.

Benchmark 5

Our review terms of reference ask us to give specific attention to the following questions:

- Do the PTO's complaint handling procedures facilitate timely resolution of disputes?
- Are the KPIs set by the PTO appropriate?

Appropriate process or forum

107. The PTO is only able to handle a complaint that relates to a PTO member. Where a complaint relates to a non-PTO member, the PTO will, if it can, assist the consumer with information about another body that might be able to help them.
108. As is usual, the PTO's Charter states that the PTO may decline to handle a case where another body is more appropriate.
109. Where a consumer brings a complaint to the PTO and then decides to bring proceedings for the same matter in another forum, the PTO will discontinue its consideration of the complaint as per its Charter. In the complaints we reviewed, we saw instances of this with one complainant instead accessing the Victorian Equal Opportunity and Human Rights Commission and another the Victorian Civil and Administrative Tribunal.
110. The Charter also empowers the PTO to decline to consider a complaint on the basis that it is frivolous and vexatious. As discussed in Chapter 6 and like virtually all EDR schemes, the PTO has told us that it very rarely exercises this discretion.
111. Typically the PTO will only consider a complaint where the PTO member has been afforded an adequate opportunity to resolve the complaint. This is discussed further in Chapter 4.
112. A complaint must usually be made to the PTO within 6 months of the PTO member's decision about the complaint, although the Charter gives the Ombudsman a discretion to consider a complaint after that time. The PTO has told us that in 2023/24 the PTO received 10 cases that were outside the 6 month window and in one case the Ombudsman exercised the discretion to proceed with the case. This data suggests that the Charter timeframe settings are appropriate in the public transport complaints context.

Timeliness and tracking of complaints

113. The PTO has four key performance indicators, all timeframe related, that it uses to measure its performance.

Figure 11 PTO key performance indicators and performance against these (source: 2023 Annual Report and PTO)

PTO's measure of success	Target	2022/23	2023/24
Non-investigated cases closed within 3 days	95%	87%	91%
Conciliations closed within 40 days	80%	71%	64%
Conciliations closed within 90 days	95%	95%	90%
Investigations closed within 180 days	90%	84%	44%

114. We think that the PTO timeframe indicators are appropriate. Sensibly these indicators recognise that there will always be some delayed complaints. Reasons include unusual complexity, consumer delay, time of year and resource pressures. We are, however, concerned that the PTO's performance has slipped in 2023/24 (decline of 5% in the conciliations closed within 40 days and within 90 days and decline of 40% in the investigations closed within 180 days).

115. We obtained more detailed information from the PTO regarding resolution timeframes.

Figure 12 Timeframes to close cases without conciliation or investigation in 2023/24 (source: PTO)

Days to close	No. of cases	%
<3 days	2,409	91%
4 to 7 days	120	5%
8 to 14 days	77	3%
More than 15 days	37	1%

Figure 13 Duration of conciliated complaints closed in 2023/24 (source: PTO)

Days to close	No. of cases closed	% of cases closed
<30 days	203	46%
31 to 40 days	81	18%
41 to 55 days	43	10%
56 to 90 days	72	16%
91 to 120 days	23	5%
121 to 180 days	17	4%

More than 180 days	5	1%
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Figure 14 Duration of investigated complaints closed in 2023/24 (source: PTO)

Days to close*	No. of cases closed	% of cases closed
<120 days	12	35%
121 to 150 days	1	3%
151 to 180 days	2	6%
181 to 270 days	9	26%
271 to 365 days	7	21%
More than 365 days	3	9%

* Measured from the date that the case was opened (not from the conclusion of conciliation)

116. This data confirms that a high percentage of complaints resolve quite quickly. It was not surprising, therefore, that when we interviewed public transport operator and consumers, we generally heard praise of the timeliness with which PTO resolves complaints. For consumers, we think that this is also testament to good communication and expectation management by the PTO.
117. PTO's annual surveying of consumers provides a larger dataset to test consumer satisfaction with PTO timeframes (in excess of 100 consumers each year). Whilst the results reveal that a third of consumers are not satisfied with timeframes, in our experience, this result is not at all unusual.

Figure 15 Customer Satisfaction Survey – Question 2 (part): To what extent do you agree that your complaint was handled efficiently and resolved in a reasonable timeframe? (source: PTO)

Answer	Percentage (and number) of respondents: 2022/23 survey	Percentage (and number) of respondents: 2023/24 survey
Strongly agree	26.67% (28)	32.65% (48)
Agree	18.1% (19)	17.69% (26)
Neither agree nor disagree	18.1% (19)	12.24% (18)
Disagree	11.43% (12)	14.29% (21)
Strongly disagree	25.71% (27)	23.13% (34)
Total	100% (105)	100% (147)

118. Notwithstanding this data, we think the PTO needs to lift its timeliness particularly in relation to its longer running complaints. As a first step, we would like to see the PTO meeting its key performance targets. This will be a challenge in particular for investigations ie. to lift the 180 day closure KPI from 44% (as it was in 2023/24) to 90% (the target). The second step will be improve timeframes for the prolonged conciliations and investigations. In particular, we think the PTO should never allow investigations, no matter how complex, to go beyond a year.
119. Improving timeframes will, we think, require concerted action on a range of fronts:

- Enhancement of the PTO's tools and approaches to bring finality to difficult-to-resolve complaints (see Recommendation 4)
- Embedding these enhanced tools and approaches in internal guidance for PTO staff including some re-setting of PTO expectations of public transport operators' substantive response to valid complaints (see Recommendation 7)
- Senior staff oversight to identify complaints that are languishing – and as we recognise earlier in our report, this supervision has been enhanced since the appointment of the Deputy Ombudsman and the creation of the Dispute Resolution Team Leader, both earlier this year
- Undertaking closed complaint reviews and learning from these how to better steer complaints and efficiently achieve substantively fair outcomes (see Recommendation 6)
- More detailed Annual Report statistical information about the timeframes of long running complaints (see Recommendation 9)
- Board monitoring of progress to improve timeframes

Recommendation 10

The PTO's Board should receive regular updates from the Ombudsman about work to improve the PTO's complaint timeframes and the results that are being achieved, including timeframes to close prolonged conciliations and investigations.

Monitoring

120. As discussed, the PTO's key performance indicators are all timeframe indicators that measure efficiency. The PTO does not currently maintain qualitative performance indicators – which is not completely uncommon amongst EDR schemes.
121. Qualitative indicators have been developed by other external dispute resolution schemes with which we have worked. Examples of these have included community awareness levels derived from periodic surveys, customer satisfaction levels derived from internal surveying of complainants, net promoter scoring derived from external surveying and scheme member satisfaction levels also derived from surveying. These can be useful, depending on the challenges the EDR scheme faces, however they can also be difficult to frame in a way that is entirely reliable (many can be affected by factors outside of the EDR scheme's control) and useful.
122. For the PTO, we think that, given the focus for the next year or two on establishing a platform of effectiveness, for the time being, the Board and the Ombudsman can sufficiently monitor the PTO's performance using stakeholder meetings, the PTO's Quality Assurance Framework (see Recommendation 6) and the Customer Satisfaction Surveys. The appropriateness of the basket of Performance Indicators should be returned to in the future.

Professionalism

123. The PTO has been successful in recruiting an experienced Ombudsman in December 2023 and Deputy Ombudsman in March 2024. From our observation, they, along with other senior staff set

the tone for a very professional office with a commitment to high standards of effectiveness. Office skills are discussed further from paragraph 140.

9. Effectiveness

The office is effective by having an appropriate and comprehensive jurisdiction and periodic independent reviews of its performance.

Benchmark 6

Our review terms of reference ask us to give specific attention to the following questions:

- Are the PTO's case handling procedures effective for meeting the needs of complainants and members when resolving disputes?
- Is the PTO effectively identifying and responding to systemic issues and contributing to system wide improvements?

PTO Charter

124. The Charter clearly specifies PTO's complaint jurisdiction for the purposes of both individual complaints and systemic issues.
125. Complaints within jurisdiction include complaints about the provision of public transport, the sale of tickets, infrastructure, conduct of Authorised Officers and complaints about a PTO member's conduct in relation to its land or premises. PTO can also consider complaints in relation to public statutory bodies providing public transport services or related activities where a Memorandum of Understanding provides PTO with jurisdiction. This is the source of jurisdiction for the fines complaints.
126. The Charter carves out areas outside PTO's jurisdiction. This includes the setting of prices, commercial activities not closely related to core public transport services, Government policy matters and complaints under consideration by a court of tribunal (see also paragraph 109).

Monetary limit

127. The Charter limits the PTO's monetary jurisdiction to \$5,000 per event or series of related events, or \$10,000 with the consent of all parties. These limits have not been adjusted in some years, even to keep abreast with inflation.
128. Overwhelmingly PTO complaints involve small amounts of money. However, where passengers or their goods are damaged or where there is a claim relating to damage to a person's house or property, larger amounts of money can be involved. The advent of significant infrastructure programs such as the LXR and the Metro Tunnel project clearly have potential for larger sums to be involved. We are also conscious that the Suburban Rail Loop will likely have even more impact on the community and for some decades to come. The PTO has identified 5 conciliation complaints and one investigation complaint in 2023/24 where the compensation sought exceeded \$5,000. In each of these complaints, the PTO's jurisdiction was accepted by the public transport operator. (We reviewed the 5 conciliated complaints as part of our review sample.)

Figure 16 Reviewed conciliated complaints in 2023/24 where compensation sought in excess of \$5,000
(source: PTO)

Type of complaint	Amount of compensation sought	Outcome
Conciliation complaint – 1	\$7,533.00	No compensation – no negligence
Conciliation complaint – 2	\$6,256.58	No compensation – insufficient evidence to support claim
Conciliation complaint – 3	\$40,000.00	No compensation – no PTO member wrongdoing
Conciliation complaint – 4	\$23,000.00	PTO member committed to reconsider claim in light of consumer’s expert report
Conciliation complaint – 5	\$100,000.00	No compensation – no PTO member wrongdoing but \$40 voucher as goodwill gesture

129. Consistent with what we saw in these complaints, we were told in our interviews with public transport operators that there was little focus by them on the PTO monetary limit and a willingness to allow the PTO to handle a complaint even if the amount involved was in excess of \$5,000 or even \$10,000.
130. Whilst it would seem that the current monetary limit is not in practice limiting the PTO, we think that the Charter should be amended to give the PTO greater legitimacy to handle high value complaints. The Charter review provides the opportunity for this to occur and the PTO has told us that this issue is on the agenda for that review. As a starting point and taking into account 2023/24 experience, we would suggest a limit of \$25,000 (or \$100,000 by agreement of the parties).

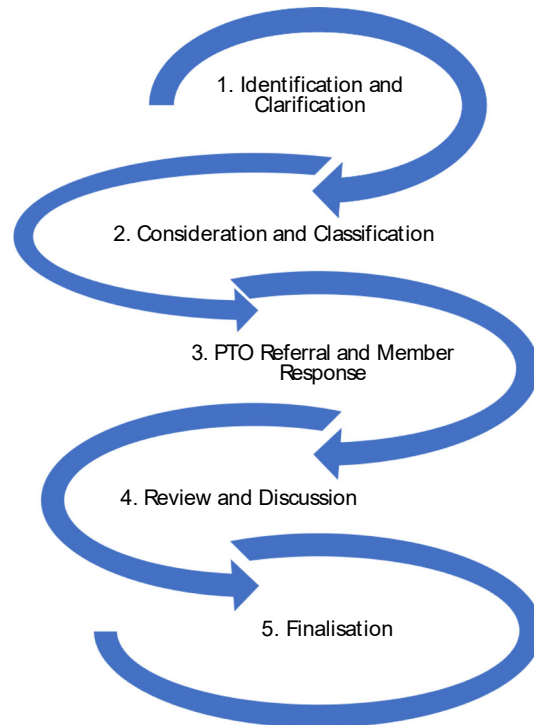
Recommendation 11

The PTO’s Charter should be amended to increase the PTO monetary limit.

Systemic issues

131. Clause 3.7 of the Charter gives the PTO jurisdiction to receive and record complaints relating to systemic issues.
132. The PTO has a Systemic Issues Framework and Procedure (although this states that it is under review by the (previous) Ombudsman). This documents how systemic issues are identified.
- PTO case officers and conciliators are expected to look beyond individual complaints to identify systemic issues and must bring these to the attention of a senior PTO officer.
 - Public transport operator are also encouraged to bring emerging issues to the PTO’s attention.

133. Other opportunities or ways to identify systemic issues include meetings with public transport operator, complaints data analysis and PTO contact with community representatives. The Systemic Issues Framework provides a diagrammatic representation of the process to deal with potential systemic issues – below:



134. The Framework document envisages early review of a potential systemic issue by a PTO senior officer and preparation of a briefing note for discussion by the Systemic Working Group (a senior group that includes the Ombudsman). A decision is then made as to whether or not to refer the matter to a PTO member. Where the decision is to do this, the matter is classified (continuous improvement opportunity, systemic enquiry, systemic investigation or multiple operator systemic). The classification dictates the process that is followed. In particular for a systemic enquiry or investigation, the PTO expects the public transport operator to take on the PTO's feedback and work with the PTO to find a solution.
135. As we understand, however, the PTO has only partly implemented the Systemic Issues Framework and Procedure. Where it identifies an issue that has the potential to have a general impact (ie. an impact beyond that of the particular consumer who has raised the complaint), the PTO does not formally classify this as systemic. Nor does it take full benefit of the structured process set out in the Systemic Issues Framework and Procedure.
136. In the course of conciliating or investigating complaints, the PTO does, however, quite often inquire into a PTO member's procedures or staff training. As Figures 8 and 9 show, in 2023/24, there were 10 complaints that resulted in the PTO recommending a change to a PTO member policy or procedure and 37 complaints that resulted in the PTO obtaining PTO member commitment to enhance staff training. These outcomes suggest the existence of a systemic issue.

137. We think, however, that a more structured and transparent process would enhance systemic issues analysis and outcomes and public confidence in the scheme. We recognise that the PTO will need to tread carefully in this and manage expectations, given that its jurisdiction does not include the content of Government policies, legislation, licences and codes.
138. However, the PTO is uniquely situated to draw out the insights from consumer complaints about public transport. Given that public transport is a community-at-large service, not an individualised service, it is all the more important that consumer insights are made available to the Department and public transport operator to inform work to strengthen our public transport system. Discussions with the Department and most public transport operators indicated that this is a role where the PTO's further contribution would be welcomed. Our Recommendation 17 sets out one example of the systemic inquiry work that we think the PTO could usefully undertake.
139. Accordingly we think that the PTO should take a fresh look at the Systemic Issues Framework and Procedure and settle its approach. This should be done in consultation with stakeholders. The implementation of the procedures should be led by either the Ombudsman or Deputy Ombudsman. There should be detailed quarterly reporting to the Board. Each Annual Report should provide statistical reporting about the systemic issues work that the PTO has undertaken during the year (number of systemic issues by category, timeframe to resolve, outcomes achieved). Systemic case study examples should also be provided.

Recommendation 12

The PTO should:

- a) Review and, in consultation with stakeholders, settle its systemic issue framework and procedures
- b) Implement the PTO's systemic issues framework and procedures under the leadership of the Ombudsman or Deputy Ombudsman
- c) Provide detailed reporting at least twice yearly about the PTO's systemic issues activity to the PTO's Board.
- d) Include in PTO Annual Reports statistical reporting about the PTO's systemic issues activity (number of matters and types of outcomes) and case study examples.

Office performance

140. The PTO has appropriately qualified staff to undertake its functions. Their knowledge and commitment was praised by interviewed consumers and by public transport operators.
141. The PTO has invested this calendar year in a new case management system to enhance the PTO's effectiveness. Staff were trained in the new case management system and, since 1 July this year, new complaints have been recorded in it. This is a continuing project. The PTO still has quite some work to do to derive full advantage from the new case management system.
142. Other staff development initiatives in 2023/24 included a two day dispute resolution skills workshop presented by an external expert.

143. To achieve the aims of the PTO's Communication, Outreach & Engagement Plan 2022-2025 (see paragraph 24) and be effective in communicating and engaging with the evolving preferences of the community, the office will need to continue to invest in developing social media skills and tools. This ongoing development of skills and tools will also apply to the office's analytical and reporting skills.

Complaints about the PTO

144. The PTO has a Board Policy for Handling Complaints about the PTO. This commits to treating a complaint seriously and ensuring that a complaint is handled by someone other than the person implicated in the complaint. The Policy specifies:
- Complaints are categorised (how a case was handled, about a PTO decision to close a case, about a jurisdictional decision and about the operation of the scheme or the Ombudsman).
 - Complaints are taken seriously and will be reviewed openly, efficiently and fairly.
 - Complaints are acknowledged within one business day. The resolution timeframe depends upon the type of complaint. Complaints about case handling are usually resolved within 10 business days. Complaints about a decision to close a case are usually resolved within 28 calendar days.
 - A complaint register is maintained.
 - The Ombudsman must make available to the Chair any part of the Complaint Register involving a complaint handled personally by the Ombudsman or that is about the Ombudsman.
145. In 2023/24, there were 16 complaints by consumers about the PTO. We reviewed four of these. In each case, the complaint was made by telephone. Call notes indicated that the consumer was frustrated with the way the complaint was being handled. In none of these was the consumer provided with a formal acknowledgement or response to the complaint. However, in each case the complaint was escalated within the PTO and an appropriate and practical approach was taken to resolving the complaint. Typically a more senior PTO officer called the consumer and resolved matters in their telephone call.
146. We think that the PTO's policy should be amended to recognise that many complaints about the PTO are able to be resolved on the spot or within a couple of days of being raised with the PTO – and that formal acknowledgement of the complaint, investigation and written response are only required where this is not possible. Other Ombudsman schemes with which we have worked take this approach in their written policy.
147. If the PTO's policy is changed as we recommend, it should, of course, continue to require a register to be maintained of all complaints about the PTO (both those resolved quickly and informally and those resolved more formally). The Board should be provided with regular reports about complaints about the PTO, something we understand does not currently happen. These reports should categorise complaints as per the Board Policy and provide information about outcomes and timeframes.

Recommendation 13

- a) The Board Policy for Handling Complaints about the PTO should be amended to recognise that many complaints about the PTO are able to be resolved on the spot or within a couple of days of being raised with the PTO. It should only be where this is not possible that formal acknowledgement, investigation and written response be required.
- b) The Board should monitor complaints about the PTO by receiving 6 monthly reports specifying the number of these complaints, the issues raised, time to resolution, outcomes and any lessons learnt for the PTO.

Oversight of public transport operator's internal dispute resolution

- 148. As shown in Figure 1, the PTO refers 4 or 5 times as many complaints to PTO members as the number of complaints that the PTO conciliates or investigates. The purpose of the referral is to give the PTO member a chance to resolve the complaint themselves.
- 149. This is required under the Charter and is as it should be. However, for public transport complaints, which typically do not involve significant money, there is perhaps a particular risk that referred consumers who are not satisfied with their PTO member's response will, nevertheless, lose commitment to pursue their complaint and return to the PTO. If this occurs in large numbers, it would undermine the credibility and public confidence in the complaints handling system and the PTO.
- 150. We were keen during our review to test the consumer 'drop out rate' and obtain some visibility as to the experience of consumers who had been referred by the PTO to their PTO member. To this end, the PTO sought permission for us to contact a sample of consumers and we reviewed those consumers' case records and attempted to call them. Unfortunately we were not able to make contact with enough consumers to draw conclusions about their experience with their public transport operator's internal dispute resolution.
- 151. We suggest that the PTO itself periodically conduct a project of this type. This would position the PTO to understand how well the complaints scheme in its totality is working. It would also position the PTO to fulfil the expectation that derives from the *Key Practices for Industry-based Customer Dispute Resolution* that it provides advice to public transport operators about their internal dispute resolution mechanisms.

Recommendation 14

The PTO should periodically conduct a project to follow up consumers who the PTO has referred to their PTO member to understand their experience. The aim should be to gather data about the consumer 'drop out rate' and to understand the reasons for this. The project should inform advice that the PTO provides to the Department and public transport operators about the effectiveness of the operators' internal dispute resolution.

PTO member compliance

152. From our review of conciliated or investigated complaints, it seems that the PTO is effective at following up a public transport operator who has not responded to a PTO information request on time. This helps to create a culture of compliance with these requests.
153. As discussed in Chapter 6, the PTO does not utilise its power to make a binding decision which we think is a reasonable choice, given the public transport context. However, as we discuss in that chapter, other parts of the processes for longer-running matters need to be strengthened to ensure timely and fair outcomes

Periodic independent review

154. The PTO has commissioned regular independent reviews of its performance against the Benchmarks. This review is one such review. Reviews have considered PTO member and consumer satisfaction with the PTO. The review reports have been made public.

10. Governance and membership

Our review terms of reference ask us to include an assessment of whether the PTO's governance and membership categories remain fit for purpose given the impact of the increase in the membership of the PTO since its establishment.

Board structure

155. The Constitution provides for a Board of 7 to 11 Directors.
156. The Chair must be an independent person and is appointed by the Minister for Public Transport. The current Chair began in the role on 1 November 2015. Her current (and last) term ends on 31 October 2024. The position of Chair was publicly advertised in May (the current Chair and Ombudsman had input into the Position Description and advertisement). Applicants have been interviewed but as yet the new appointee has not been announced.
157. The Constitution requires equal numbers of Industry Directors and Consumer Directors. Clause 14.2 of the Constitution specifies that Industry Directors are chosen by Metropolitan Train Operators (Metro Trains Melbourne), Regional Train Operators (V/Line), Tram Operators (Yarra Trams), BusVic and PTV. Clause 14.5 specifies that Consumer Directors are chosen by the Minister).
158. Since its establishment, PTO practice has been to contain the size of the Board to the minimum possible under the Constitution ie the Chair, three Industry Directors and three Consumer Directors. For Industry Directors, the Constitution requires a rotation process governed by a Board Protocol. The current Board Protocol for the Rotation of Industry Directors (last reviewed and approved in June 2024) stipulates a 3 year term for Industry Directors.
159. When we consulted with the Board, the view was expressed that, given the small size of the PTO, the Board would ideally be smaller ie. comprised of 5 Directors rather than 7 Directors. Some concern was also expressed about the discontinuity inherent in the Industry Director rotation process which results each year in one Industry Director leaving the Board and one new Industry Director joining the Board.
160. We agree that governance theory would support a smaller sized Board. However, our inquiries suggest that the Board is not unduly hampered by its current size. In particular, Board attendance is very good at the 6 meetings held per year and the minutes suggest that meetings are conducted efficiently.
161. We are also aware that a smaller size could bring some disadvantages. If the number of Industry Directors is reduced to two (rather than the current three), this could restrict the expertise at the Board table about public transport issues (recognising the significant diversity amongst public transport operators) and diminish industry's engagement with and commitment to PTO. We think a smaller Board would be considered less knowledgeable by PTO operator members and may even prompt calls for some ancillary formal consultation forum sitting alongside the Board. For these reasons, we are not minded to recommend a smaller Board. This issue can, however, be further considered in the context of the current review of the Constitution.

162. We have also thought about the current Industry Director yearly rotation practice which results in each Industry Director only having one term on the Board. Whilst the rotation practice encourages refreshment of the Board and new perspectives, it is undoubtedly true that a new Industry Director will take some time to come up to speed and make a full contribution.
163. On balance, we think that the practice of one term of three years gives rise to more positives than negatives. First, we note that the Chair and Consumer Directors provide a good counterpoint given that they can and often are re-appointed for second or even third terms. Secondly, the one term practice enables more public transport operators to participate at a Board level over a 5 year period than would be the case if re-appointments were possible. Thirdly, we commend the induction practice whereby new appointee begin in January, but attend the Board's previous December meeting as an observer. Again, however, this can be further considered as part of the Constitution review.

Rotation of Industry Directors

164. The Board's Protocol for the Rotation of Industry Directors provides:
- The Board must always contain at least one Train operator.
 - Either the Department of Transport and Planning or Metro Trains are to be represented on the Board based on their current share of PTO cases.
 - Each year, one Industry Director changes. To facilitate the new appointment, the Chair writes to the PTO member whose turn it is to appoint an Industry Director providing an overview of the Industry Director role and the Director skillset/s which need to be filled.
 - Criteria are specified for an Industry Director including appropriate seniority, relevant skills, qualification and knowledge for the PTO Board, time and ability to commit to the role and a role with the PTO member that does not pose a conflict of interest ie. the nominated person should not have day to day responsibility for managing PTO cases.
165. Currently the Industry Directors are executives of Metro Trains, BusVic and Department of Transport and Planning. Next year, the Metro Trains representative will be replaced by a V/Line representative. In 2026, the BusVic representative will be replaced by a Yarra Trams representative.
166. As the following table suggests, there are a few public transport operators who arguably have a more significant stake in PTO than BusVic (the smallest Industry Director appointing PTO member), either on the basis of funding contribution (Kinetic and Ventura) or on the basis of number of conciliations/ investigations (LXRP). However, during our consultations, we heard no complaint about the present Constitutional framework from PTO members who are not part of the Industry Director rotation process.

Figure 17 PTO workload – cases received (source: PTO provided data for FY 2023/24 and PTO Annual Reports)

	FY 2023/24		FY 2022/23	
PTO member (bolding indicates those entitled under the Constitution to appoint Industry Directors)	Approaches	Conciliations/ Investigations	Approaches	Conciliations/ Investigations

BusVic	50	5	95	24
CDC Victoria	47	11	29	0
Christians Bus*	5			
Dysons*	37	9		
Kinetic	122	10	110	16
LXRP	74	33	75	37
Metro Trains	627	98	631	75
PTV (includes infringement matters)	958	152	1,140	179
Metro Tunnel Project (formerly known as Rail Projects Victoria and Melbourne Metro Rail Authority)	6	2	24	10
Skybus	38	4	47	9
Southern Cross Station	23	2	32	4
Suburban Rail Loop Authority	3		3	0
Transit Systems Vic	31	11	32	8
Ventura	91	21	72	7
VicTrack	11	1	23	1
V/Line	428	58	385	60
Yarra Trams	240	33	215	20

* These were BusVic members until August 2023 when they became PTO members in their own right. Accordingly, for 2022/3, their cases were subsumed in those of BusVic.

167. We recognise that the number of PTO cases is a relevant factor when selecting Industry Directors. But this should clearly not be the only factor. As the Constitution together with the Board Protocol recognises, it is also important to have a spread of types of PTO members, by public transport service (train, tram, bus and supporting infrastructure), sector (government and private sector) and size (large and small).
168. For the moment, we think that the current framework (Constitution and Board Protocol) achieves a result that works for the public transport sector and the PTO. However, public transport is a dynamic sector and it is possible that the current approach will not serve so well in the future. For this reason, we think the prescription in clause 14.2 of the Constitution is less than optimal. While the Constitution is being reviewed, we think the opportunity should be taken to amend clause 14.2 to take a more principles-based and less prescriptive approach. For example, it would be possible to specify principles to guide the Board in setting a Protocol as to appointment and rotation of Industry Directors. A Board Protocol can, of course, be more readily changed than can the Constitution and so better enables timely adaptation to sector and PTO member change.

Recommendation 15

As part of the PTO's review of the Constitution, the PTO should consult with stakeholders about the amendment of clause 14.2 of the Constitution to adopt a more principles-based approach, led by the Board, to govern the appointment and rotation of Industry Directors.

Consumer Directors

169. The current Consumer Directors were first appointed respectively in January 2016, January 2018 and September 2022. Recent practice has been to advertise a vacant position on the Government's website. There has been no delay of any note in recent times in filling a vacancy.
170. The current Consumer Directors collectively bring strong governance skills, public policy experience, other government ombudsman experience, financial skills, some community group experience and lived experience of disability. It is clear that the Consumer Directors are committed and making a valuable contribution.
171. Whilst it is for the Minister to choose Consumer Directors, we think that there would be value in at least one Consumer Director having a more explicitly consumer advocate background, even if in another industry sector. For example, a person who has previously been a consumer director on another industry ombudsman scheme. As well as bringing a valuable additional perspective to PTO, this would, we think, enhance consumer confidence in the PTO. We suggest that the Chair seek an opportunity to discuss this with the Department.

Recommendation 16

The PTO Board should provide feedback to the Department regarding the merits of appointing a Consumer Director who has a more explicitly consumer advocate background even if in another industry sector, for example, a person who has previously been a consumer director on another industry ombudsman scheme.

11. Privacy

Our review terms of reference ask us to include:

- An assessment of PTO's commitment to privacy
- An assessment of PTO's ability to handle privacy complaints
- Consideration of the remedies the PTO can provide for privacy-related complaints.

PTO's commitment to privacy

172. The PTO has a Privacy Policy (most recently reviewed by the Board in June 2024). This notes that the PTO has opted in to coverage under the Privacy Act 1988.
173. The PTO's Privacy Policy meets the requirements of Australian Privacy Principle 1. It sets out the kinds of personal information the PTO collects and holds, how and why the PTO collects, holds, uses and discloses personal information, how an individual may access and correct their personal information held by the PTO and how an individual may complain about a privacy breach. The Privacy Policy states that the PTO is not likely to disclose personal information to an overseas recipient.
174. The PTO's Privacy Policy is published on its website. The privacy webpage affirms that the PTO takes seriously its obligations to protect the privacy of personal information. Consistent with this, privacy is included in staff induction training.
175. The PTO's commitment to privacy best practice is also demonstrated by its secure case management system, including multi factor authentication to access the case management system remotely.

Ability to handle privacy complaints

176. The PTO receives a very small number of privacy complaints. In 2023/24, there were just 5 complaints resolved by referring them to the PTO member and 4 complaints conciliated by the PTO.
177. We recognise that, with such low volumes, it is difficult for PTO staff to build the expertise needed for privacy-related complaints. In these circumstances, privacy training is important and we understand that this is planned for later this financial year.
178. We reviewed a sample of 2 referred privacy-related complaints and all 4 conciliated privacy-related complaints. We found:
 - As for other complaints, the PTO did not conciliate or investigate privacy complaints unless the PTO member had first been provided with an opportunity to resolve the complaint.

- The PTO followed its standard non-fines complaint processes and provided both parties with an opportunity to put their views (see Chapter 6).
 - The PTO respected the confidentiality of information provided to it by the PTO member to resolve a privacy complaint.
179. We felt, however, that a couple of reviewed cases confirmed our observation in Chapter 6 that at times the PTO needs to be more rigorous in critiquing the public transport operator's explanations. In addition, the PTO needs to ensure that it provides its own analysis in its complaint response to the consumer and that it does not have the appearance of simply parroting the public transport operator. Our Recommendation 3 addresses this issue.
180. Two of the reviewed conciliated complaints and one of the referred complaints related to Authorised Officers asking a contravening passenger to open their mobile phone bank app and show this to the Authorised Officer as a way of verifying their identity where the passenger could not produce a drivers licence. Whilst Authorised Officers are fully entitled to obtain identity verification evidence from a passenger who they are issuing with a Record of Non Compliance, we understand consumer disquiet about the use of mobile phone banking app information for this purpose. It seems to us that this is an issue that the PTO could usefully pursue as a potentially systemic issue, perhaps in conjunction with the Office of the Victorian Information Commissioner.

Recommendation 17

The PTO should use its systemic issues jurisdiction to inquire into Authorised Officer practice of asking contravening passengers to use their mobile phone banking app as a way of verifying their identity where the passenger is unable to produce a drivers licence or other photo ID. The PTO could invite the Office of the Victorian Information Commissioner to work with it on this inquiry.

Remedies for privacy-related complaints

181. As for other complaints, the PTO approaches privacy complaints with the aim of trying to bring the parties together by achieving a mutually agreed settlement.
182. The PTO is able to facilitate a broad range of remedies for privacy-related complaints including an apology, detailed explanation, monetary remedy and public transport operator rectification action such as improved systems or procedures and staff training.
183. As discussed in Chapter 6, the PTO has the power to make binding decisions. But, in practice, this power is not utilised.
184. If a consumer who brings a privacy-related complaint is not satisfied with the way in which the PTO handles their complaint, the consumer is able to make a complaint (see Chapter 9 for discussion of this).

12. List of Recommendations

CRK Recommendations by Theme	
Theme 1. Issues relating to Constitution and Charter	
Recommendation 2	The PTO should use the planned review of the Constitution and Charter to explore the separation of the Charter from the Constitution.
Recommendation 11	The PTO's Charter should be amended to increase the PTO monetary limit.
Recommendation 15	As part of the PTO's review of the Constitution, the PTO should consult with stakeholders about the amendment of clause 14.2 of the Constitution to adopt a more principles-based approach, led by the Board, to govern the appointment and rotation of Industry Directors.
Recommendation 16	The PTO Board should provide feedback to the Department regarding the merits of appointing a Consumer Director who has a more explicitly consumer advocate background even if in another industry sector, for example, a person who has previously been a consumer director on another industry ombudsman scheme.
Theme 2. Linking internal and external complaint resolution	
Recommendation 1	The PTO should commit the resources to undertake annual reviews of public transport operator compliance with the PTO's Member Awareness Policy
Recommendation 14	The PTO should periodically conduct a project to follow up consumers who the PTO has referred to their PTO member to understand their experience. The aim should be to gather data about the consumer 'drop out rate' and to understand the reasons for this. The project should inform advice that the PTO provides to the Department and public transport operators about the effectiveness of the operators' internal dispute resolution.

Theme 3. Building a sustainable and effective platform for complaints handling

Recommendation 3	<p>The PTO should review its complaint closure templates, and its training for staff about these, to improve written communications and ensure that correspondence is appropriate for the circumstances. Review of this correspondence should be undertaken as part of the PTO's Quality Assurance of closed complaint reviews.</p> <p>In particular, the PTO should ensure that its closure letters to consumers accurately explain the basis upon which the complaint is being closed. Where the only outcome provided to the consumer is a public transport operator explanation that the PTO accepts but the consumer rejects, the complaint resolution should not be described in the closure letter as 'Terms of Agreement'. Rather the PTO should be telling the consumer that the PTO considers that investigation is not warranted. The PTO's case management system should categorise the complaint accordingly for the purposes of annual reporting.</p>
Recommendation 5	<p>The PTO should enter into discussions with the Department of Transport and Planning to ensure that the approach taken by insurers in the sector is not in conflict with the Victorian public transport system commitments to and culture of customer service nor the PTO's ability to resolve disputes fairly and reasonably in all the circumstances.</p>
Recommendation 6	<p>The PTO should prioritise implementation of its Quality Assurance Framework and, in particular, hindsight reviews of closed complaints to test:</p> <ul style="list-style-type: none"> a) the quality of PTO correspondence b) whether the PTO is sufficiently and efficiently steering complaints, and c) whether it is achieving substantively fair outcomes – this should be undertaken with a view to some re-setting of PTO expectations of public transport operators' substantive response to valid consumer complaints.
Recommendation 7	<p>The PTO should review and update its internal guidance for complaint handling staff. This project should be seen as an opportunity to embed into PTO procedures some re-setting of PTO expectations of public transport operators' substantive response to valid consumer complaints.</p>
Recommendation 8	<p>The PTO should undertake a comprehensive analysis each year of Customer Satisfaction Survey results and use this to inform its business planning. The Board should oversight this work.</p>

Theme 4. Timeframes – investigations, tail of conciliations

Recommendation 4	<p>The PTO should enhance its tools and approaches to bring finality to difficult-to-resolve complaints. Possibilities might include evolving the PTO's Case Assessment practices, more frequently meeting with public transport</p>
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	operators to discuss complaints and three way phone meetings (operator, consumer and the PTO).
Recommendation 10	The PTO's Board should receive regular updates from the Ombudsman about work to improve the PTO's complaint timeframes and the results that are being achieved, including timeframes to close prolonged conciliations and investigations.
Theme 5. Systemic issues	
Recommendation 12	<p>The PTO should:</p> <ul style="list-style-type: none"> a) Review and, in consultation with stakeholders, settle its systemic issue framework and procedures b) Implement the PTO's systemic issues framework and procedures under the leadership of the Ombudsman or Deputy Ombudsman c) Provide detailed reporting at least twice yearly about the PTO's systemic issues activity to the PTO's Board. d) Include in PTO Annual Reports statistical reporting about the PTO's systemic issues activity (number of matters and types of outcomes) and case study examples.
Recommendation 17	The PTO should use its systemic issues jurisdiction to inquire into Authorised Officer practice of asking contravening passengers to use their mobile phone banking app as a way of verifying their identity where the passenger is unable to produce a drivers licence or other photo ID. The PTO could invite the Office of the Victorian Information Commissioner to work with it on this inquiry.
Theme 6. Complaints about the PTO	
Recommendation 13	<ul style="list-style-type: none"> a) The Board Policy for Handling Complaints about the PTO should be amended to recognise that many complaints about the PTO are able to be resolved on the spot or within a couple of days of being raised with the PTO. It should only be where this is not possible that formal acknowledgement, investigation and written response be required. b) The Board should monitor complaints about the PTO by receiving 6 monthly reports specifying the number of these complaints, the issues raised, time to resolution, outcomes and any lessons learnt for the PTO.
Theme 7. Reporting	
Recommendation 9	<p>The PTO should enhance its Annual Report by publishing more detailed statistical information about:</p> <ul style="list-style-type: none"> a) The method of resolution of complaints b) The outcomes from conciliated and investigated complaints c) PTO complaint handling timeframes d) Systemic issues.