



SASKATCHEWAN
HUMAN RIGHTS
COMMISSION

Achieving Equivalent, Comparable, and Accessible Public
Transportation in the City of Regina:
A Report to Stakeholders

June 3, 2013

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I. BACKGROUND

In the fall of 2012, the Saskatchewan Human Rights Commission (SHRC) received intake inquiries articulating perceived systemic discrimination relating to transportation services provided to persons with disabilities in the City of Regina. In order to determine the scope of these concerns, the Commission consulted with individuals and stakeholder groups in the community. These consultations included:

- Several “coffee house” consultations were held for people with disabilities who use public/pay transportation services. Concerns with public transit (e.g., bus), accessible-for-hire transportation (e.g., taxi), and shared-ride/door-to-door bus transportation (e.g., Paratransit) were captured in writing.
- The Chief Commissioner met with the Mayor of Regina in late November 2012 to discuss the need for improvement to transportation for people with disabilities. Mayor Fougere expressed a willingness to explore these transportation issues.
- On December 3, 2012, SHRC staff attended the International Day of Persons with Disabilities event in Regina. The SHRC affirmed its willingness to assist all involved parties as per its mandate.

II. SYSTEMIC ADVOCACY

Human rights commissions across Canada regularly address inequity through systemic advocacy. With recent changes to Saskatchewan provincial legislation, the SHRC now also pursues complaint resolution that facilitates broad-based changes to discriminatory systems which affect many people without the need of case-by-case litigation. Defined as “taking action to create change in the greater community that addresses systemic discrimination,” systemic advocacy enables outcomes that are not always possible using traditional complaint and prosecution mechanisms. The mandate for this initiative is section 25(h) of the *Saskatchewan Human Rights Code (Code)*. Section 25(h), states, “The commission shall promote and pursue measures to prevent and address systemic patterns of discrimination.” This report was prepared as a stakeholder engagement tool to help address the concerns people with disabilities have with the public transportation system in the City of Regina.

III. ACCESSIBILITY AND TRANSPORTATION

Within our communities, individuals of all ages rely on transportation to attain education, find and maintain employment, volunteer, use basic public services, visit medical professionals, buy groceries and goods, and participate in community activities.

Transportation connects individuals to all other aspects of community life. Citizens who rely exclusively on publicly available transit services are particularly vulnerable to service disruption and access limitations. Restrictions and inequity further compound the vulnerability of people with disabilities who, unintentionally or not, may find themselves excluded from social participation and isolated within their own community. As Chief Commissioner Arnot recently stated:

“[T]ransportation inaccessibility, capacity and timeliness issues create real and significant barriers for people with disabilities. To go to work, to be social and to engage in all of the opportunities in our community requires ready access to public transportation.”

Equal access for persons with disabilities to public services is a human right protected under the *Code* (see Appendix A). The *Code* and Canadian case law support the right for people with disabilities to have similar or comparable public transit opportunities. Services do not have to be provided in the same manner as regular transit, but the services must be equivalent. Failure to provide an equivalent or comparable transportation system for people with disabilities would constitute discrimination, based on disability with respect to services customarily offered to the public, contrary to Section 12 of the *Code*. Under the *Code*, transit service providers have a duty to accommodate to the point of undue hardship. There are a number of factors that are taken into account when assessing undue hardship. These factors include, but are not restricted to: health, safety, and cost (see Appendix B). The SHRC weighs the accommodation of protected groups against the possibility of undue hardship.

IV. ACCESSIBLE “PARATRANSIT” IN CONTEXT

In 2006, the Ontario Human Rights Commission made an order that Paratransit services are not a “special program.” These services form part of the legal duty of transit providers, under the Ontario Human Rights Code (OHRC), to accommodate riders with disabilities who cannot access conventional public transit and/or when publicly available transit is not fully accessible. The Ontario Commission rejected the position that Paratransit is a voluntary “special program” and not a required form of accommodation for riders with disabilities. Following consultations with transit providers and other stakeholder groups, the commission found that, “a service provider cannot abandon its duty to accommodate customers with disabilities through the guise of a special program.”

From an international perspective, Article 9 of the United Nations Convention on the Rights of Persons with Disabilities, adopted by Canada in March 2010, requires countries to identify and eliminate obstacles and barriers for persons with disabilities. The Convention approaches the issue of access for persons with disabilities from a rights-based approach. As such, ensuring access within the environment, transportation, public facilities and e-services, and information and communications technologies are priorities. Article 9 asserts that enabling persons with disabilities to live independently and participate fully in all aspects of life will not be possible in communities where accessibility is not fully ensured.

This need was articulated during the stakeholder (passenger) consultation process in Regina by an individual who stated:

“Every day I cannot get out. Every day I cannot go to community meetings that I wish to attend. Every day I may not be able to get groceries or go to medical appointments. Every day I cannot get services available to everyone else in this City. Every day my quality of life is diminished because the basics of mobility are refused to me and others in this city.”

V. ACCESSIBLE TRANSPORTATION IN THE CITY OF REGINA

Transportation enables community participation, a sense of belonging, and access to all the benefits of citizenship. These outcomes are also consistent with *The Saskatchewan Plan for Growth* which has, as one objective, "making Saskatchewan the best place in Canada for persons with disabilities" (page 30). The SHRC understands that the City of Regina aspires to these values. Brad Bells, Director of Transit for the City of Regina, wrote, "[t]he City of Regina's vision is to become the most vibrant, inclusive, attractive, sustainable community, where people live in harmony and thrive in opportunity." He announced that as of March 6, 2013 all current transit bus operators received specific accessibility training. At the 2012 International Day of Persons with Disabilities event in Regina, held on December 3 at the Core Ritchie Centre, City officials expressed an interest in improving access to transit. Those officials observed that the increased use of "kneeling" buses might improve access to transportation for people with disabilities.

The SHRC is also aware of, and commends the City for, its strong commitment to public transportation. A similar commitment to making transit more relevant, convenient and accessible to persons with disabilities would highlight the important contributions that people with disabilities make. It is also clear that an effective transit plan must address the needs of all citizens. Inclusivity, utilizing universal design principles, and focusing on accessibility for all, enables all residents to benefit equally from their citizenship. Equivalent, comparable, and accessible public transportation is, clearly, a necessity.

VI. MOVING FORWARD

The SHRC is committed to working with stakeholders to resolve systemic barriers associated with accessible transportation. Ensuring equivalent and comparable public transportation is a complex and necessary activity that should involve many players: transit providers, municipal representatives, senior levels of government, non-governmental organizations, individuals with disabilities, and the SHRC. In order to eliminate inequality these stakeholders must work together to develop and maintain plans to achieve full integration and accessibility. The SHRC strongly supports the implementation of a systemic advocacy process that includes the establishment of a stakeholder committee charged with preparing action plans that meet the needs of users and the requirements of the Code. The SHRC is willing to assist with, and will monitor the implementation of, an equivalent and comparable transportation system for people with disabilities in Regina.

Based on the user consultations (see Appendix C), three areas of transportation were identified during the October consultation process with stakeholders (users). These were:

- private for hire transportation services (cabs and shuttles),
- public transit (low floor/kneeling buses), and
- door-to-door shared accessible transit (Paratransit).

It is important to note that, from a systemic perspective, the above three areas might not encompass all the transportation related issues that could, or should, be addressed. More to the point, the stakeholder committee might identify emergent issues that are deemed to be of greater priority and/or more action worthy.

VII. ISSUES TO BE ADDRESSED

Notwithstanding the possible future efforts of a stakeholder committee, it is likely that the following issues, aggregated from the consultations, will need to be addressed in a timely manner:

1. Review the transit/paratransit transportation system to improve equity, efficiency and effectiveness in order to achieve an equivalent and comparable public transit service for people with disabilities.
2. Ensure that equivalent and comparable complementary transit services (e.g., taxi) are available to people with disabilities. As a part of this strategy, fare equity should be assured for these patrons. As well, private licensed operators should be fully cognizant of their responsibilities under the *Code*.
3. Develop, implement, and revise strategies to ensure that transit hot spots frequented by people with disabilities are identified and placed on high priority for barrier free access throughout the year. This will ensure that public transit remains a viable option for citizens with disabilities.
4. Ensure ongoing safety and sensitivity training for all transit staff, including operators and administrators, with regard to the accommodations people with disabilities may require while using public transit.
5. The long term goal of the City should be to take steps to maximize integration and accessibility of the transportation system to comply with *The Saskatchewan Human Rights Code*.

APPENDIX A – The Saskatchewan Human Rights Code (Section 12)

The Saskatchewan *Human Rights Code* (page 8) states that:

12(1) No person, directly or indirectly, alone or with another, or by the interposition of another shall, on the basis of a prohibited ground:

- (a) deny to any person or class of persons the accommodation, services or facilities to which the public is customarily admitted or that are offered to the public; or
- (b) discriminate against any person or class of persons with respect to the accommodation, services or facilities to which the public is customarily admitted or that are offered to the public.

APPENDIX B - ACCESSIBLE TRANSIT IN SASKATCHEWAN

The Transit Assistance Program for People with Disabilities (TAPD) is a provincial program that provides financial support to municipalities that offer accessible transportation (Paratransit). In the 2013-14 provincial budget the program received a 10.1% increase to a total of \$325,000 that will accelerate renewal of the Paratransit fleet and allow for expansion to additional eligible municipalities. In the 2012-13 fiscal year, 74 communities were served by the program. Under the framework and regulations of the program, participating municipalities are responsible for determining their own operating arrangements for their Paratransit services within their community.

TAPD is a performance-based program. The funding formula allots participating municipalities with an annual operating grant calculated using the number of public service trips provided by each municipality in the previous calendar year and a per trip amount based on standardized population categories. A “public service trip” is one trip using the eligible municipal public service, but does not include a charter service, or a service provided to passengers who are not required to pay a fare. Within the framework of the TAPD there is also a capital funding portion for a replacement vehicle to a maximum of \$55,000 per municipality per year.

In 2012, 74 communities received funding from the province for Paratransit transportation services. Regina has 2550 registered users. Within the City of Regina approximately 176,236 trips were conducted, including 7500 contract or charter trips. It should be noted that Regina had 16,123 documented denials of trips in 2011. This constitutes a denial rate of approximately 9.5%. The Canadian Urban Transit Association indicates that an acceptable denial rate is 1-2%. The United States has a legislated zero tolerance policy for denials.

APPENDIX C - FEEDBACK FROM TRANSIT USERS WITH DISABILITIES

The following accounts are taken from the public consultation initiatives on accessible public/pay transportation in Regina.

1. Private for-hire transportation services (cabs and shuttles)

Participants highlighted three areas in relation to private, for hire, transportation service: They are: restricted hours of service; fare inequity; and the lack of knowledge and understanding exhibited by drivers as it relates to service animals and their purpose. Failure to implement a service with equal hours and fare equity is a violation of *The Saskatchewan Human Rights Code*. A sample of the submissions include:

- A senior citizen discharged from hospital after 6 p.m. on a Friday was unable to obtain a wheelchair accessible cab to her home. She was also unable to pre-book a cab as she did not know the exact time she would be discharged. A number of cab companies cease accessible taxi service after 6 p.m. and, as a result, she was unable to find an accessible ride home.
- An individual had to negotiate an early morning “special pickup” for a wheelchair accessible taxi to be used by a visitor to Regina. As this request was outside of regular hours, and individually arranged, there was no guarantee offered by the cab company that the booking would be honored.
- A person who uses a service dog reported that, on a number of occasions, taxi drivers initially refuse to accommodate the dog. Even when the user informed the driver of the legal requirement to accommodate, the drivers would refuse entry for the dog until he/she received clarification from the dispatcher. The user reported that, “this frequently makes me late for appointments and meetings.”

2. Public transit fixed route (low floor buses)

Low floor bus users highlighted four areas of concern: a lack of understanding of safety procedures when transporting wheelchair users; the inaccessibility of transit stops; individuals being refused service due to their need for accommodation; and the lack of alternative signage formats to convey transit information.

- An individual reported the bus operator refused to use the straps for any type of securement despite a request by the wheelchair user. The operator reportedly said, “I would rather not do that, but will drive slowly.”
- One individual reported that, as a result of not being secured, he was injured and required medical attention. The wheelchair was also damaged. After he arrived at his original destination, he was strapped down and taken to hospital by transit.
- A number of individuals reported that transit stops, particularly in the winter months, become inaccessible because of weather conditions. As a result, bus service is inaccessible to them. At times, individuals were able to enter a bus at one location but were unable to exit safely at their destination. This issue of entry/exit safety is also influenced by the placement of curb cuts.
- “I was denied access to a bus at a mall because I was not provided a clear path to the transit stop, and so could not use transit. I had to wait 3 hours for a Paratransit pickup.”
- An individual reported being denied access to a bus when he was waiting at a stop, “the operator closed the doors and drove away... this resulted in me having to drive home in my wheelchair in winter conditions.” The extreme low temperature at the time resulted in cold induced damage to his feet.
- One individual reported that, from January to March 2012, transit operators refused to “kneel” the bus and lower the lift to allow her to board on 4 occasions. To that person’s knowledge, the operator did not notify anyone that a wheelchair user was unable to board the bus and was waiting in the snow.

3. Signage / Stop Information

A number of comments noted a lack of alternative format signage/stop information that provides information about the environment and the transit system. This information is necessary during all stages of transit use: prior to entering a stop, during transit, and exiting the bus. A sample of the submission:

- A visually impaired individual noted that he does not use city bus services if a transfer between buses is required as he is unable to interpret the signage at the downtown bus stops.
- An individual commented that there is inconsistency of scheduling of low floor buses. In some cases the routes and schedule change daily so if you live in certain areas of the city this affects independence and access greatly.
- An individual commented that he was meeting a visually impaired client and, because of the inclement weather, the transit operator selected a different stop to drop off the passenger. The individual became disorientated and was unable to attend the meeting.
- Some buses are not able to take larger mobility scooters and power chairs. Currently, there is no way for individuals using these mobility aids to know which bus type will be on any given route, at any given time.

4. Door-to-door accessible service (Paratransit)

Paratransit services are designed to serve those citizens whose transportation needs cannot be served by regular transit. Paratransit is designed for, and should serve, any individual with a disability who:

- cannot navigate the fixed route transit system,
- cannot board, ride or disembark a transit bus independently, and
- is unable to travel to a transit stop due to disability or because of environmental barriers.

Concerns include booking requirements, prioritizing of trips, the complaints system, inconsistent service, denial rate, the time windows during service, and inconsistencies of pick up and drop off points. A sample of the user submissions:

- An individual noted that the booking windows are far too restrictive. The inability to book no further than 7 days in advance means that long term planning is difficult.
- Because of the method used for reporting concerns and complaints, there is significant fear of backlash for reporting inconsistencies or concerns with the service, as Paratransit serves a vulnerable and marginalized portion of the community. There were also concerns raised about the lack of surveillance equipment on Paratransit buses.
- One user commented she had missed social and community activities with her friends because trips were denied. Further, the wait time in the booking process can be over 90 minutes and even then the trip may be denied. The time between pickup and drop off in the evening has been as long as two and a half hours.
- One individual indicated that her time on the bus from pickup to drop off was over 2 hours and, as a result, she missed taking her medication and ended up in hospital.
- One user said that she needed to get to a daily life skills training program but, despite phoning every day Monday to Friday within the booking window, she was refused trips on three of the five days so she was unable to attend. The cost of a cab was deemed to be prohibitive.

- One user indicated that she regularly tried to attend church on Wednesday evenings. On several occasions this trip would be denied but, when she was able to schedule a bus, she was often required to wait for hours after the service for the return trip.
- An individual commented that she has had to change her work schedule to accommodate the pickup times specified by Paratransit. However, she still regularly misses appointments and meetings connected with work. Social activities are also affected as she regularly has to leave events early to accommodate Paratransit pickup times.
- One client commented that it is impossible to get a trip at the supper hour (around 5 p.m.) any day of the week. Dispatch appears to deny the trip without even checking availability.

APPENDIX D – RESOURCES AND REFERENCES

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- Notes taken from a meeting of Saskatchewan cities that provide transportation services for persons with disabilities, June 19, 2012.

