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**DRAFT GUIDELINES FOR THE COLLECTION, USE  
AND STORAGE OF PERSONAL INFORMATION  
OBTAINED THROUGH THE PUBLIC TRANSPORT  
COMPLIANCE PROCESS**

**OCTOBER 2002**

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## **INTRODUCTION**

These Guidelines seek to create a uniform set of standards for the public transport compliance process in respect of the collection, use, disclosure and storage of personal information.

They draw on the requirements of the Information Privacy Act 2000 ("the Information Privacy Act") and, in particular, the Information Privacy Principles ("the IPPs") contained in Schedule 1 of that Act. A copy of the IPPs is contained in Schedule 1 to these Guidelines.

Each party to these guidelines agrees to ensure that measures are implemented which reflect the provisions and spirit of these guidelines.

## **DEFINITIONS**

A term in these Guidelines has the same meaning as in the Transport Act 1983 ("the Transport Act") or the Information Privacy Act, according to whichever Act applies in the context in which the term is used. In addition, the following terms shall be read according to the definitions provided hereunder for the purpose of these Guidelines.

Faulty Ticket means a ticket that is unable to be validated.

Faulty Ticket Machine means a ticket machine validator, either at a station or on board a tram that is unable to issue a ticket or validate a ticket for travel.

Report of Offence means a form that is the same as, or substantially similar to, the form contained in schedule 2.

Privacy Information Slip means a slip that is handed to a person upon collection of their name and address and information verifying their name and address. An example of a privacy information slip is contained in Schedule 4 to these Guidelines.

Public Transport Inspector ("Inspector") means a person authorised by the Secretary of the Department of Infrastructure to enforce specific sections of the Transport Act 1983.

Official Notebook means a notebook that is issued to an authorised officer by the Department. It remains the property of the Department at all times.

Young person means a person under the age of seventeen and at or above the age of ten.

Parties - these Guidelines apply to a passenger transport company accredited under the Transport Act for the purposes of enforcement (as detailed in Schedule 3 to these Guidelines) and to the Department in its function as a law enforcement agency.

Application - effective date yet to be determined.

## GUIDELINES

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### **PART A - COLLECTION OF PERSONAL INFORMATION THROUGH THE COMPLIANCE PROCESS**

#### **Purposes of Collection of Personal Information**

- Personal information will be collected through the compliance process only for the purposes of reporting, investigating and enforcing alleged offences under the Transport Act 1983.
- Personal information that may be necessary for these purposes includes:
  - A person's name and address
  - Information verifying a person's name and address
  - Notes taken at the time of an alleged offence where the identity of a person is apparent or could be reasonably ascertained.
- Sensitive personal information should not be recorded and the notes should only contain information necessary to report, investigate or enforce alleged transport offences.

#### **Collection of Names and Addresses**

- A person's name and address will only be collected by lawful means.
  - It is lawful to collect the name and address of a person, following a request by an authorised officer for the person to state their name and address, if the "Inspector" believes on reasonable grounds that the person has committed or is about to commit an offence against the Transport Act 1983 or regulations.
  - An "Inspector" must inform the person of the grounds for their belief in sufficient detail to allow the person to understand the nature of the offence or suspected offence before a person's name and address is collected.
  - A person who is requested by an "Inspector" to state his or her name and address may request that "Inspector" to state, orally or in writing, his or her name and place of duty and to produce their authority. An "Inspector" should wear his/her identity name tag at all times whilst on duty.
  - It is not lawful to collect name and address where an "Inspector" does not have reasonable grounds to suspect that an offence has occurred, including where a person has a right to travel without a ticket.
- A person's name and address will only be collected by fair means.
  - To ensure fairness in the process of collecting names and addresses, the following guidelines shall apply:

- a) in the case of a train passenger travelling without a valid ticket who claims that a faulty ticket machine prevented the purchase of a ticket at their origin station, an "Inspector" should make reasonable attempts to verify the claim of the passenger on the basis of information available at the time before lawfully requesting a person's name and address
  - b) in the case of a tram passenger travelling without a valid ticket who claims that a faulty ticket machine on board the tram prevented the purchase of a ticket for that journey, an "Inspector" should first confirm whether the ticket machine on board the tram is faulty before lawfully requesting a person's name and address; and
  - c) in the case of a person travelling with a faulty ticket, that person's name and address should only be collected if an "Inspector" reasonably believes that the person has committed or is about to commit a ticket offence under the Act or regulations.
- An "Inspector" must take reasonable steps to ensure that a person is aware of the consequences in law for failing to state their correct name and address upon request by an "Inspector".
  - Where appropriate, an "Inspector" should direct a person to purchase a ticket after completion of their journey or upon exiting a designated area to avoid the necessity of collecting a person's name and address. One such example of this is where an "Inspector" is satisfied that a train passenger was prevented from purchasing a ticket due to a faulty ticket machine and had no reasonable opportunity to purchase a ticket at their originating station.
- A person's name and address will not be collected in an unreasonably intrusive way.
    - Some examples of unreasonably intrusive conduct are:
      - a) deliberate or unnecessary physical contact
      - b) addressing a person in a loud and/or intimidating manner
      - c) The use of rude, obscene or offensive language.
  - Subject to clause 4 of this Part, a person's name and address will only be recorded by an "Inspector" in a Report of Offence.

### **Collection of Information Verifying Names and Addresses**

- Information verifying the name and address of a person will only be collected by lawful means.
  - "Inspector" may request a person to provide evidence of the correctness of their name and address if the "Inspector" suspects on reasonable grounds that the stated name and address may be false.
  - An "Inspector" must inform a person at the time a request is made to provide

evidence of the correctness of their name and address that it is an offence to fail to comply with the request.

- A person may fail to comply with a request to provide evidence of the correctness of their name and address if they have a reasonable excuse for not doing so.
- Only sufficient and necessary information required to ensure the ability to serve an infringement should be collected and recorded.
- Information verifying the name and address of a person will only be collected by fair means.
  - Only one item of information verifying a person's name and address should be recorded. Where it is deemed necessary to require more than one item of information verifying a person's name and address, an "Inspector" must make a written note of the reason why additional information was required in the circumstances.
- Information verifying the name and address of a person will not be collected in an unreasonably intrusive way.
  - Some examples of unreasonably intrusive conduct are:
    - a) deliberate or unnecessary physical contact
    - b) addressing a person in a loud and/or intimidating manner
    - c) the use of rude, obscene or offensive language
    - d) searching a person's bag or wallet (this is absolutely forbidden); and
    - e) Contacting an inappropriate third party for confirmation
- If information verifying the name and address of a person is collected from a third party, an "Inspector" must take reasonable steps to ensure that the individual contacted has been made aware of the matters that are contained in the privacy information slip.
- Subject to clause 4 of this Part, information verifying a person's name and address will only be recorded by an "Inspector" in a Report of Offence form.

**Recording of Notes in an Official Notebook and Details to be Given to a Customer Who has not Complied with the Requirements of the Transport Act 1983**

- An "Inspector" may record notes in an Official Notebook, including a person's name and address and information verifying their name and address.
- Notes recorded in an Official Notebook must only be taken for the purposes of reporting, investigating and enforcing an alleged offence under the Transport Act 1983.
- Sensitive information about a person and any information that is not necessary for the purposes of reporting, investigating and enforcing an alleged offence under the

Transport Act, must not be recorded in an Official Notebook. "Sensitive information" is defined in the Information Privacy Principles under the Information Privacy Act.

- A carbon copy of the Report of Offence headed “Advice of Non-Compliance” is to be provided to the person who is the subject of the Report of Offence. The form will include a Privacy Information Slip and contact details as well as contact details for the Public Transport Industry Ombudsman. [Note (as at November, 2002) -- This carbon copy process is being developed by the public transport companies in conjunction with the Department of Infrastructure and will be made available to authorised officers as soon as possible]

#### **Issue of Privacy Information Slip upon Recording of Personal Information**

- A person will be issued with a privacy information slip upon recording of their name and address and information verifying their name and address. The privacy information slip must ensure that the following items are brought to the attention of the person:
  - a) the identity of the passenger transport company to which the "Inspector" (authorised officer) belongs, the name of the "Inspector" and how to contact the passenger transport company
  - b) the fact that the person is able to gain access to the information
  - c) the purposes for which the information is collected, namely for the reporting, investigation and enforcement of an offence under the Transport Act 1983
  - d) to whom the passenger transport company usually discloses information of that kind; and
  - e) any law that requires the particular information to be collected, namely the Transport Act 1983
- An example of a privacy information slip issued for the purpose of Clause 5.1 of this Part is contained in Schedule 4 to these Guidelines.

### **PART B - USE AND DISCLOSURE OF PERSONAL INFORMATION**

#### **Personal information contained in a Report of Offence**

- A person's name and address and any information verifying a person's name and address recorded in a Report of Offence must only be used or disclosed by the Department or a passenger transport company for the purposes of reporting, investigating and enforcing an offence under the Transport Act.
- The only exception to Clause 1.1 is where the Information Privacy Act permits the use or disclosure of personal information by the Department or a passenger transport company for a purpose other than the reporting, investigating and enforcing of an offence under the Transport Act. This exception would very rarely arise and the reasons must be documented at the time the use or disclosure is made. The person to whom the information is provided must be informed of the matters in the privacy information slip.

### **Personal information contained in an Official Notebook**

- Notes recorded in an Official Notebook that fall within the definition of personal information must only be used or disclosed by the Department or a passenger transport company for the purposes of reporting, investigating and enforcing offences under the Transport Act.
- The only exception to Clause 2.1 is where the Information Privacy Act permits the use or disclosure of personal information by the Department or a passenger transport company for a purpose other than the reporting, investigating and enforcing of an offence under the Transport Act.

## **PART C - STORAGE AND DESTRUCTION OF PERSONAL INFORMATION**

### **Secure storage and access**

- Reasonable steps must be taken by the Department and each passenger transport company to protect personal information recorded in a Report of Offence and Official Notebook from misuse and loss and from unauthorised access, modification and disclosure.
  - a Report of Offence and Official Notebook must be stored in a safe and secure manner at all times
  - a Report of Offence, once completed, and Official Notebook, once full, must be sent to the Department within a reasonable period of time; and
  - access to a Report of Offence and Official Notebook must be restricted to authorised personnel only

### **Destruction of personal information**

- Where a Report of Offence or Official Notebook has been received by the Department and is no longer required by the Department for the purposes of reporting, investigating and enforcing offences under the Transport Act, the Department must destroy or permanently de-identify the Report of Offence or Official Notebook.

## **PART D - DEALING WITH YOUNG PERSONS**

The guidelines in this Part which relate to dealing with a young person are additional to the requirements outlined in Parts A – C.

### **Questioning a young person**

- Where a young person is being questioned by an "Inspector" for the purposes of reporting, investigating and enforcing alleged offences under the Transport Act, the following guidelines shall apply.
  - an "Inspector" must use language that is appropriate to the age of the young person

- special care must be taken when questioning a young person to avoid distress and any form of intimidation; and
- an "Inspector" must take special care to ensure that a young person is aware of the consequences in law for failing to provide a name and address and information verifying a young person's name and address

### **Contacting a young person's parent or guardian**

- A young person's parent or guardian should only be contacted where it is necessary for the purposes of reporting, investigating and enforcing alleged offences under the Transport Act or for the welfare of the young person. Circumstances that are considered necessary for the purpose of this Clause include:
  - where a telephone number of a parent or guardian is given by a young person for the purpose of verifying the young person's name and address; and
  - where a young person has requested for a parent or guardian to be contacted
- In the absence of circumstances contemplated by Clause 2.1 an "Inspector" should not contact a young person's parent or guardian.
- An "Inspector" must not request a young person to contact their school or record the details of their school for the purpose of verifying the correctness of a young person's name and address.

## **PART E - DEALING WITH A PERSON FROM A NON ENGLISH SPEAKING BACKGROUND**

The guidelines in this Part recognise that a person from a non-English speaking background may have difficulty understanding the expectations and legal requirements of public transport users.

### **Questioning a person from a non English speaking background**

- Where a person from a non-English speaking background is being questioned by an "Inspector" for the purposes of reporting, investigating and enforcing alleged offences under the Transport Act, the following guidelines shall apply:
  - an "Inspector" must use simple and clear language that is appropriate to the person's level of English
  - an "Inspector" must take special care to ensure that the person is aware of the consequences in law for failing to provide a name and address and information verifying a young person's name and address
  - the exercise of special care in these circumstances may include contacting another "Inspector" (authorised officer) who speaks the same first language as the person from a non-English speaking background; and
  - the "Inspector" should record the fact that the person appeared to have difficulty understanding English.

## **PART F - DEALING WITH A PERSON WITH A DISABILITY**

The guidelines in this Part recognise that a person with a disability may encounter difficulties when using the public transport system, including in relation to purchasing and validating tickets.

### **Questioning a person with a disability**

- Where a person with a disability is being questioned by an "Inspector" for the purposes of reporting, investigating and enforcing alleged offences under the Transport Act, the following guidelines shall apply:
  - an "Inspector" must make take special care to ensure that a person with a disability was not reasonably prevented from purchasing or validating a ticket because of their disability; and
  - where appropriate, an "Inspector" should assist a person with a disability to purchase or validate a ticket in order to avoid the necessity of collecting that person's name and address.

## **PART G - DEALING WITH AN ELDERLY PERSON**

The guidelines in this Part recognise that an elderly person may encounter difficulties when using the public transport system, including in relation to purchasing and validating tickets.

### **Questioning an elderly person**

- Where an elderly person is being questioned by an "Inspector" for the purposes of reporting, investigating and enforcing alleged offences under the Transport Act, the following guidelines shall apply:
  - an "Inspector" must make take special care to ensure that an elderly person was not reasonably prevented from purchasing or validating a ticket; and
  - where appropriate, an "Inspector" should assist an elderly person to purchase or validate a ticket in order to avoid the necessity of collecting that person's name and address.