



## Durham Region Transit Report

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To: The Durham Region Transit Executive Committee  
From: General Manager, Durham Region Transit  
Report: #2024-DRT-02  
Date: February 07, 2024

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### **Subject:**

Revisions to Terms of Reference for the Specialized Services Eligibility Appeal Process

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### **Recommendations:**

That the Durham Region Transit Executive Committee approve the revised Terms of Reference for the Durham Region Transit Specialized Services Eligibility Appeal Process, as set out in Attachment 2 to this report.

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### **Report:**

#### **1. Purpose**

- 1.1 This report proposes revisions to the Terms of Reference (TOR) for the Durham Region Transit (DRT) Specialized Services Eligibility Appeal Process. These proposed changes respond to recent experiences in administering the Appeal Panel process, updates to language, and format preferences.

#### **2. Background**

- 2.1 The Integrated Accessibility Standards (IAS), O. Reg 191/11 under the Accessibility for Ontarians with Disabilities Act, 2005 (AODA), requires transit providers to establish an independent appeal process to review decisions respecting eligibility for specialized transit services.
- 2.2 The appeal process ensures that applications for eligibility are dealt with in an objective and unbiased manner, adhering to the process and timeframes established in the IAS.
- 2.3 The DRT eligibility appeal panel was established in January 2015. The Terms of

Reference was updated in 2018 to incorporate best practices from transit agencies in Ontario.

### **3. Discussion**

- 3.1 Based on the experience in administering appeal panel hearings since 2018, DRT is proposing a change to the composition of the appeal panel. DRT proposes to replace the community member with staff from the Accessibility team of the Region's Diversity, Equity and Inclusion Division (DEI).
- 3.2 DRT has experienced significant challenges administering the appeal panel process resulting in impacts to appellants because of last minute cancellations and delays in scheduling appeal hearings. Staff from the Accessibility team bring to the panel and their related discussions and decision, a breadth of knowledge and experience across the spectrum of accessibility issues. In addition to their work to support accessibility at the Region, these individuals are engaged with accessibility coordinators from the local municipalities, ensuring awareness of local accessibility issues across the Region.
- 3.3 This change continues to support an appeal process which is independent from the DRT eligibility office.
- 3.4 Proposed revisions to the current Terms of Reference are noted in Attachment #1, with the recommended Terms of Reference included as Attachment #2.

### **4. Previous Reports**

- 4.1 Report 2014-DRT-05 Appeal Process for Specialized Services Eligibility, established the original Terms of Reference for the eligibility appeal process.
- 4.2 Report 2015-DRT-19 Revised Durham Region Transit Specialized Services Appeal Panel Terms of Reference, which provided the flexibility for panel membership to include Durham Region employee's who work with persons with disabilities and experienced in issues of accessibility and the AODA.
- 4.3 Report 2018-DRT-17 Revised Terms of Reference for the Specialized Services Eligibility Appeal Process, revised the eligibility appeal process to be consistent with best practices in the Greater Toronto and Hamilton Area.

### **5. Financial Summary**

- 5.1 There are no financial impacts associated with this report.

## 6. Relationship to Strategic Plan

6.1 This report aligns with/addresses the following strategic goals and priorities in the Durham Region Strategic Plan:

A) Service Excellence: Optimize resources and partnerships to deliver exceptional quality services and value.

## 7. Conclusion

7.1 The proposed revision to the Terms of Reference for the Specialized Services Eligibility Appeal Process will ensure appeals of DRT eligibility decisions continue to be administered independent of the eligibility office, that the appeal panel maintains the requisite knowledge to make informed eligibility decisions, and that DRT can mitigate scheduling challenges and delays for appellants.

## 8. Attachment

Attachment #1: Proposed revisions to current Terms of Reference

Attachment #2: Revised Terms of Reference, Specialized Services Eligibility Appeal Process, effective February 7, 2024

Respectfully submitted,

Original signed by

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William Holmes

General Manager, DRT

Recommended for Presentation to Committee

Original signed by

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Elaine C. Baxter-Trahair

Chief Administrative Officer



REVISED  
Durham Region Transit  
Specialized Services Eligibility Appeal Process  
Terms of Reference

1. **Mandate**

- 1.1 The Durham Region Transit (DRT) **Specialized Services Eligibility Appeal Process (Eligibility Appeal Process)** shall provide for an appeal panel to hear an appeal from an individual and/or their representative requesting review of a decision made by DRT Specialized Services that denied eligibility to receive specialized transit services or assigned a category of eligibility that they dispute. The appeal process is intended to ensure that applications are dealt with in a fair and independent manner, and decisions are made in accordance with established criteria.
- 1.2 The appeal panel, appointed by DRT but operating independently, shall have final authority on decisions regarding eligibility for specialized transit services provided by DRT.
- 1.3 The Eligibility Appeal Process shall comply with the *Accessibility for Ontarians with Disabilities Act* (AODA), adhering to the process and timeframes established within the AODA and its regulations, specifically with respect to eligibility appeals.
- ~~1.4 The primary responsibility of the Eligibility Appeal Process is to ensure the appropriate matching of transit service delivery options with the abilities of the appellant.~~
- 1.5 The appeal panel in hearing appeals will base its decision upon either new information provided by the appellant and/or a claim of misinterpretation of previously submitted information. Appeals based solely on compassionate grounds shall not be considered.

## 2. Definitions

- 2.1 “abilities” means: physical and cognitive abilities to use conventional transit services by a person with a disability.
- 2.2 “appeal” means: to apply in writing under the prescribed form for review through the DRT Eligibility Appeal Process of a decision made by DRT establishing eligibility of an applicant for specialized transit services. The appeal must concern a decision regarding eligibility, category of eligibility, or type of assistance required. Four conditions must be met for the appeal application to be deemed complete and the appeal acceptable for review:
- a) The appeal must be made within 30 days following receipt of the initial decision;
  - b) The appeal must be made by the applicant or **their** his/her representative;
  - c) The decision contested must be based on and be a continuation of the original application; and
  - d) The appellant must, if required, provide additional medical information not considered during the original assessment and submit to an independent assessment.
- 2.3 “conventional transit services” means: ~~transit services provided along fixed routes by buses that may or may not be low floor, accessible, and for which passengers must be able to get themselves to and from the bus stop.~~ **Fixed route scheduled transit service**
- 2.4 ~~“Disability as per the Ontario Human Rights Code and the Region of Durham Corporate Services Policy and Procedures Manual, any degree of physical disability, infirmity, malformation or disfigurement, a condition of mental impairment, a developmental or learning disability or a mental disorder, or an injury.~~ **for the purpose of this policy is defined in the Accessibility for Ontarians with Disabilities Act (AODA).**
- 2.4 “shared ride” means: the concurrent transportation of two or more passengers on board a single vehicle, meaning that other passengers may be on board during the trip, that the route of travel may be altered so other passengers may be accommodated and that the vehicle may stop and pick up other passengers on its way to a destination, all within the parameters set by the Region.

2.5 ~~“specialized transit services” means: pre-booked, shared-ride, door-to-door transit services provided by DRT to individuals who, due to a disability, are unable to use conventional transit services, and may include the issuance of a Support Person card.~~  
**Durham Region Transit On Demand transit service for eligible persons registered with Specialized Transit.**

### 3. **Composition**

3.1 At any hearing, the appeal panel shall be comprised of three members: ~~an Occupational Therapist~~ **a health care professional**, a DRT ~~conventional transit professional~~, and a representative of the **Region of Durham Accessibility team** ~~community with a disability who uses DRT conventional transit services.~~

3.2 Appeal panel members will be expected to carry out their duties in an objective **and unbiased** manner and must declare any personal interests or potential conflicts when carrying out their duties.

3.3 Staff support for the Eligibility Appeal Process, including the appeal panel, shall be provided by DRT, which shall maintain a record of all hearings and support reporting responsibilities.

3.4 ~~Individuals willing to volunteer as DRT Eligibility Appeal Panel members representing the community will be selected by an Appeal Panel recruitment team formed by DRT and Durham Region Human Resources. Such individuals will be invited to submit a letter of interest to be evaluated based on the following criteria:~~

- ~~a) Knowledge of disabilities~~
- ~~b) Knowledge of public transit~~
- ~~c) Familiarity with AODA legislation~~
- ~~d) Effective interview skills~~
- ~~e) Ability to make unbiased and objective decisions~~
- ~~f) Knowledge of DRT conventional and specialized transit services policies~~

~~Interested individuals will be required to meet the following eligibility criteria. They must be:~~

- a) ~~at least 18 years of age;~~
- b) ~~residents of The Regional Municipality of Durham;~~
- c) ~~not elected officials of Regional Council or of the Council of any of the local area municipalities;~~
- d) ~~not members of the AAC/ATAC committee of The Regional Municipality of Durham or of any of the local area municipalities;~~
- e) ~~not employees of The Regional Municipality of Durham or of any of the local area municipalities; and~~
- f) ~~available to attend appeal panel meetings once per month during business hours.~~

3.5 The appeal panel shall ~~report to the DRT Deputy General Manager, Business Services.~~ **be administered by the office of the General Manager, Durham Region Transit.**

#### 4. **Appeal Submissions**

4.1 Any individual wishing to appeal through the Eligibility Appeal Process must apply in writing under the prescribed form to the DRT offices at 605 Rossland Road East, Whitby or by email to [drtspecialized@durham.ca](mailto:drtspecialized@durham.ca) and meet the conditions.

4.2 Any individual having submitted a complete appeal application shall be advised in writing of the date and time ~~by regular mail, and by e-mail if provided, of the date and time during normal business hours~~ of the appeal hearing.

#### 5. **Hearings**

5.1 Eligibility Appeal Process hearings shall be conducted at the Regional Headquarters located at 605 Rossland Road East, Whitby, **or virtually through Teams, at the discretion of the appellant. The appellant is responsible for all equipment, devices, and associated costs for participating virtually at the meeting.** Hearings shall be called on an as- needed basis following the receipt of appeals.

5.2 Eligibility Appeal Process hearings are not legal proceedings and are open to the public.

5.3 Confidentiality of personal information shall be strictly maintained. Accordingly, supporting documents and discussion shall not be made public and shall remain confidential. However, appellants may bring anyone with them to their hearing for

support or representation.

- 5.4 DRT staff may be asked to attend hearings and assist in presenting the initial evaluation results and the basis for same, interpreting relevant legislation and regulations and providing clarifications relating to specific business rules, the *Highway Traffic Act* (HTA) or any other query. Other Regional departments shall be consulted on an as-needed basis.
- 5.5 In a circumstance where an appellant was unable to attend the appeal hearing and provides within two business days a reasonable explanation for not having attended, one further appeal hearing shall be scheduled.
- 5.6 An appellant and/or their representative must not unreasonably delay the appeal process and the rendering of a final eligibility decision by the appeal panel. DRT reserves the right to make a final eligibility decision in the event the appellant and/or their representative delay the appeal process.

## 6. **Eligibility Appeal Process Decisions**

- 6.1 A hearing shall be held and a decision on an appeal with respect to eligibility shall be made within 30 calendar days after receiving the complete appeal application. If a final decision is not made within the 30 days, the appellant shall be granted temporary eligibility until a final decision is made.
- 6.2 The appeal panel shall issue a final eligibility decision based on:
  - a) information provided in the eligibility application, including any supporting documentation submitted with it;
  - b) information provided in the appeal form, including any supporting documentation submitted with it;
  - c) the results of any functional assessment that the appellant may have attended (either as part of the application or of the appeal process);
  - d) any information and statements presented by the appellant and/or their representative at the hearing (if they attended); and
  - e) any relevant observations made by the appeal panel during the hearing (if the appellant attended).
- 6.3 The appeal panel can make the following final eligibility decisions:
  - a) uphold the original DRT eligibility decision; or

- b) change the original DRT eligibility decision, including deny eligibility.
- 6.4 The decisions shall be based on a majority vote of the appeal panel. The appellant and/or their representative may re-apply for DRT specialized transit services by completing a new application if/when there has been a material change in medical status that may affect the individual's eligibility.
- 6.5 Appeal panel members shall take notes at the hearings of all information presented. Appeal panel members shall meet in private after the hearing to make a decision. The decision, a summary of the reasons for the decision and the notes of the information presented shall be signed and dated by all appeal panel members. Appellants shall be given detailed written notice of the outcome of the appeal including the reasons for the decision. All information shall be contained in a confidential client file for seven years following the hearing.
- 6.6 Upon the request of any individual requesting specialized transit services, DRT shall make available to that requester all of **their** his/her eligibility application and decision information in accessible format.
- 6.7 The Eligibility Appeal Process **outcomes** decisions shall be reported to Transit Executive Committee from time to time.



**REVISED**  
**Durham Region Transit**  
**Specialized Services Eligibility Appeal Process**  
**Terms of Reference**

**1. Mandate**

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  - c) The decision contested must be based on and be a continuation of the original application; and
  - d) The appellant must, if required, provide additional medical information not considered during the original assessment and submit to an independent assessment.
- 2.3 “conventional transit services” means: Fixed route scheduled transit service.
- 2.4 “Disability” for the purpose of this policy is defined in the [Accessibility for Ontarians with Disabilities Act \(AODA\)](#);
- 2.4 “shared ride” means: the concurrent transportation of two or more passengers on board a single vehicle, meaning that other passengers may be on board during the trip, that the route of travel may be altered so other passengers may be accommodated and that the vehicle may stop and pick up other passengers on its way to a destination, all within the parameters set by the Region.
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- 3.3 Staff support for the Eligibility Appeal Process, including the appeal panel, shall be provided by DRT, which shall maintain a record of all hearings and support reporting responsibilities.
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