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YORK REGION TRANSIT MOBILITY PLUS ELIGIBILITY AND APPLICATION PROCESS UPDATE

The Transit Committee recommends:

- 1. The presentation by Brian Drew, Manager, Specialized Transit be received;**
- 2. The communication from Susan Neill, Committee Coordinator, November 17, 2005 forwarding Clause 2, Report 9, Community Services and Housing Committee relating to a submission (December 9, 2004) from Kim McKinnon, Community Legal Clinic of York Region with regard to Mobility Transit be received; and**
- 3. The recommendations contained in the following report, December 21, 2005, from the Commissioner of Transportation and Works be adopted.**

1. RECOMMENDATIONS

It is recommended that:

1. The current York Region Transit Mobility Plus eligibility criteria and application process be maintained during the planned review and setting of transportation standards by the Province of Ontario pursuant to the requirements of the Accessibility for Ontarians with Disabilities Act (AODA) 2005.
2. Mobility Plus introduce a formal eligibility appeal process and a quality assurance process as described herein to ensure the fair and equitable application of the eligibility criteria, and staff be authorized to advertise for prospective appointees to the Eligibility Appeal Panel.
3. Staff report back on the customer, operating and financial implications of the new transportation standards proposed by the AODA Transportation Standards Committee.
4. The Regional Clerk forward this report to the Region's Accessibility Advisory Committee for their information.

2. PURPOSE

The purpose of this report is to review and provide recommended future direction concerning the York Region Transit (YRT) Mobility Plus eligibility criteria and application process.

3. BACKGROUND

On January 1, 2001, all municipally-operated specialized transit services in York Region were amalgamated into a single system, known as York Region Transit Mobility Plus. Mobility Plus is a shared-ride public transit service reserved for those persons who, due to physical or functional limitations, are unable to access conventional transit services.

In May 2002, Transit Committee and Regional Council approved the first Mobility Plus specialized transit five-year service plan. The plan was developed to achieve several key objectives, specifically:

1. Set strategic direction for improvements to specialized transit services over the next five years;
2. Effectively integrate the former municipal services into a new Regional system (including the coordination of eligibility, operations, administration and links to other community transportation providers); and
3. Improve the monitoring of various disability types and develop a demand management process to ensure the continued viability and provision of a high quality affordable transportation service.

In considering the demand management process, careful consideration must be given to the eligibility criteria. Historically, eligibility for specialized transit services was driven largely by Provincial guidelines tied to the provision of funding from the Province. The Provincial eligibility guidelines focused on those individuals with a physical disability who were unable to board a conventional transit vehicle (climb three steps) or walk a distance of 175 metres. Philosophically, specialized transit was not intended to be a comprehensive system of transportation for all individuals with disabilities .

Notwithstanding the above, it is important to note that certain local municipalities at the time of amalgamation had broader eligibility criteria, and as a result, the Mobility Plus five year plan recommended that the eligibility criteria be based on a “functional” model as opposed to the traditional “physical” model.

Specifically, the “functional” eligibility criteria are based on the following principles:

1. Mobility Plus service is a public transportation service for those persons unable to use an accessible public transportation system, not for those who find it more difficult or are reluctant or unwilling to use an accessible public transportation system.
2. Mobility Plus is not an attendant care service. That is an individual who is unable to function independently in the community and the reason that they are unable to use accessible conventional public transit is that they require an attendant then this speaks to the need for attendant care and not for the requirement of door-to-door Mobility Plus service.

3. Eligibility is not based on a particular disability (persons are approved on a case-by-case basis).
4. Eligibility is not based on income level.
5. Eligibility is not based on the unavailability of accessible conventional transit.

3.1 Current Eligibility Practice

Based on the above principles, the following are the eligibility criteria currently used for Mobility Plus:

- **Physical Disability:** for those applicants who are unable to physically walk to a transit stop (a distance of 175 metres), board (climb three steps), ride (ability to physically hold on to a transit stanchion for support and balance) and alight (three steps) from a conventional transit bus. The requirement for a mobility device to support the severity of the physical disability is also taken into consideration as support for the physical limitation.
- **Visual Disability:** for those applicants who are deemed to be legally blind and who after Canadian Institute for the Blind (CNIB) training are still unable to functionally use conventional transit.
- **Sensory Disability:** conditions that impact the sensory motor areas such as inner ear infection that impacts the applicant's ability (balance) to use conventional transit. Issues with touch such as the inability to hold on to a support stanchion when traveling a conventional transit bus. A hearing disability coupled with visual disability that results in the applicant not being able to have a spatial orientation.
- **Cognitive Disability:** only Alzheimer's and Downs syndrome applicants are eligible. Transit service is only provided to approved day program/work placements under special service arrangements as discussed below.
- **Dialysis Treatments:** service is provided for all registered dialysis patients.

Many of the specialized transit operations within the Province continue to use strictly a "physical" model such as the Region of Peel's Transhelp service, the Toronto Transit Commission's Wheel-Trans service, and the DART system in Hamilton. Some systems such as London Transit and Ottawa's Para Transpo service use a "functional" model by accepting limited cognitive persons to day programs/work placements and accept those persons with visual impairments. No specialized municipal or regional transit operation in the Province accepts all disabilities, particularly cognitive. Cognitive disabilities that affect the ability to read, understand direction, attention deficit, memory loss, etc. are disabilities requiring attendant care, and with attendant care the individual can reasonably be expected to use conventional transit services.

The current Mobility Plus eligibility criteria are based on a functional model. The functional model includes those persons with physical disabilities as well as those disabilities that were "grandfathered" at the time of amalgamation and includes dialysis, persons with visual impairments, sensory disabilities and a limited cognitive population that attend recognized day programs/work placements only (e.g. Alzheimer's).

In approving eligibility for the day program/work placements, the registrant must ensure that there is someone to give them off in the morning at the commencement of their trip and receive them at their destination. The same arrangement applies for their return trip. It should also be noted that Mobility Plus does not restrict or deny customer trips based on trip purpose. However, staff make every effort to accommodate non-emergency medical treatments, in particular dialysis, chemotherapy, etc., when vehicle resources are limited.

Eligibility for Mobility Plus service is approved under three categories:

1. Unconditional: All trip requests at all times.
2. Temporary: Limited duration such as 3, 6, or 12 months for all trip requests (e.g. surgery on a hip, knee, foot, shoulder, etc. preventing use of conventional transit).
3. Conditional: eligible under certain conditions (e.g. must be accompanied; day programs/work placements).

Based on the above criteria, current registrations total 6,881 with approximately 45% being classified as non-ambulatory (requiring the use of a wheelchair/scooter as a mobility device) and 55% ambulatory. Unconditional eligibility represents 63%, conditional 35% and temporary 2%.

3.2 Current Application Process

As with eligibility criteria, there is a variety of application processes carried out by specialized transit operators. These application or certification programs range from the detailed requirement for an initial in-person interview to the provision of a medical note from a physician and further to a simple self-certification process.

The application instrument selected is important to determine the nature of the disability, its impact on the person's use of accessible conventional transit, the requirement and type of mobility aid(s), the need for accompaniment, etc.

Mobility Plus currently employs a two-part paper application process with Part "A" requesting responses from the applicant on a series of questions related to their ability to use or not use accessible conventional transit. Part "B" questions relate to the nature of the disability, severity and duration, and are completed by a health care professional. From the information provided, the applicant is either approved or denied service and informed by letter. For those individuals that are declined, they may appeal the decision in which a further review will be conducted. This appeal review may involve the provision of additional clarifying information sent in by the applicant up to and including a request for the applicant to appear before Mobility Plus management to determine eligibility.

Mobility Plus receives approximately 180 applications a month with an 83% approval rate. Notification is done approximately 2-3 weeks after receipt of the application. Dialysis customers are approved within 48 hours to permit the registrant to attend

treatment immediately. In 2005, 102 appeals have been conducted with 56 applicants denied service.

3.3 Impact on “Special Program” Status

In January 2005, the Ontario Human Rights Commission (OHRC) advised that it had undertaken an assessment as to whether the paratransit (specialized) services in the cities of London, Hamilton, Windsor and Toronto should be considered a “special program”. The assessment was being undertaken pursuant to Section 14(2) (a) of the Ontario Human Rights Code.

Under Section 14(1) of the Code, a “special program” is defined as “a program that is:

1. designed to relieve hardship or economic disadvantage; or
2. designed to assist disadvantaged persons or groups to achieve equal opportunity; or
3. likely to contribute to the elimination on the infringement of rights protected under the Code.”

Special Programs are programs which institute measures that respond to particular needs for people who experience discrimination, with the goal of reducing or eliminating that discrimination. Special Programs, however, are in themselves discriminatory because they address the needs of only one special group. There is a dual purpose for deeming a program or service a “special program” - when it provides protection of affirmative action programs and/or provides promotion of substantive service or program quality.

If a service or program is deemed a “special program” under the Code, it is protected from complaints of discrimination. The implementation of a special program can assist groups of people who historically experience discrimination, economic hardship and disadvantage by putting into place measures that respond to the particular needs of these groups, which helps to reduce discrimination.

The Ontario Human Rights Commission in their staff position paper has stated that:

1. Transit providers have a mandatory obligation to accommodate people pursuant to the provisions of the Code; and
2. Because, for example, the provision of specialized transit is voluntary, the concept of “special program” is contradictory to the concept of the mandatory obligation under the Code to accommodate.

Therefore, paratransit or specialized transit services cannot be considered a “special program”. The OHRC refers to “paratransit or specialized” transit services as services which historically have limited eligibility to people with mobility challenges who require the use of adapted (i.e. lift-equipped or low-floor) vehicles.

Based on the above direction, some of the impacts associated with paratransit/specialized transit services no longer being considered a special program are as follows:

1. Eligibility requirements may have to be abandoned.
2. Parity in hours of service and service area coverage with conventional transit may be required.
3. The requirement to match conventional fare requirements including the provision of concession fares.
4. Cancellation and no-show policies and other management policies and procedures might be eliminated.
5. Customers may be able to request certain vehicle types to provide service thereby affecting share-ride and service efficiency opportunities.
6. No customer will be declined a ride and must be accommodated at the requested time.

In addition to the requested responses from the four transit properties, the Canadian Urban Transit Association (CUTA) and the Ontario Community Transportation Association (OCTA) prepared a joint response submitted to the OHRC in May on behalf of the Ontario public transit and specialized transportation industry. The position taken in the joint submission is that paratransit services did satisfy the requirements of a special program as contemplated by the Code. In October, a response was provided by the OHRC which indicated that after review of the submissions it is the OHRC's opinion that the "special program" designation for paratransit be removed.

The removal of the "special program" status leads directly into the actions taken by the Province of Ontario in its recently approved Accessibility for Ontarians with Disabilities Act, 2005. This legislation and its impact on the provision of specialized transportation will be discussed in the following section.

3.4 Impact of Accessibility for Ontarians with Disabilities Act, 2005

The Accessibility for Ontarians with Disabilities Act, 2005 received Royal Assent and Proclamation on June 13, 2005 with the legislation taking effect immediately. The previously approved Ontarians with Disabilities Act (ODA) will continue to be in effect for the foreseeable future with the two overlapping for that period while the ODA is gradually phased out.

The AODA is different from the ODA in that the Province of Ontario will be creating specific accessibility standards that need to meet specific timeframes. The AODA was developed in order to achieve full accessibility in Ontario by 2025. This is to be achieved by developing, implementing and enforcing accessibility standards concerning goods, services, accommodation, facilities, buildings and employment. Improvements will be phased in stages of five years or less. Failure to meet the specific timeframes will result in substantial financial penalties. In order to do this the AODA legislation has primacy over any conflicting legislation (such as the Building Codes). When a new standard is created there will be a 45-day consultation period before it becomes a regulation and must be complied with. In that time, the general public, specific agencies and organizations, businesses, interest groups, etc can provide comment. After the initial consultation period, a further 40-day appeal period is provided before the standard

becomes a regulation. Standards Committees will be set up through the Ministry of Community and Social Services for core (e.g. the Built Environment) and individual (e.g. transportation) sectors.

With respect to the Transportation Standards Committee, representation/interest was requested by the Province by November 2005. The actual Committee size has not been determined but staff have been informed that it could be between fourteen and twenty-eight. CUTA/OCTA have provided support letters for eight transit representatives covering the following transit properties: Toronto, GO Transit, Ottawa, Peel Region Transhelp, Kingston Access Bus, Brampton, Guelph, and London. In addition, a transit resource group has been set up by OCTA, of which York Region Transit is represented, with the purpose to assist those transportation representatives who directly sit on the Transportation Standards Committee. OCTA has indicated that based on initial discussions with the Ministry and due to the interest expressed by other stakeholders, agencies, the public, etc., that the Ministry may only appoint three members of the submitted list of transit properties.

The Transportation Standards Committee will deal with all aspects of conventional and specialized transit operations. This includes and is not necessarily limited to access to services, facilities, schedule frequencies and standardization of hours of service, fares, the provision of information, and in the case of specialized transit service, eligibility.

4. ANALYSIS AND OPTIONS

Experience to date shows an increased pressure from the disabled community and their representatives for Mobility Plus to accept all forms of disabilities, including cognitive. In addition, concern has been expressed that the current criteria is too vague and that there is a need to be more specific through the provision of detailed written guidelines.

To this end, Mobility Plus staff undertook a review of the current eligibility guidelines, the application process and the required application documentation. Based on that review, staff are recommending that the current eligibility criteria and application process outlined in this report be maintained while the AODA Transportation Standards Committee completes its review (anticipated by the fall 2006).

4.1 Recommendations for Interim Appeal Process and Quality Assurance

In the interim, staff is recommending that the current in-house “eligibility appeal process” be formalized through the creation of a three-member panel to hear applicant eligibility appeals. It is felt that the creation of this panel would not be negatively impacted by the review conducted by the AODA Transportation Standards Committee and would ensure a fair and equitable assessment of an applicant’s eligibility based on the current approved eligibility criteria. It is suggested that the makeup of this three-member panel would be a representative of the disabled community (obtained through advertising

for potential appointees on a volunteer basis), a medical health practitioner, and the Manager of Mobility Plus. In addition, it is recommended that Mobility Plus adopt a “quality assurance” program to ensure a fair and equitable application of the eligibility criteria through an independent random auditing of applications carried out under the direction of the Region’s auditing section.

4.2 Relationship to Vision 2026

As part of Vision 2026, York Region has identified under Goal 7 the need to have an effective, efficient and environmentally sensitive transportation system to improve transportation opportunities for residents within the Region. Action areas include the development of an integrated transportation network and making transit accessible. The current review underway by YRT Mobility Plus related to its eligibility and application process coupled with the planned setting of transportation standards for both specialized and conventional public transit services (through the AODA Transportation Standards Committee), will provide a comprehensive review of the requirements to address the provision of a fully accessible regional transportation system.

5. FINANCIAL IMPLICATIONS

The setting of Provincial accessibility standards pursuant to the AODA for both conventional and specialized transit services will have a financial impact. The extent of the impact will not be fully known until the specific standards are set. Certain service standards may already exist or be exceeded by the Region’s existing public transit services. As the conventional transit system becomes more accessible (currently at 70% of the bus fleet with 2010 as the full accessibility target), there may be a need to revise the eligibility criteria associated with the provision of specialized transit.

The net operating budget for Mobility Plus in 2005 was approximately \$7.6 million. The 2006 net operating budget is set at \$7.3 million to accommodate a 6% increase in trip demand. The 2006 net operating budget reflects the impact of a variety of cost mitigation strategies already undertaken in 2005 and those planned for 2006 to improve the financial structure of this service. Opening the current Mobility Plus eligibility criteria to include all persons with cognitive disabilities within the Region will have a direct financial impact on this transportation service through increased registrations and associated trip service demands. For example, the Mobility Plus Five-Year Service Plan issued in May 2002 projected the number of persons with a cognitive disability in the Region in 2006 at 9,800 based on a population projection of 894,000. Assuming service eligibility for this population at the same trip demand and trip cost rates minus the average fare payment, would result in an additional net cost of \$6.1 million (an 84% increase in the 2006 Mobility Plus net operating budget). The exact extent of any change to the current eligibility criteria or any other service change will be presented as part of the impact assessment of any new eligibility standards set by the AODA Transportation Standards Committee.

Staff will continue to monitor the development and associated impact created through the development of the transportation standards under the AODA and report to Transit Committee and Regional Council related to customer, financial and operating impacts.

6. LOCAL MUNICIPAL IMPACT

There is no local municipal impact associated with this report at this time.

7. CONCLUSION

In summary, based on the recent approval of the Accessibility for Ontarians with Disabilities Act, 2005 and the requirement to set mandatory standards/regulations by Provincial Standards Development Committees (e.g. Transportation Standards Committee), it is recommended that the current Mobility Plus eligibility and application process, as outlined in this report, be maintained during this review period (expected to be completed by the fall of 2006). In the interim, it is recommended that Mobility Plus commence the development of a formal eligibility appeal process including the creation of a three-member appeal panel and the adoption of a “quality assurance” review to respond to fairness and equity issues through an independent random audit of applications.

Staff will continue to monitor developments associated with the creation of transportation standards for both conventional and specialized transit operations. A further report will be presented to Transit Committee and Regional Council within the 45-day standards public review period detailing the standards and the associated customer, operating and financial impacts.

The Senior Management Group has reviewed this report.