

21 June 2019

Your Ref: COR 20174263

Our Ref: DOC/19/269071

Coroner Simon McGregor
Coroners Court of Victoria
65 Kavanagh Street
MELBOURNE VIC 3006



Dear Coroner McGregor

INVESTIGATION INTO THE DEATH OF MR JOHN WILKS

I refer to your finding, without an inquest, in relation to the tragic death of Mr John Wilks.

Following the release of your finding and associated recommendations, Transport Safety Victoria (TSV) was invited to participate in a Governance Committee to oversee the review, response and implementation of all recommendations included in your finding. The other members of the Governance Committee are Public Transport Victoria (PTV), Bus Association Victoria (BAV), Department of Transport (DoT) and the Office for Disability (OfD).

In addition to these participants, members of the Governance Committee have also engaged key stakeholders from the Victorian Equal Opportunity and Human Rights Commission, the Victorian Disability Advisory Council and the Public Transport Access Committee to keep each organisation informed of the Governance Committee's process and approach to addressing the recommendations.

I understand that a joint response to your recommendations, as agreed by the Governance Committee, has been provided to you by PTV.

TSV's individual responses to your recommendations are detailed below.

Recommendation 1

Public Transport Victoria, Bus Association Victoria and the Office for Disability form a working group to consider and recommend how the Bus Safety Act 2009 can be amended to require the mandatory installation of appropriate wheelchair restraints on Victorian public buses to prevent falls among wheelchair users, and to specify what form these restraints should take.

As mentioned above, a Governance Committee has been formed and is considering potential amendments to the *Bus Safety Act 2009 (Vic)* (BSA) in accordance with recommendation 1.

An analysis of the BSA and *Bus Safety Regulations 2010 (Vic)* (BSR) by the Governance Committee has found that neither the BSA or BSR is likely to be a suitable means for implementing these mandatory safety recommendations.

The BSA and BSR were developed with the intention of establishing a best practice regulatory framework for the management of safety aspects of bus operations in Victoria. The regulatory framework seeks to avoid imposing prescriptive requirements for the management of safety risks of bus operations, and instead provides a framework within which risks to bus safety can

be managed and reduced so far as is reasonably practicable. It imposes safety duty responsibilities on all participants who are in a position to influence the safety of the bus operation, with the degree of responsibility dependent on the extent to which a person can control, eliminate or mitigate that risk.

The BSA and BSR require that operators have appropriate systems in place to manage the safety risks of their operation. It does not mandate what solutions to specific issues should look like, but rather holds the accredited or registered operator responsible for development of the solution, within the framework of the systems required (which include, among other things, a Management Maintenance System and a Management Information System for accredited operators, and appropriate systems to manage the safety of drivers (including in relation to fatigue, drug and alcohol policy etc). Schedule 1 of the BSR provides some specific requirements for particular aspects of bus design and operation, but these are limited.

For the above reasons, if a decision was made to mandate a specific solution to address the safety of users of mobility devices on buses, such specificity would not be well aligned to the policy basis of the BSA and BSR.

The Governance Committee is currently investigating alternate means of addressing this recommendation by engaging Central Queensland University (CQU) to undertake research regarding national and international practices regarding wheelchair tiedown and occupant restraint systems (WTORS) for mobility devices on public route buses.

PTV has committed funding for CQU to undertake and provide findings from the research which will also include recommendations to address the safety of mobility device users on buses. This is expected to be completed in September 2019. Further work will be determined by the outcome of this study, and I understand this will be further explained in the response to you by PTV.

In addition, the Governance Committee is in the process of seeking feedback and evidence from current public bus service operators, including Ventura, on any restraint systems trialled or implemented on buses. This work will help inform potential options to ensure safe travel on public buses for passengers using mobility devices. TSV will continue to participate in this work.

Recommendation 2

The Minister for Public Transport engage with route bus operators to encourage adopting Ventura Bus Lines' policy of mandating the 'ironing board device' and tether belt in their specifications for all new public buses.

As noted above in relation to recommendation 1, the Governance Committee is undertaking a systematic review of options available including identifying good practice for the safe travel of passengers on public buses in mobility devices. This will also include determining the most appropriate mechanism for any proposed solution.

Recommendation 3

The Minister for Public Transport engage with route bus operators to review procedures for reporting injuries which occur on public buses.

TSV is working with the Governance Committee and, in particular with PTV and BAV, to develop and implement a consolidated approach to engage with bus operators in relation to reviewing and improving procedures for reporting injuries which occur on public buses.

As an immediate action, TSV will remind operators of their legislated incident reporting obligations by the end of June by way of a regular email newsletter to operators. This will be followed by more detailed engagement with operators on improved procedures and practices for incident reporting, to ensure that incidents are accurately identified and reported, specifically addressing the factors that can lead to under-reporting. This will be followed up by bus safety auditors when they meet with operators to undertake compliance audits. In addition, I understand that PTV will be formally writing to contract bus operators to reinforce contractual obligations to comply with their legislated incident reporting obligations.

In addition to the actions noted above, PTV, BAV, TSV, DoT and Victoria Police have a meeting scheduled in July 2019 to discuss the strategic and operational requirements regarding incident reporting. This will inform further improvements by clarifying to the bus industry which incidents are reported, the manner of collection and the level of information provided as part of the incident reporting process.

Recommendation 4

No later than 18 months from the date of this decision, that Public Transport Victoria, Transport Safety Victoria and the Minister for Public Transport request the Victorian Equal Opportunity and Human Rights Commission to conduct a review under section 41(c) of the Charter of any improvements to programmes and practices made in response to recommendations 1 to 3 in this decision.

Following the completion of actions in relation to recommendations 1, 2 and 3, PTV, Transport Safety Victoria and the Minister for Public Transport will consider requesting the Victorian Equal Opportunity and Human Rights Commission to conduct the review.

Recommendation 5

Once the review in Recommendation 4 is completed, each Public Authority should develop a plan to apply the Review's findings and recommendations to all bus transport systems within their remit within an additional three months.

TSV will carefully consider the outcomes of the review and will support the implementation of recommendations where appropriate.

Thank you for providing TSV with the opportunity to respond to your recommendations.

Yours sincerely



LISA FALDON
Acting Director, Bus Safety
Transport Safety Victoria