



The Accessibility Advisory Council Discussion Paper on Accessibility Legislation

May 2012

Disabilities

ISSUES

OFFICE

Manitoba 

1.0 Introduction

More than 15 per cent of Manitobans face barriers that keep them from doing things that others take for granted. These barriers are very costly – to persons with disabilities, to their family and friends and to their communities. Nearly every Manitoban has a disability, knows someone with a disability, or will have a disability in the coming years. Accessibility legislation will identify, prevent and remove these barriers.

Accessibility legislation recognizes that physical, attitudinal and systemic barriers prevent Manitobans with disabilities from going places, using services and getting information. Barriers can be in such areas as building design, information services and hiring practices. The main goal of accessibility legislation is to remove barriers by working with the public and private sectors to make long-range plans that ensure accessibility for everyone.

Removing barriers will be good for our province. These barriers often come from a lack of planning and not understanding how they affect the daily life of many people. By focusing on the proactive identification and removal of barriers, accessibility legislation will move us towards a more inclusive society for all Manitobans.

The Accessibility Advisory Council wants the public's views on accessibility legislation. It will be inviting written submissions and briefs on this topic. To share your ideas or for more information, contact:

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The Accessibility Advisory Council will be submitting a final report to the Minister of Family Services and Labour, the Honourable Jennifer Howard, by June 16, 2012. Please send your comments by June 5th to ensure they are received prior to the preparation of the Council's initial recommendations.

1.1 Background Information

On June 16, 2011, the Manitoba Legislature passed **The Accessibility Advisory Council Act**. The act established the Accessibility Advisory Council. The council was appointed in fall 2011 by the Minister of Manitoba Family Services and Labour. It is made up of members of the disability community and other affected stakeholders, including representatives of business and municipalities. It was designed to represent the interests of those most affected by measures aimed at achieving greater accessibility.

The act gives the council the authority to recommend to the minister the steps that can be taken to promote equality and remove barriers for Manitobans with disabilities. The council will be the central agency in developing accessibility standards and giving advice on policy, the administration of the act, and identifying priorities and undertaking legislative reviews. As a first step, the council is proposing legislation aimed at preventing and removing barriers faced by persons with disabilities and the accessibility standards that would flow from them. The purpose of this paper is to request your advice and feedback on the proposals being considered by the council.

1.2 Other Jurisdictions

The U.S., Australia and most recently, Ontario, have introduced legislation to remove barriers that prevent persons with disabilities from participating fully in the community. While these laws take different forms, they have some things in common:

- clear, specific and achievable goals
- accessibility standards for both the private and public sectors
- persons with disabilities and other stakeholders affected by the legislation, such as businesses and municipalities, play a central role in the development of legislation

- guarantees contained in the human rights codes are not affected in any way
- regular review of the progress made

Through **The Accessibility for Ontarians with Disabilities Act** (2005), Ontario has provided itself 20 years to achieve full accessibility for all Ontarians with disabilities with respect to goods, services, facilities, accommodations, employment, buildings, structures and premises. Ontario is moving towards this goal by introducing steps that must be taken by private and public organizations according to timelines. These steps are called accessibility standards. Manitoba is considering a similar approach that is appropriate for the needs of our province.

2.0 Making New Laws in Manitoba

New laws, or changes to laws, must be approved by the Manitoba Legislative Assembly. Once a law is approved or passed by the Manitoba Legislature, it is called legislation. Manitoba can make only laws that deal with provincial activities, such as health, education, housing and Manitoba-based employers. The legislature cannot make laws that affect federal areas such as banks, broadcasting, the post office, interprovincial transportation and employment that is regulated by federal law. It should be noted that there are activities that take place in First Nations communities that fall under federal law.

Legislation is made up of two main parts: an act and regulations. An act is sometimes called a statute. An act is a law that has been passed by the legislature. It is a legal statement that sets out goals in a particular area. It gives officials, such as government, the legal authority to carry out certain

activities. For example, an act can give the Manitoba government the authority to set standards to remove barriers for persons with disabilities.

Regulations support the act. A regulation sets out the specific rules and procedures for carrying out the goals of an act. For example, if an act calls for the creation of accessibility standards, the regulations would have information about how the standards would be made and who must follow them.

In summary, an act indicates what must be done and the regulations identify how it will be done. Government programs or policies that are not based in legislation can be changed or eliminated at any time. However, the passage of legislation means that the Manitoba legislature has made a legal commitment to carry out a certain activity, such as removing barriers for Manitobans with disabilities.

3.0 Legislative Proposals

As you consider the proposals, keep the following points in mind:

- The **Human Rights Code of Manitoba** prohibits discrimination in both the public and private sectors on a number of grounds, including disability. The council proposals build on the requirements of the code by setting out a specific process for removing and preventing barriers.
- With the exception of The **Human Rights Code of Manitoba**, the proposed act would be considered over other

provincial legislation that provides a lesser standard of access. Since the **Human Rights Code** is the most powerful act, individuals whose specific needs are not met by accessibility legislation will still be able to file a complaint with the Manitoba Human Rights Commission.

- The focus of the council's proposals is on removing barriers and preventing new ones, so the council does not believe it is necessary to give a detailed definition of disability.

- The council recognizes that the rights of citizens to accessibility will change over time. It has worked hard to make the proposals as comprehensive and inclusive as possible. However, given the wide range and degrees of disability, the council expects that further work will be needed to ensure that all barriers for all persons with disabilities are removed.
 - Manitoba businesses need skilled employees and the demand for these workers is growing. In fact, reducing the unemployment rate among persons with disabilities in Manitoba by just one per cent could reduce the need for income assistance by over \$6 million annually.
 - It is estimated that, in Manitoba, persons with disabilities represent over \$1 billion in consumer spending. Eliminating the barriers to employment and consumer services will greatly increase these figures. A recent study in Ontario found that retail sales in that province are estimated to increase between \$3.8 and \$9.6 billion over five years, just by eliminating accessibility barriers.
- The next section of the discussion paper has been divided into a series of issues that should be considered when developing accessibility legislation. Each issue is explained in terms of how it applies to accessibility legislation and question(s) designed to initiate discussion.

3.1 Preamble

A preamble to a statute is like an introduction. It explains the statute’s purpose and underlying philosophy. A preamble may set out a number of statements that describe the social and historical background of the issue(s) dealt with by the statute. In **The Accessibility Advisory Council Act**, the preamble recognizes:

- Canada’s ratification of the United Nations Convention on the Rights of Persons with Disabilities
- rights provided by the **Canadian Charter of Rights and Freedoms**

- the fact that most Manitobans will confront barriers to accessibility at some point in their lives
- that removing barriers will improve the health, independence and social inclusion of persons with disabilities

In the preamble to the new act, the council is proposing the addition of these considerations:

- the large costs associated with barriers
- **The Manitoba Human Rights Code** in ensuring accessibility for Manitobans



What other references would you like to see included in the preamble?

3.2 Purpose

The council proposes that the act's purpose should be to enhance accessibility by identifying barriers and outlining ways to prevent and remove those barriers. The purpose would also outline the scope of the act. The act would cover fundamental areas involving the interaction of persons with disabilities and the broader society in which they live, work, learn and play.

Accessibility legislation in other jurisdictions focuses on similar fundamental areas.

Ontario's **Accessibility for Ontarians with Disabilities Act** focuses on achieving accessibility with respect to:

- goods
- services
- facilities
- accommodation
- employment
- buildings
- structures
- premises

The U.S.'s **Americans with Disabilities Act** is separated into sections on:

- employment
- public services
- public accommodations
- services provided by private entities
- communication

Manitoba's Accessibility Advisory Council is proposing to focus on achieving accessibility with respect to:

- goods
- services
- facilities
- accommodation
- employment
- buildings
- health services
- education and training



Do you agree with the areas proposed by the council?

Are there other areas that should be included in this list?

3.3 Application

The act would identify which parties are responsible for removing barriers. Standards would set out specific procedural or technical accessibility requirements that must be met by individuals or organizations specified in the act.

Standards would apply to public and private sectors in areas involving the interaction

of persons with disabilities and society. An accessibility standard may apply to an organization that employs people, offers accommodation, owns or occupies a building, provides public transportation, or provides goods, services, information, and/or facilities.



Do you agree with the areas to which the act would apply? Are there other entities that should be included?

3.4 Accessibility Standards

Accessibility standards set out regulated policies or practices for the public and private sectors in the areas identified in the act's purpose. The purpose of standards would be to identify, remove and prevent barriers related to goods, services, facilities and other areas. Standard development would involve extensive consultation with all affected stakeholders and members of the public.

It is expected that the council will establish committees to develop draft accessibility standards. These committees should have representatives from the diverse disability community, business and other sector representatives and various levels of government, including municipalities. Those who must meet the standards will be consulted and invited to provide their input. Accessibility is good for our society as a whole, so the committees should strive

to work well together and make decisions by consensus as much as possible.

Since standards set out technical and procedural accessibility requirements, standards will need to be regularly reviewed and updated to address technological advances or changing public needs. Consideration should be given to periodic reviews of standards by the council's committees of stakeholders.

Timelines to achieve these standards will be set, giving enough time for everyone involved to plan for any costs associated with meeting the new standards. Some standards may be achieved quickly with little or no cost, while others may take several years. These timelines will be set in consultation with all who are affected by the standard.

Compliance would require that designated persons and organizations with obligations

under the act and its standards must report on what they are doing to meet the accessibility requirements. This will allow

the minister to monitor compliance with the legislation and its effectiveness.



Do you agree with this approach?

Do you have recommendations for specific timelines in specific areas (ex: employment, transportation)?

What do you think of this proposal for developing standards?

What standards would you suggest the council put in place first?

3.5 Compliance with Standards

General compliance reporting methods and administrative and statutory penalties for noncompliance can be outlined in the new act. Further details about specific reporting and compliance requirements can set by regulation.

Using existing compliance mechanisms may be specified by regulation. The new act could also allow the future establishment of inspection and other compliance mechanisms for the purpose of enforcing the law.

The reporting requirements of obligated organizations should be streamlined in a way that does not take the primary focus away from activities required to achieve compliance. While reporting on accessibility can be a useful tool, the council is mindful of not creating an undue administrative burden. The council recognizes that the effectiveness of reporting mechanisms in other jurisdictions has not been tested.



How can the Manitoba Government best promote and ensure compliance with the requirements of the act?

3.6 Duties of Municipalities

Municipalities can play an important role in addressing accessibility for persons with disabilities in their communities. The council is considering a process where municipalities designate accessibility committees to advise on the identification and removal of barriers in keeping with accessibility standards in their communities. Municipalities would be responsible for creating a municipal accessibility committee, or designating an existing committee this role. Accessibility

committees would be responsible to meet and report to their local municipal council on a regular basis.

The council is considering proposing that all municipalities with a population above an agreed upon number (ex: 5,000 or 10,000) be obligated to create an accessibility committee and complete an annual report. Those municipalities with smaller populations would be encouraged to establish accessibility committees.



What should the role of municipalities be in recognizing access issues?

How should municipalities best implement accessibility measures in their communities?

What criteria should be used to identify those municipalities that should establish an accessibility committee?

How should the progress of such municipalities be monitored: (ex: submission of regular reports to minister/council)?

3.7 Transparency and Accountability

The current **Accessibility Advisory Council Act** establishes a system of reporting to the public. It requires that the council consult with persons with disabilities and representatives of persons and organizations that have the ability to prevent and remove barriers.

According to the current act, the council must report its recommendations to the minister within a specified time frame. The minister then makes the council's recommendations available to the public. The public then has 45 days to submit written comments to the minister. Within

90 days after the period of time for public comment has ended, the minister must provide a written response to the council. The minister must also prepare an annual report on the activities carried out related to the act.

Consultations with persons with disabilities and other stakeholders will be key to achieving greater accessibility. It is proposed that a similar system of consulting and reporting to the public should be required in new legislation dealing with the developing and establishing accessibility standards.



Does the current public consultation process provide enough opportunity for public input?

What transparency and accountability measures should be built into new accessibility legislation?

4.0 Conclusion

Accessibility legislation benefits all Manitobans. It will build on other efforts to make Manitoba more accessible by ensuring that appropriate services and programs are available. Your ideas and experience will help define made-in-Manitoba accessibility legislation and will play a crucial role in determining how we achieve greater accessibility in our province.



In addition to the areas identified in this discussion paper, what other issues would you like to see contained in the act?

4.1 How to Reach Us

The Manitoba government invites the public's views on accessibility legislation. For more information and to submit your ideas and comments, contact:

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Available in alternate formats upon request.

