

TO: Winnipeg Transit Plus
Unit B - 414 Osborne Street
Winnipeg, MB R3L 2A1



AND

Mayor Brian Bowman
City of Winnipeg
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Winnipeg, MB

Manitoba Ombudsman Office
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ON BEHALF OF: Transit Plus Drivers

Winnipeg Transit Plus
Unit B - 414 Osborne Street
Winnipeg, MB R3L 2A1



ET AL.

January 9, 2020

Dear Sir or Madam:

RE: PETITION ON BEHALF OF TRANSIT PLUS DRIVERS FOR SAFER WORKING CONDITIONS THAT MEET EMPLOYMENT STANDARDS

It has been a year since the Ombudsman's office has taken a good look at the state of Transit Plus (Handi Transit) in our city. A year later and we are nowhere closer to finding a resolution. And while those concerned have apprised themselves of the client-side of this service, there is one group that has been consistently overlooked, that group being the Transit Plus Drivers.

On behalf of Transit Plus Drivers in the City of Winnipeg, we present this letter and petition for your consideration. Transit Plus Drivers are urging the City of Winnipeg to take a long hard look at the conditions in which they are employed. Employment standards, if any are minimal. Drivers like clients, have had more than enough. In December 2019, approximately 40 drivers gathered to sign a petition urging Transit Plus, the City of Winnipeg and Winnipeg Councillors to find a resolution to their concerns. That petition and those concerns, follow herein.

ISSUES OF CONCERN

There are 4 main areas of concerns that need to be investigated and resolved.

1. Employment Standards
2. Scheduling as it impacts Health and Safety
3. Scheduling in General
4. Safety Concerns, Complaints and Resolutions

CAUSE AND EFFECT

At present, there are approximately 65-70 drivers on the road. These drivers are employed by 1 of 6 companies:

- Blue Line
- AB Transit

- Mani
- Urban Transit
- JD
- Exact Care

Despite any standards or unification, the working conditions and standard of employment is similar across each of the companies. This can be attributed to the fact that Transit Plus contracts are currently awarded to contractors through a bidding system. Contractors, hoping to win, often bid low without any regard for Drivers and motivated primarily by the bottom line.

Currently, the City of Winnipeg, has established little to no criteria required of bidding companies. Companies are not required to maintain any level of employment standards; any Worker's Compensation Insurance, there are no minimum wages or benefits for drivers and moreover there is no official process to file or escalate concerns. Companies are essentially slumlords being enabled by the City of Winnipeg.

It is not enough to say that Drivers should take up these concerns with their company. When conditions are similar and consistent across all companies, there is an underlying problem that needs to be addressed. Companies are hesitant to come forward in fear of retaliation or losing their contracts. Drivers fear losing employment if they say too much.

The City of Winnipeg is concerned with the bottom line and award to the lowest bidder. The companies are concerned with the bottom line and bid in a manner that erodes basic employment standards. There cannot and should not be a price tag on basic human rights.

EMPLOYMENT STANDARDS

We are all familiar with the Manitoba Employment Standards Code, legislation that governs working conditions to ensure that all workers in Manitoba are afforded basic rights and safe working conditions.

The Code establishes:

1. Minimum Wage
2. Right to be paid extra for working over-time or on public holidays
3. Entitlements for Vacation
4. Minimum number of hours if you are sent home early
5. Right to time off to deal with certain family situations
6. Basic rights if you are laid off or fired

While Independent Contractors are not employees and are not covered by employment standards legislation, the City of Winnipeg does not allow for contractors to sub-contract. Therefore, all Transit Plus Drivers are employees of any of the companies noted above.

Further, determining the employer-employee relationship, hinges on discretion, taking into consideration the following:

1. Who controls duties and schedules: Schedules and duties are controlled by the City of Winnipeg/Transit Plus
2. The ability to negotiate payment: Done between the companies and the City of Winnipeg, not between the Drivers and the companies
3. Methods of payment: Drivers are paid by company payroll

The current minimum wage is \$11.65. Drivers earn less than this when their hours worked are netted against their gross pay. Employment standards mandates that employees cannot agree to work for less than the minimum standards, whether or not a contract exists.

Standard hours of work are 40 hours per week and 8 hours per day. Employees are entitled to their regular wage rate for working during these hours. If employees work more than the standard hours in a week or this, this is overtime and must be paid at the overtime rate. Most Transit Plus Drivers work well beyond these standard hours and are paid less than the minimum wage. There is now allowance for banked time.

Employees are also entitled to 30 minute, unpaid breaks after every 5 hours of work, along with a day of rest per week. The currently Transit Plus schedules do not allow for breaks, or reasonable breaks.

Resolutions sought for Employment Standards:

1. Log Books to record actual Drive Time
2. Schedule Breaks
3. Regular Scheduled Runs
4. Random Company Audits to determine pay and working conditions
5. Implementation of company standards for those bidding for Transit Plus contracts which include at minimum Workers Compensation or other benefits

Drivers are deprived of basic rights, treated as slaves. Anytime there is an issue, they are told to do their best, yet no one else is trying their best. No one else is taking a look to see how, we as an industry can do our collective best to resolve such deplorable conditions and clear violations of the Employment Standards Code.

SCHEDULING AS IT IMPACTS HEALTH AND SAFETY

The issues with health and safety mainly stem from and evolve around scheduling. Scheduling is completed by the Transit Plus office and is beyond flawed and sensible. Most of us are familiar with the recent changes to the Trucking Industry following the tragic Humboldt incident. There are many parallels that can be drawn between trucking and Transit Plus, after all drivers are drivers regardless of where they operate their equipment.

Currently schedules run from 8 - 12 hours. There are no scheduled breaks and Drivers are required to squeeze these where and if they can. There is no use of actual log books to record drive time and down time. Drivers are expected to travel anywhere from 10 - 25 minutes to their first pick up, without compensation. The implementation of log books would ensure that Drivers are compensated for the actual hours worked.

The lack of breaks and rest periods are of grave concerns. Especially when some Drivers are skipping meals or are numbing out because they have not been able to stretch or relieve their minds. The dangers this presents to Drivers and civilians alike is eminent. One driver was fined \$40 for taking a lunch break, this is absurd.

There should also be some sort of effort on the part of the Transit Plus scheduling team to try and start Drivers closer to home. Drivers are then expected to haphazardly drive from one end of the city to drop a client off and then drive empty to the other part of town to pick another client up. It makes no sense that they city has not implemented a zoning system, whereby the next pick up would be in the same zone as the previous drop off. This would alleviate a number of problems:

First, Drivers would not need to rush around the entire city trying to stay on schedule. Secondly, concerns of environment and fuel efficiency would be addressed as vehicles would not be running empty. Lastly, it would make for safer road conditions for all, in times of bad weather and construction. Drivers would have enough time to get to the appropriate destination.

SCHEDULING IN GENERAL

Scheduling in general requires a complete overhaul with Driver input to make the service effective and efficient. There are glaringly deficiencies in the way schedules are created and managed. And it is these deficiencies that lead to lack of service and drain resources without justification:

There are instances where some Drivers are running continuously all around the city, while other Drivers complete a trip and are sitting out. There needs to be more transparency and equal distribution of trips.

There needs to be a way to account for all driver time, either by means of log books or recording keeping so that Drivers are compensated for their time properly. Like the trucking industry, the Driver's time should begin at the pre-trip inspection point. They should be compensated for the time it takes to get to their first trip and home from their last trip, at the point of post-inspection. Currently Drivers find themselves driving anywhere from 12 - 14 hours, but only being paid for 8 hours.

There are serious concerns with how trips are scheduled. As mentioned above, drop offs are done in part of town and Drivers are then required to drive to the other side to make a pick up. Drivers are further distressed with the process in place for "No-Shows". Current policy states that a no-show

can be booked after 5 minutes, but to get dispatcher approval takes upwards of 15 minutes. Drivers are then left to recover this time as no concession is made for the loss of time.

Like no-shows, scheduling is so tight that any add-ons do not allow sufficient time for the Drivers to get to the pick-up address. They are often told to try their best and then penalized without warning.

Drivers have been promised that their first trip will be near their homes. This promise has not been carried out. Nor are is the last trip near their home, adding additional drive time that goes uncompensated. This cause a lack of consistent off time and sleep time, as some drivers are getting home as late as 9:00 PM.

There is absolutely no consideration for weather or traffic conditions. Scheduling changes on a regular basis. If scheduling was consistent and the same throughout the week, Drivers would be in a better position to plan their trips, knowing the road conditions and construction sites. They would be familiar with what area has traffic congestion, when and where.

It is not enough to rely on Google maps when it comes to scheduling. There needs to be someone who understand the roads and environments in which Drivers operate, someone with previous on the road experience would be ideal.

Drivers are requesting that the following changes be made to scheduling to remedy the concerns noted:

1. Implementation of Zones
2. Implementation of Log Books
3. Scheduled Breaks
4. Transparency and Equal Opportunity
5. Scheduling should be done by someone with previous road experience

SAFETY CONCERNS, COMPLAINTS AND RESOLUTIONS

In addition to the health and safety concerns that arise from scheduling and beating traffic, Drivers have a serious concern with respect to personal safety. And desperately request the implementation of processes and procedures which will help protect Drivers.

The current procedure is to submit complains through dispatch, with complaints often dying at dispatch. There is no follow up, no Driver interview, no discussions with respect to the concerns a Driver might have. Yet, a client complains and a Driver faces immediate suspension.

Personal safety concerns arise in a number of ways:

1. Vehicles are not safe to drive. There must be some sort of regular inspection of vehicles, forcing companies to keep their vehicles in good working order.

2. Personal Safety where clients have threatened Drivers, or cause obstructions to service. Such as a Driver being punched in the face by a client, a client swinging their bag at a Driver, another Driver having his beard pulled, and still another was accused of being a Muslim terrorist. In any other occupation or workplace, this would be completely unacceptable but Transit Plus Drivers are not even afforded the opportunity to have their concerns listened to let alone resolved.
3. Some clients vent frustrations at Drivers because they do not want assistance, yet Drivers are directed to provide assistance regardless.
4. Clients carrying personal items over the limit, cause obstructions and issues with storage and safely harness sing wheelchairs.

Solutions sought with respect to Safety, Complains and Resolutions

1. Implementation of a complaints and resolution system, so Drivers know how to file complaints regarding clients and personal safety issues
2. Zero Tolerance for racism and assaults on Drivers
3. Enforcement of Personal Items Policies

THE STORY OF EDMONTON

The City of Winnipeg and Transit Plus should take a look at the City of Edmonton, who recently encompassed Transit Plus Drivers as city employees. This has made a remarkable change in the lives of Drivers and the services of their Transit Plus. We should have a discussion with Edmonton, to see if those changes and implementations are possible and reasonable in Winnipeg, before any more money is spent trying to fix a system that will remain perpetually broken.

SOLUTIONS AND REMEDIES SOUGHT

- A. Establish minimum company criteria for those bidding for contracts, in which the Drivers rights and standards are preserved.
- B. Establish proper scheduling protocols to address issues of safety, health and transparency
- C. Establish clear and proper guidelines to manage complaints from Drivers with respect to personal safety.
- D. Like the city of Edmonton, encompass Transit Plus Drivers into the City of Winnipeg, providing them with minimum employment standards.

CONCLUSION

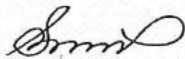
Last year, the Ombudsman's Office made 19 recommendations which will cost the City approximately 3.5 million. Four of these 19 recommendations for implemented, including the use of tablets, that do not work. Some of the Transit Plus issues can be resolved through proper scheduling and safeguards for Drivers. As the trickle down effect has proven that the state of Transit Plus is in large part due to the inability of Transit Plus to meet the demands of clients.

Patrick Stewart (Consultant for Independent Living Resources) in recent interview with CTV news stated, "Cannot have a price tag on human rights," this comment is so true and so far reaching. But the considerations and solutions for Transit Plus cannot be one-sided and the current conditions of Drivers must be addressed if there is any progress to be made.

We would like the opportunity to discuss these issues and move forward in a positive direction. Our contact information is as follows:

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Address: 100 Mandalay Drive, Winnipeg, MB R2P 1V8

On Behalf of Transit Plus Drivers



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