

Hon Rita Saffioti MLA
Minister for Transport
9th Floor Dumas House
2 Havelock Street
WEST PERTH WA 6005

2 February 2021

Dear Minister Saffioti,

Impact on Volunteer Sector arising from new Passenger Transport Driver Licensing legislation

Volunteering WA is the peak body representing the volunteering sector in WA. We seek to work proactively with the State Government to help to lead, advance and celebrate volunteering in WA.

As you are aware, the *Transport (Road Passenger Services) Act 2018* (the Act) was passed by the WA legislature in 2018. Objectives of the Act include the provision of safe, flexible passenger transport that supports the mobility of Western Australians. Of particular relevance to the volunteering sector are the new requirements for volunteer Passenger Transport Driver (PTD) licensing.

Summary of issues and concerns

Attachment 1 is an excerpt from a paper discussed at the Volunteer Community Reference Group, convened under the direction of the Minister for Volunteering, in November 2020. Reference Group participants (from aged care, emergency community services, patient transport, local government, volunteer recruitment and the community) confirmed that this is a significant issue for the volunteering sector.

Passenger Transport is a commonly held volunteer role in WA. Examples of these roles in action include:

- Patient transport for hospitals, clinics and nursing homes;
- Seniors transport to shops, doctor surgeries and appointments as community services delivered by many Local Government Authorities across the State;
- Transport for people with disabilities provided by the not-for-profit sector; and
- Transport to increase access to and participation in community events, including for CALD communities.

All the above roles involve volunteers giving their time freely to assist in the transport of disadvantaged members of our community.

Volunteering WA wishes to raise a number of concerns about these new provisions:

- Lack of consultation with the sector on the proposed changes;
- Lack of explicit reference to volunteers and volunteer organisations in the legislation and Explanatory Memoranda and debate when being considered by Parliament;
- Significant impact on volunteer organisations, including cost impost;
- Significant time and cost imposts on volunteers to apply for licensing, undergo medical checks, renew licences annually and apply for reimbursement (where available);

Level 1, 21 Leffers Street
WEST LAFERTY WA 6007
t 9482 4333
info@volunteeringwa.org.au
www.volunteeringwa.org.au

Patron: The Governor of Western Australia
The Hon Kim Beazley AC

- Significant exposure to penalties for non-compliance, accruing to both volunteer organisations and volunteers; and
- Lack of precedent in other Australian States and Territories for similar imposts on volunteer drivers.

Falling volunteer rates in Western Australia

There are concerning signs that volunteers are voting with their feet and leaving service:

- ABS figures indicate a loss of some 130,000 volunteers in WA – a concerning 19% reduction between 2014 and 2019 (pre-COVID);
- People are more time poor;
- Household budgets are tight, yet only 10% of volunteer organisations in WA reimburse out of pocket expenses; and
- COVID-19 has accelerated the attrition of some older volunteers, through personal choice or safety concerns from organisations.

Volunteering in Australia is becoming a highly regulated sector, which increases the time spent by volunteering organisations and volunteers on administration - making volunteering less fun and rewarding, and creating a barrier to entry.

Lower volunteer numbers reduce opportunities for people with a disability, youth, migrants and older people to connect with and contribute to their communities. This adversely impacts social cohesion and contributes to increased levels of psychological distress. The loss of volunteering experience can result in the loss of future employment and may impact the delivery of essential community services.

Falling rates of volunteer participation risks the social fabric that makes WA a great place to live and invest. It's about the spirit of community, reciprocity, social connection and citizenship. Volunteering helps to create safe, healthy and happy communities and environments in which current and future generations can thrive.

The new PTD licensing requirement will be a significant time, cost and administrative burden for many volunteer organisations and volunteers. Both have advised us that these requirements will adversely impact volunteer programs and services in WA.

Request for a meeting

Thank you for your consideration of this matter.

We request a meeting to discuss it further, together with possible solutions which could be implemented well before the legislation takes full effect from 1 July 2021. Volunteering WA is committed to working constructively to advance the common good, and continue WA's path to COVID-19 recovery.

Yours sincerely,



Tina Williams
CEO Volunteering WA

cc Hon Mick Murray MLA
Minister for Volunteering
7th Floor Dumas House
2 Havelock Street
WEST PERTH WA 6005

Attachment 1

Extract from VOLUNTEER COMMUNITY REFERENCE GROUP (VCRG) paper

Date: 16 November 2020
Agenda item: 6.4
Submitted by: Volunteering WA
Title: Changes to Passenger Transport Driver Licensing

BACKGROUND

The *Transport (Road Passenger Services) Act* (the Act) was passed by the WA legislature in 2018¹. At over 200 pages, it covers a wide range of matters including the introduction of reforms to the use of charter vehicles, taxis, ride-sharing services, licensing of passenger transport drivers, the buy-back of taxi plates and the provision of financial assistance to the taxi industry.

Objectives of the Act include the provision of safe, flexible passenger transport that supports the mobility of Western Australians. Of relevance to the volunteering sector ...[is the need for some] passenger transport drivers to be licensed.

Implementation of these provisions is currently underway, with compliance required from 1 July 2021. There have been a number of enquiries to Volunteering WA from members regarding the introduction.

This paper outlines the provisions of the Act and further engagement undertaken with the Department of Transport (DoT) to clarify requirements. DoT have been very accessible and helpful in understanding this legislation, and their assistance is gratefully acknowledged.

REQUIREMENT TO LICENSE SOME VOLUNTEER PASSENGER TRANSPORT DRIVERS

Neither the Act nor any of the Explanatory Memoranda introduced into Parliament specifically mentioned volunteers.

DoT are of the view that the legislative intent was always to include some volunteer drivers, as part of the measures to protect the community. The need to license some volunteer drivers has been made more evident through the subsidiary legislation (Regulations²). The Regulations provide a blanket exemption for paid and volunteer drivers working in the provision of childcare services.

The Department's website notes that a [passenger transport driver] "*PTD authorisation is an annual authorisation that permits a person to drive passengers as part of their paid or volunteer work*".

In simple terms, the legislation requires volunteer drivers to be licensed where the following conditions are met:

- The volunteer involving organisation is operating the passenger transport service for "hire or reward" (defined as charging more than 68 cents / kilometre) **and**
- The volunteer driving is not "incidental" to their role.

DoT has the following FAQ:

¹ https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a147199.html

² *Transport (Road Passenger Services) Regulations 2020*

“I’m driving passengers as a volunteer. Do I need an authorisation?”

You are not considered to be driving for hire or reward if you are driving passengers as part of your role as a volunteer, but the driving is an incidental part of your volunteer work. If you are regularly transporting passengers as part of your volunteer duties, then you are likely driving for hire or reward and will need a PTD authorisation”.

The following table provides some examples:

| Volunteer drivers not required to be licensed | Volunteer drivers required to be licensed |
|--|--|
| Volunteer involving organisation does not charge for passenger transport | Volunteer involving organisation charges 70c / km and volunteer role is primarily engaged in driving |
| Volunteer involving organisation charges a flat fee of \$8 which equates to less than 68c/km ³ | Volunteer involving organisation charges 70c / km and volunteer is regularly engaged in driving |
| Volunteer involving organisation charges 70c / km to NDIS and volunteer is primarily engaged for social companionship, with some driving to activities | |

It is expected that some larger volunteer involving organisations will redesign volunteer roles to make driving incidental or alternatively redesign services to reduce charging to alleviate this impost on volunteers. DoT note that the key test is whether roles are fundamentally for “hire or reward”.

Interchange WA attended a meeting with the DoT and advised that new NDIS requirements for volunteer screening will require a higher level of licensing (effective February 2021). The NDIS screening requirements may be in addition to the DoT requirements.

IMPACT OF REQUIREMENT FOR A VOLUNTEER DRIVER TO BE LICENCED

If the Act applies, a volunteer who drives for hire or reward is required to have a passenger transport driver authorisation. As such they are required to:

- Apply online
- Pay a one off \$28 fee
- Provide a current National Police Clearance (NPC)
- Provide a medical certificate
- Pay an annual licensing fee of \$88.

The application process is required every five years (or lesser period if a medical is required more frequently by DoT).

DoT will undertake additional scrutiny from the DoT for traffic and criminal offences. Any additional NPCs (accessed via a registered volunteer involving organisation) will increase the cost of the Department of Communities subsidy.

PENALTIES FOR NON-COMPLIANCE

Section 90 of the Act has a penalty of \$12,000 for a person who drives for hire or reward without a valid PTD authorisation. The Regulations currently modify this penalty to \$1,800. This accrues to the volunteer.

³ VOLUNTEER INVOLVING ORGANISATIONS would need to examine their own records to ascertain if this is less than 68 c / km

Section 91 of the Act has penalties of \$60,000 (body corporate) and \$12,000 (individual) for someone (such as a volunteer involving organisation) causing or permitting another person to drive for hire or reward without that person having a PTD authorisation. These penalties are currently modified to \$1,800 (individual) and \$9,000 (body corporate).

There is also a defence for the section 91 offence for the individual/corporation to show they took all reasonable steps to ensure the person had an active PTD authorisation.

DoT have advised that it is unlikely that they would commence a prosecution unless there was wilful non-compliance. The first consideration would be to ensure organisations are aware of the requirements.

EXPERIENCE IN OTHER STATES

DoT have confirmed that there are no similar provisions applicable to volunteer drivers in other States and Territories *except for*:

- Queensland which has restricted Driving Authorisations for community and courtesy transport services which may involve volunteers.

ALIGNMENT TO WA VOLUNTEERING STRATEGY

The WA Volunteering Strategy⁴ released by the State Government in 2018 includes the following strategies:

- 1.7 Minimise the financial and administrative barriers to volunteering*
- 2.3 Address barriers to volunteering*
- 2.5 Reduce barriers to recruitment and participation*
- 3.1 Support volunteer-involving organisations to manage risk, legal liability and legislative requirements*
- 3.3 Administrative and governance support for volunteer-involving organisations*
- 3.4 Reduce the financial burden on volunteer-involving organisations*

The strategy highlights the adverse impact of financial and administrative burdens to both volunteers and volunteer-involving organisations.

SUMMARY

The legislation only applies in instances where a volunteer involving organisation is running a service or a volunteer is driving “for hire or reward” ... The primary impacts of the legislation are:

- the need for additional administration for volunteer involving organisations and volunteers
- increased cost to volunteer involving organisations and / or volunteers of the licensing regime and
- the risk of significant penalties for non-compliance for volunteer involving organisations and volunteers.

NEXT STEPS

Further to representation from the NFP sector, including Volunteering WA, DoT agreed to:

⁴ https://dlgc.communities.wa.gov.au/Publications/Documents/WA_Volunteering_Strategy_2018.PDF

- consider streamlining NPC requirements if more stringent checks are introduced as part of legislative changes due in Feb 2021 (*NDIS (Worker Screening) Bill 2020*)
- review and where necessary update communications & FAQs to provide clarity for community organisations and their drivers
- ensure information is consistent and relevant and
- participate in webinars with members of Volunteering WA (as required).

Further discussion at VCRG would be helpful to identify any further areas for clarification or discussion within Government.