



Office of the Ombudsman response to the Small Passenger Services Sector Review

10 February 2016

Overview

Thank you for the opportunity to provide a response to the Small Passenger Services Sector Review being conducted by the Ministry of Transport. The Office of the Ombudsman plays a significant role in New Zealand's disability sector, handling disability-related complaints and enquiries about the administrative acts and decisions of central and local government agencies, and through our monitoring role as part of the Independent Monitoring Mechanism (IMM) under the United Nations Convention on the Rights of Persons with Disabilities.

We have limited our feedback to issues affecting disabled people's use of small passenger services.

The Ministry of Transport has outlined five broad approaches for future rules to govern the operation of the small passenger services sector. Options One and Two rely on a detailed series of rules for small passenger services, and are reasonably similar to the status quo. Options Three and Four both advocate reduced levels of regulation in order to increase competition and uptake new technology. Option Five would extend the higher level of rules that currently apply to taxis to all types of small passenger services. At this stage, the Ministry of Transport has indicated that Option Four is its preference.

Background

The Total Mobility Scheme provides subsidised taxi services to people who have an impairment that prevents them from undertaking any one or more of the following five components of a journey unaccompanied, on a bus, train or ferry in a safe and dignified manner:

- getting to the place from where the transport departs
- getting onto the transport
- riding securely
- getting off the transport
- getting to the destination

The scheme provides:

- vouchers or electronic cards to eligible scheme members that discount the normal taxi (or specialist transport provider) fare by 50 percent up to a maximum fare (set by the relevant regional council, or Auckland Transport)
- funding to scheme providers to help purchase and install wheelchair
- payment to the owners of hoist vehicles for each Total Mobility Scheme member who requires the use of a wheelchair hoist on a trip

The existence of the Total Mobility Scheme recognises that many disabled people are wholly or heavily reliant on small passenger services sector providers to travel, so any changes to the regulation of such services will significantly impact disabled people.

The Review

The review aims to ensure that small passenger services are fit for purpose and flexible enough to accommodate new technologies. However, we believe that the review has not given enough attention to issues of safety and disability (issues that are central to fitness and purpose), and has focussed too heavily on accommodating and potentially aligning current taxi services with recently arrived and largely unregulated services, such as Uber.

While it is sensible and appropriate to support the development of new technologies and services, this should not involve the removal of protections that are currently in place. Ensuring safety and accessibility for persons with disabilities should be paramount. The existing protections should not be removed until it is clear that the new technologies and services can operate safely and accessibly.

Until it can be demonstrated that the new technologies and services can provide adequate levels of safety and accessibility, we believe that only Options One, Two and Five protect the rights of disabled passengers, with Option Five providing the greatest level of protection for disabled people. Options Three and Four would have a disproportionate adverse impact on disabled people, particularly people who are blind or vision impaired, as they dispense with the requirements to display Braille signage in vehicles; drivers to have local area knowledge; and drivers to have a specified level of English language proficiency.

Options One and Two

Options One and Two make distinctions between various categories of small passenger services sector providers, eg, shuttles, taxis and car pooling. Under these options taxis would be subject to a very similar regulatory framework as they are currently and other services would have 'lighter' regulation. While welcoming the maintenance of the current regulatory framework for taxis under Options One and Two, we are concerned that some disabled passengers may be confused by variance in regulations across the sector. They may not fully understand the different regulations applying to different types of service provider.

Options Three and Four

Removing the requirement for vehicles to display Braille signage would leave persons with visual impairments with no way of independently identifying the fleet number of the taxi they are travelling in. This is unacceptable in terms of their personal safety and would mean they are reliant solely on the honesty of the operator/driver. In the event of a dispute, or inappropriate behaviour on the part of the driver/operator, this is likely to leave a person with visual impairments in a very vulnerable position. This is particularly relevant given the New Zealand Transport Agency recently advised it received 119 total complaints against taxi drivers and companies in the year to 30 June 2015, some involving serious misconduct.

Options Three and Four are also not consistent with the aspirations of Article 9 (Accessibility) of the UN Convention, which has been ratified by the New Zealand Government. For instance, Article 9.1(a) notes the importance of accessibility in buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces. Moreover, Article 9.2(d) explicitly notes the need for provision of Braille in public services.

Removing the regulation for taxi drivers in urban areas to demonstrate local area knowledge would significantly disadvantage disabled people unable to provide the driver with directions. This, coupled with the fact that GPS systems would not be mandatory under Options Three and Four, could mean that many disabled people would not be confident in completing their journeys. Even under the current taxi regulatory regime we are aware of blind people who have had taxi drivers who did not know how to get to key central city locations. Under the current regulatory framework blind passengers could make a complaint regarding this lack of area knowledge. However, this may not be the case if Options Three or Four are implemented.

The removal of the regulation that requires taxi drivers to have a specified level of English Language proficiency may make it difficult for some disabled passengers to ensure that they are understood and that the driver knows the exact location they wish to get to. This may be particularly important if a passenger needs to communicate to the service provider the need for an additional level of assistance, such as being guided to an entrance foyer or a specific building within a campus.

The review paper spends a considerable amount of time focussing on mitigating safety risks for passengers and drivers, yet the currently preferred option would leave some persons with disabilities with more vulnerable than under the status quo. The review paper notes that people with visual impairments would be able to use alternative methods to obtain information about their trip/travel (such as Smartphone applications. We are concerned that, without regulation, many new small passenger services will not place their fleet number in Braille in their taxis, or explore assistive technology. Further, technological devices are likely to rely on the fact a passenger has access to (and can afford) a Smartphone. Such changes (and reduced regulation) would be detrimental to potentially vulnerable passengers. As a practical example, we note that Options Three and Four would no longer require the driver to have a certificate of knowledge of their geographical area and without a GPS (which is also not regulated) they may not be able to provide transport services to a person with a visual impairment.

Option Five

This is the option we believe best protects the rights of disabled passengers. It retains the current regulatory framework for taxis and extends it across the entire small passenger services sector. This means that no matter what kind of small passenger service a disabled person uses the vehicle will have to display Braille signage (to include the name of the vehicle company name and telephone number and the fleet vehicle number); and the driver will have to have a specified level of English proficiency and demonstrable local urban area knowledge. While this level of regulation does not always meet the needs of all disabled passengers, it does allow them to expect a certain level of service and provides the grounds for a complaint if a small passenger services sector provider fails to comply with these and other regulations. This option also appears to provide the best safety for disabled people, who can find themselves in vulnerable situations when using taxi services. As noted earlier, disabled people are heavily or solely reliant on such services and protection of their rights as passengers should be paramount.

Conclusion

The Office of the Ombudsman is concerned that the review has not given enough attention to issues of safety and disability (issues that are central to fitness and purpose), and focussed too heavily on accommodating and potentially aligning current taxi services with recently arrived and largely unregulated services, such as Uber. We are not aware whether disabled people had any significant involvement in the initial stages of the review, and recommend that they be involved in future discussions and decisions, in line with Articles 4 and 29 of the UN Convention.

At present, only Options One, Two and Five protect the rights of disabled passengers, with option Five affording the greatest protection. Until emerging technology and services have been fully tested in terms of promoting safety and accessibility, we do not believe that Options Three and Four (noting again that Option Four is the current preference) allow disabled people to travel with confidence and feel safe. Options Three and Four also overlook the Government's responsibilities under the Convention and, if implemented, be a step backwards in protecting the rights of disabled people.