

Independent Report on the Effectiveness of the Implementation of The Accessibility for Manitobans Act

December 2018

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Acronyms and Abbreviations

ABCs: Agencies, Boards and Commissions

AMA: The Accessibility for Manitobans Act

AODA: The Accessibility for Ontarians with Disabilities Act

Committee: Standard Development Committee

Council: Accessibility Advisory Council

DIO: Disabilities Issues Office

MGAP: Manitoba Government Accessibility Plan

Reviewer's Introduction

Section 39 of The Accessibility for Manitobans Act (AMA) calls for a comprehensive review of the effectiveness of the act four years following its proclamation. I am very pleased to have been asked to undertake this review. In the past numerous months, I have learned significantly by reading written material and consulting with a wide cross-section of Manitobans about the legislation, its standards, the level of awareness about accessibility, and the processes that have ensued to implement the legislation to date.

The legislation aims to identify, prevent and eliminate barriers encountered by persons with disabilities. Standards, which are developed as regulations, are fundamental aspects of the legislation; they are designed to ensure accessibility in important areas of every day life: customer service, employment, information and communications, transportation and the built environment.

At the outset of this project, the Minister of Families provided me with a Terms of Reference document that guided my work throughout, and required me to examine the:

- Standard development process
- Accessibility plans developed by government and the public sector
- The implementation of the Customer Service Standard
- Activities to ensure accountability and compliance
- Public education and
- The work of Manitoba's Disabilities Issues Office

This legislative review has taken place at a unique point in time. The AMA received Royal Assent and became law more than five years ago on December 5, 2013. At the time of this review, one accessibility standard has been passed: The Customer Service Standard Regulation. This standard is now in effect for all sectors and will be discussed in detail in this report.

The parameters of the review have been determined and constrained by the degree of implementation to date. For instance, it is too early to make substantive comments on the four remaining accessibility standards, as well as the implementation of the Customer Service Standard for the private and non-profit sectors.

Manitoba's accessibility legislation is modelled closely on Ontario's legislation: The Accessibility for Ontarians with Disabilities Act (AODA). This likely contributed to the timing of this mandatory review in Manitoba (i.e., four years after its proclamation). Senior officials in Ontario with responsibility for the AODA observed that the timing of their first review was somewhat premature in that insufficient progress toward full implementation had been achieved.

While this Manitoba-based review may also be perceived by some as early, it is hoped the findings and suggestions for improvement in this report will prove useful in moving Manitoba forward to full and timely implementation of the Act.¹

As required by the Terms of Reference, this review has operated “independent of government to ensure neutrality in the feedback obtained.” As such, the observations, assessments, and analyses contained in this report are solely my own.

That said, I owe a debt of thanks to staff of the Disabilities Issues Office for their willingness to provide me with any and all information and documentation I have requested. Finally, a special thank you to the individual provided to me by the Department of Families who has served as the note taker, research assistant and who has provided logistical support, throughout the many months of the review process.

Outline of Report

This report is separated into three distinct sections.

The first section, called **Setting the Context**, provides general information on the prevalence of disabilities in Manitoba and why accessibility matters. The section also includes an overview of the AMA, along with information on how the legislation was developed and passed in the Manitoba Legislature. The AMA’s interplay with the Human Rights Code is described. As the AMA is closely modelled after Ontario’s legislation and reference to steps taken in Ontario to support the legislation were frequently cited by review, a brief comparison of the two jurisdictions is introduced.

The second and lengthier section of this document titled **What the Review Found and Heard** outlines issues and themes that arose from the consultations that were held and the documents that were assessed. This section is organized according to the activities outlined in the Review’s Terms of Reference (see appendix A for a copy of this document).

The last section of the report, titled **Opportunities, Challenges and Suggestions for Improvement** offers observations and ideas on ways in which the future implementation of the AMA could be improved to increase effectiveness and efficiency.

¹ In this report, the words “the Act” and “the AMA” are used interchangeably.

Setting the Context

Disability in Manitoba

Most (and likely all of us) will be affected by a disability in our lives – we may have a disability ourselves or be close to a friend, neighbour, colleague or family member who encounters barriers to accessibility. Disabilities can be temporary or permanent. They can also occur at any stage in life, and be visible or non-visible. Examples of non-visible disabilities include ADHD, traumatic brain injury and epilepsy.

The Canadian Survey on Disability, conducted by Statistics Canada in 2012, found that 15.6 per cent of the Manitoban population, or 145,270 individuals aged 15 years or older reported having a disability that affected their daily activities.²

Manitoba has an aging population. Disability frequency rises with age. In 2012, 4.1 per cent of Manitobans aged 15 to 24 years reported having a disability, whereas 49.1 per cent of those 75 and over reported a disability. With an aging population, it is projected that the number of Manitobans with disabilities will rise over the years. According to a Manitoba Bureau of Statistics Discussion Paper, the prevalence of disability in Manitoba is expected to increase to 17.4 per cent by 2036.³ The trend is one towards a steadily growing population of people with disabilities in the medium and long-term future. Living in an increasingly accessible and barrier-free province is therefore important for Manitoba's residents and visitors.

Why accessibility matters

Under the Manitoba Human Rights Code, people with disabilities are protected from discrimination. This means that Manitoba's customers, clients and tenants with disabilities, for instance, have the right to equal treatment and equal access to facilities and services. Barriers to full participation, however, continue to exist and each of us has some responsibility to identify and remove barriers, as well as to prevent future ones from being created. An accessible province is barrier-free and does not limit its residents' or visitors' participation.

² "Disability in Manitoba – 2012-2036." Manitoba Bureau of Statistics – Accessed October 15, 2018 https://www.gov.mb.ca/mbs/reports/pubs/demographic_impacts_2015/mbs_demo_impact_2015_c5_disability.pdf

³ Ibid.

Accessibility is important, not only to people with disabilities but to broader society, including but not limited to businesses, neighbours, service agencies, and governments at various levels. Accessibility and social inclusion make good economic sense. There are tangible financial benefits that accrue to businesses when accessibility is achieved: persons with disabilities are able to take advantage of their goods and services. Manitoba's economy as a whole can benefit from the growing consumer demand and rising employment that an accessible province generates.

A fully accessible province:

- ✓ Allows for the interaction and engagement of all of its members
- ✓ Reduces social exclusion and improves mental health for people with disabilities
- ✓ Increases economic gains for local businesses, and
- ✓ Improves physical health opportunity and outcomes for all ⁴

The Accessibility for Manitobans Act: An Overview

[The Accessibility for Manitobans Act](#) (AMA) became provincial law in December 2013. Following Ontario's lead, Manitoba was the second province in Canada to pass standards-based accessibility legislation. The main goals of the Act are to identify, prevent, and remove barriers to participation and to "to make significant progress towards achieving accessibility by 2023." To this end, the AMA calls for the development of five standards (regulations) in the following areas:

- Customer Service
- Employment
- Information and Communications
- Transportation and
- The Built Environment

The AMA and its standards affect all Manitobans: persons with disabilities who experience barriers, the provincial government, municipalities, the public, private and

⁴ The upside of accessible and inclusive communities (March 6, 2017) Rick Hansen Foundation. Available at <https://www.rickhansen.com/news-stories/blog/upside-accessible-and-inclusive-communities> (accessed October 13, 2018).

non-profit sectors, and the population at large. Each standard outlines the organizations that are subject to its provisions and the time period for compliance. For instance, The Customer Service Standard Regulation was passed in 2015; it came into effect for government a year later, the public sector ⁵ in 2017, and more recently on November 1, 2018, the private and non-profit sectors, as well as small municipalities.

Although the Act does not define a person with a disability, it stipulates the following regarding a “barrier:”

3(1) “for a person who has a physical, mental, intellectual or sensory disability, a barrier is anything that interacts with that disability in a way that may hinder the person’s full and effective participation in society on an equal basis.”

Barriers can be physical, architectural, information or communications-based, attitudinal, or technological. Barriers can also be established or perpetuated by policies or practices. Examples of barriers include:

- Talking to a support person instead of a person with a disability, because of an assumption that the person with the disability cannot speak or understand (attitudinal barrier)
- Having print on a restaurant menu that is too small (information and communications barrier)
- Utilizing a business website that does not support screen reading-software for a person who is visually impaired (technological barrier)
- Drafting an employment advertisement that requires a job applicant to have a driver’s license even though there are ways to reorganize a job to use another form of transportation (systemic barrier)
- Having a hallway in a public office that is too cluttered for a person who uses an electric scooter or wheelchair (physical barrier) ⁶

According to the AMA, public sector bodies (as defined under regulation) must develop and update accessibility plans, as well as comply with accessibility standards.

⁵ Public sector organizations include large municipalities, regional health authorities, crown corporations, colleges, universities and school divisions.

⁶ Adapted from “Barriers and Solutions” webpage. Available at <http://www.accessibilitymb.ca/types-of-barriers.html> (accessed November 8, 2018).

Organizations in the private and non-profit sectors, on the other hand, are not mandated to develop accessibility plans; they must, however, comply with requirements in the various standards.

The Human Rights Code

The Human Rights Code is Manitoba's provincial human rights law. It protects individuals and groups from discrimination on the basis of certain characteristics, such as having a disability. Under the Human Rights Code, individuals are protected from discrimination across many activities, such as any aspect of employment or service available to the public.

The AMA does not supersede the Human Rights Code in Manitoba; in fact, Manitoba's Code has pre-eminence. Manitoba's accessibility legislation complements the Code by providing a proactive and clear process to identify, remove and prevent barriers affecting persons with disabilities.

The AMA itself is silent on some key concepts that impact and affect its implementation. In those instances, frequently the Human Rights Code and its attendant policies provide guidance and direction. Two examples are the concepts of 'reasonable accommodation' and 'undue hardship.'

Manitoba's Human Rights Commission, which administers the Code, describes 'reasonable accommodation' as changes to how something is typically done to meet a special need of a person. This need must be based on a characteristic that is protected by the Code, such as having a disability. These changes are often simple and inexpensive.⁷ Failing to provide reasonable accommodation is a form of discrimination.

While it is often simple and affordable to accommodate individuals, situations may arise where providing accommodation is not feasible for safety or cost related reasons. Providing reasonable accommodation for the special needs of a person with a protected characteristic means accommodating those needs to the point at which the employer cannot accommodate those needs without experiencing 'undue hardship.' Undue hardship is not specifically defined in The Code. It has, however, been interpreted by courts and tribunals for guidance. Case law has demonstrated that undue hardship

⁷ "Human Rights and Reasonable Accommodations" Government of Manitoba website <https://www.gov.mb.ca/fs/imd/hr.html> (accessed November 10, 2018).

must be based on actual evidence (e.g., health and safety risks, and demonstrated financial hardship).⁸

The Accessibility for Manitobans Act: Its Development and Introduction in the Legislature

The Accessibility Advisory Council was established with the passage of The Accessibility Advisory Council Act on June 16, 2011. One of the Council's first tasks was to make recommendations to then Minister Jennifer Howard on the introduction of legislation that would establish a process to identify, prevent and remove barriers faced by people with disabilities. After its formation in 2011, the Council commenced consultation with the public and undertook research that informed the development of the AMA, which was presented to the Legislature and received Royal Assent in 2013.⁹

¹⁰ The Council's ongoing role was entrenched in the AMA as referenced in sections 13-17 of the Act.

At the time of this review, the Council was comprised of nine members representing the disability community and other affected stakeholders, including representatives of businesses and municipalities. A discussion of the Council and its role can be found on page 53.

The AMA became law in December 2013, having received unanimous support in the Legislature. The act was presented as a long-term and shared endeavor among government, community, private and public sectors (see text box in the next page).

⁸ "Reasonable Accommodation in the Workplace" A guideline developed under The Human Rights Code. The Manitoba Human Rights Commission. Available at <http://www.manitobahumanrights.ca/v1/education-resources/resources/pubs/guidelines/booklet-reas-accom-guideline-march-2017.pdf> (accessed November 10, 2018).

⁹ "Accessibility Advisory Council Members Announced." News Release – Government of Manitoba – December 2, 2011.

¹⁰ For more information regarding the Council's work in 2011 and 2012, please refer to "The Accessibility Advisory Council – Initial Recommendations to the Minister Responsible for Persons with Disabilities on Accessibility Legislation." June 15, 2012 – available at https://www.gov.mb.ca/dio/pdf/aac_final_report.pdf (accessed November 11, 2018).

“The main goal of the new accessibility legislation would be to prevent barriers by working with public and private sectors on long-range plans to ensure accessibility.” (Quote from then Minister of Family Services and Labour, Jennifer Howard - January 21, 2013).

The proposed legislation would set out a framework for collaborative long-range planning between governments, the private sector and accessibility advocate groups to make proactive and innovative solutions to enhance accessibility, independence and social inclusion of all Manitobans (News Release, April 24, 2013)

Following proclamation of the AMA in 2013, no additional staff or fiscal resources were assigned or publicly committed to implement the legislation. During this review’s consultations, it was confirmed by a variety of individuals that direction given to those responsible for the law’s implementation was that it was to be pursued in a cost-neutral manner. It could be reasonably stated then that the legislation was introduced as an aspirational tool to embark on a long-term journey towards full inclusivity, and with the engagement and support of a number of sectors: public bodies, businesses, non-profit organizations, municipalities, the elected Government and the citizenry at large.

Comparing Ontario and Manitoba

In 2005, Ontario became the first province in Canada to enact accessibility legislation, titled The Accessibility for Ontarians with Disabilities Act (AODA). The purpose of the legislation was “to develop, implement and enforce standards for accessibility related to goods, services, facilities, employment, accommodation and buildings.” The target date for reaching this goal is no later than January 1, 2025.¹¹

Manitoba’s AMA is closely modelled after Ontario’s legislation. However, unlike the AODA’s timeline of 20 years to make significant progress in achieving accessibility, the AMA allows for a much shorter deadline: a 10 year period (i.e., 2013-2023).

During review consultations, remarks were made with respect to the significant resource allocations (fiscal and staffing) in Ontario to implement its Act. From a resource perspective, however, Manitoba cannot be compared to Ontario. Ontario is the business and commercial center of the country (e.g., many of Canada’s businesses are headquartered there, as is the federal government). As such, its tax base is very

¹¹ “Accessibility for Ontarians with Disabilities Act. A Guide to the Act.” <https://www.aoda.ca/guide-to-the-act/> (accessed November 7, 2018)

different. Manitoba, in contrast, is a province of micro businesses; in December 2017, among its 41,334 businesses with one or more employee, more than 85 per cent of Manitoba businesses had fewer than 20 employees.¹² Similarly, many of Manitoba's communities are very small and have correspondingly limited fiscal capacity.

Manitoba's Current Fiscal Climate

The Speech from the Throne summarizes what the Government expects to achieve during a legislative session, and the contents of the speech are prepared by the Premier and the Government in power.¹³ The 2017 and 2018 Speeches from the Throne included the following:^{14 15}

“Fixing our finances is essential to the province's future economic and social health. Our government inherited an unsustainable state of affairs where our credit rating was being downgraded, our public assets had been allowed to deteriorate, budgetary targets were being missed year after year as deficits and debt were growing...” (2017 Speech from the Throne)

“Two years ago, my government embarked on an ambitious plan to make Manitoba Canada's most-improved province. After a decade of debt and decay, it began the important work of fixing the finances, repairing our services and rebuilding our economy. Manitoba's road to recovery is a long one, requiring both courage and care. Much progress has been made, but much work remains to be done” (2018 Speech from the Throne)

The above information demonstrates that the current climate in our province is one of fiscal restraint, as the present Government seeks to return Manitoba to a more secure

¹² Statistics Canada. “Canadian Business Counts, with employees.” December 2017.

¹³ What is the Speech from the Throne?” <https://www.gov.mb.ca/thronespeech/index.html> (accessed on November 2, 2018).

¹⁴ Speech from the Throne. Hon. Janice Filmon - Lieutenant - Governor of the Province of Manitoba – November 21, 2017. Available at: https://www.gov.mb.ca/thronespeech/thronespeech_2017.html

¹⁵ Speech from the Throne. Hon. Janice Filmon - Lieutenant - Governor of the Province of Manitoba – November 20, 2018. Available at: https://www.gov.mb.ca/asset_library/en/thronespeech/throne_speech_2018.pdf (accessed November 20, 2018).

fiscal footing. The current Government faces many competing interests. As with other significant policy and legislative initiatives, effectively implementing the AMA will require innovative, collective and creative efforts by all.

Review Process

The Review's Terms of Reference

The purpose of the review was “to focus on those activities already undertaken in carrying out the purposes of the AMA”,¹⁶ including:

- The Standards Development Process
- Accessibility Plans by Government and the Public Sector
- Implementation of the Customer Service Standard
- Accountability and Compliance
- Public Education and
- The provincial Disabilities Issues Office

In addition, although not expressly identified in The Terms of Reference as a dedicated area for examination, the Accessibility Advisory Council has been integral to many aspects of the implementation of the AMA and, as with the Disabilities Issues Office, the review includes a section dealing with the Council's operations and effectiveness.

Out of Scope

As mentioned in the introduction, in accordance with subsection 39(1) of the AMA “....the minister must appoint a person who is to undertake a comprehensive review of the effectiveness of *this* Act and report on his or her findings to the minister.” Further direction was provided in the Terms of Reference which state, in the Scope of the Review, “the review....should focus on *those activities already undertaken* in carrying out the purpose of the AMA.”

As a result, the review focused on the Act as unanimously passed in the Legislature and the effectiveness of its implementation to date. The review does not address possible

¹⁶ Terms of Reference - The Accessibility for Manitobans Act, 2013 - Four-Year Legislative Review.

amendments to the Act, nor does it comment on subjects not referenced or included in the legislation, such as potential additional accessibility standards. The review does not comment on elements of the legislation not yet drafted or implemented, such as the Accessible Transportation and Built Environment Standards. Observations on compliance are likewise limited by the fact that only one accessibility standard, The Customer Service Standard, has come into force, with application, until recently, extended only to government and the public sector. As well, a compliance and enforcement framework has not yet been approved and released to the public. Also outside the scope of the review was the examination of disability related services and programs, or the lack thereof. Other topics heard have been noted in Appendix D.

Meetings, Telephone Interviews and Written Submissions

The Terms of Reference that guided this review required the reviewer to consult with the public and, in particular, with persons disabled by barriers or representatives from organizations of persons disabled by barriers.

Hearing from as many Manitobans as possible was an important component of the review. From May to November 2018, input on the effectiveness of legislation was received from a varied cross section of stakeholders and representatives, including:

- Manitobans encountering barriers to accessibility
- Current and past members of the AMA-legislated Accessibility Advisory Council
- Members of standard development committees
- Staff from the Disabilities Issues Office (DIO) and key senior government officials
- Numerous organizations serving and/or advocating for persons with disabilities
- Large and small businesses, and associations
- Large and small municipalities, and associations and
- Other public sector bodies, such as educational institutions and crown corporations.

Among the individuals who provided valuable input were Indigenous Manitobans. A dedicated consultation meeting was held with members of the Francophonie. Officials from Ontario were also very helpful in answering questions and sharing their experiences in advancing accessibility through The Accessibility for Ontarians with Disabilities Act.

In order to foster a climate of trust and comfort, individuals who were consulted or who provided input were advised that personal attributions would not be made to their statements in this final report. Written submissions or comments could also be made to a confidential, non-governmental Gmail account.

Individuals who were consulted were informed that the review's final report would be tabled in the Legislative Assembly and thus made public. Written submissions from members of the public and a comprehensive brief from a disability advocate group, Barrier-Free Manitoba, were also received and reviewed during the course of the review.

Public Forum

On June 20, 2018, a fully accessible ¹⁷ public forum was held in Winnipeg to gather information for the review. Ninety three (n = 93) individuals attended the forum and participated in facilitated table group discussions, which were focused around the themes of the Review's Terms of Reference. Information from each table was shared with the larger forum audience, and all data obtained was collated, transcribed and analyzed.

To encourage broad engagement and promote accessibility, Manitobans unable to attend the forum or those who lived outside of Winnipeg, were able to view a video recorded webinar of the event's full plenary proceedings and send their written feedback to the following non-governmental email address: reviewofama@gmail.com.

Observation: Training Workshop

Observation of a DIO-delivered training workshop took place in June 2018, to gain an understanding of the way the workshop was delivered and received by organizations of various kinds.

Document Review

Throughout the months, considerable documentation was reviewed, including Accessibility Advisory Council meeting summaries, accessibility plans developed by government and various public sector organizations, resources and tools found on Manitoba's accessibility website, correspondence from associations, Ministerial reports,

¹⁷ The public forum's venue, The Viscount Gort Hotel, was physically accessible. Live captioning and ASL interpretation was provided, and large print and braille agendas and written material were available upon request. Two personal care aides were in attendance to assist participants during the forum.

emails and submissions from members of the public, Terms of Reference for Standard Development committees and the Accessibility Advisory Council, the Customer Service Standard Regulation and the AMA itself.

The review is very appreciative of all the individuals who took the time to provide input, share their views and/or personal experiences. Their generosity, openness and commitment to making Manitoba a more accessible province was apparent at each meeting and telephone conversation that was held, as well as in emails received.

What the Review Found and Heard

STANDARD DEVELOPMENT PROCESS

The Role of the Minister, the Accessibility Advisory Council, Committees and Support Staff

Accessibility standards, which are developed as regulations, are “the building blocks” of the AMA.¹⁸ They are designed to ensure accessibility in important areas of every day life: customer service, employment, information and communications, transportation and the built environment.

In Manitoba, the Minister is ultimately responsible for overseeing the process of developing all accessibility standards necessary to achieve the purpose of the legislation. In order to accomplish this, the Minister must prepare Terms of Reference for every proposed accessibility standard. Once developed, the Terms of Reference are provided to the Accessibility Advisory Council (Council), which carries out a number of activities ultimately resulting in recommendations to the Minister for her/his consideration.

The Council may establish committees of technical experts and other parties to provide input during the standard development process. These committees can include persons with disabilities, representatives of the sectors to which the standard is to apply and any individuals with relevant technical expertise. Members of the Council may also sit on the committees. When establishing a committee (this process being subject to the approval of the Minister), the Council must specify the committee’s mandate and provide guidelines for its functions and operation.

Lastly, in line with subsection 17(2) of the Act, the Minister responsible for the AMA may assign staff from her/his department (at one time Labour and Immigration, then Family Services and currently Families) to provide support to the Council and/or committees. In practice, this has been staff from the Disabilities Issues Office.

¹⁸ “Ministerial 2017/18 Annual Report – The Accessibility for Manitobans Act.” http://www.accessibilitymb.ca/pdf/annual_report_17_18.pdf (accessed November 8, 2018).

Steps: Standard Development Process

The process for developing an accessibility standard is cumbersome and protracted, and has not been well understood even by some members of standard development committees. The following represents an approximation of what steps have transpired to date:

1. Upon receiving the Terms of Reference from the Minister, the Council determines whether it will appoint a committee to develop a draft standard (Note: the establishment of a committee is subject to Ministerial approval). Alternatively, the Council may decide to develop the proposed standard from amongst its members.
2. The Council or its designate standard committee develops a proposed draft standard.
3. In those cases where a committee develops a draft standard, Council reviews the submission, making revisions or amendments it deems to be appropriate.
4. That revised draft standard is then used as the basis for the development of a discussion paper.
5. The discussion paper is the primary document presented for public consultation by the Council.
6. The public provides feedback on the discussion paper. (Note: the legislation is silent on the means to obtain input and the timelines associated with this consultation phase – in practice, the consultation period has taken 60 days).
7. The Council then reviews the draft standard in light of the public feedback it receives and makes further amendments as deemed appropriate. That revised draft standard is then recommended to the Minister for her/his consideration and approval.
8. The Minister reviews the work of the Council and may accept or amend it. Upon completion of that review, the Minister must prepare and post her/his proposed standard, as well Council's earlier recommendations (e.g., Council's proposed standard) available to the public by posting them on a government website.
9. The public has 60 days to provide comments on the Minister's proposed standard.
10. The Minister then consults with Council respecting any comments received and may revise the proposed standard, if she/he considers it appropriate.
11. The Minister then recommends the accessibility standard to the Lieutenant Governor in Council and, once approved, the standard is passed as a regulation.

Standard Development Process:

“We think that it seems like a pretty slow process with delays, and not really sure why...” (Public forum participant).

“I think the standard development process [is] a slow long and inefficient process, four years and only one standard” (Public forum participant).

Role Clarification and the establishment of timelines for Committees established by Council

As noted above, in establishing a standard development committee, the Council must specify the committee’s mandate and provide guidelines for its function and operation. As part of this review, Terms of Reference documents were obtained for standard development committees related to customer service; employment; and information and communications. The review found the need to strengthen the Terms of Reference documents to clarify reporting relationships, provide role clarification and timelines by which committees are to complete their work. Clear guidelines will also help to accelerate the standard development process and differentiate between the role of an independent advisory council, and the DIO staff’s role in support of standard development committees.

“I did not know that I reported to the Council” (Standard development committee member)

“[The secretary’s role] was not outlined in the Committee’s Terms of Reference” (standard development committee member)

Challenges particular to the Information and Communications Standard Development Committee

The review found that, while the Employment Standard Development committee completed its work within what many would consider a reasonable time frame (i.e., about six months), the Information and Communications Standard Development Committee spent an unanticipated and significantly prolonged time frame to develop

and submit its work to the Council (the committee met 20 times and took 14 months to complete its work).

One reason for this is the complexity of the information and communications field in 2018. As has been previously stated, Manitoba's approach to the AMA has been modelled on that of Ontario. It is worth reiterating that Ontario's legislation came into force in 2005. Between 2005 and 2018, technological capabilities for providing information and communications have exploded.

In the course of the review, it was learned from a number of sources (e.g., summaries of Accessibility Advisory Council meetings, as well as information shared by various review participants, including members of the Information and Communications Standard Development Committee) that Ontario's approach focused on technologies current at that time (2005), while the experts on the standard development committee recommended more recently evolved and far reaching technologies. Feasibility for Manitoba with the committee's approach was questioned, given the potential significant financial implications for stakeholders. In 2017, Ontario began reviewing its Information and Communications Standard, as required by its legislation, and it may prove useful to review that work prior to the implementation of an Information and Communications standard in Manitoba.

The lengthy standard development committee process described above was not helped by the fact that the Terms of Reference for the Committee contained no timelines within which the Committee was expected to complete its work. Clear time frames for work outputs should be communicated to standard development committees by the Council. To ensure that Government will meet its deadline for implementing the remaining standards in 2020, committees should be struck and function concurrently. They would also benefit from having a clearer and closer reporting relationship to the Council.

The need for transparency in the concluding stages of standards development process

The review also heard calls for greater transparency in the concluding stages of the standards development process – that is, the transition of a proposed standard from a standards development committee to the Council, the Council to the Minister, and then ultimately the Minister into a government regulation. Members of the Employment standards development committee, for example, stated that after submitting their work to the Council, they did not hear feedback or receive a draft of the recommended standard ultimately submitted to the Minister by the Council. Committee members would have appreciated the opportunity to discuss their work with the Council and to explore any points of difference that may have existed. They would have also valued updates with respect to the standard development process.

“Knowing the status and where things are at would have been helpful” (Member of employment standard development committee)

“[We] did so much work and we did not know what happened next” (Member of employment standard development committee)

In the future, an information feedback loop between committee members and the Council would assist to strengthen working relationships among important players tasked with influencing the development of a standard. Transparency would be further enhanced if the work prepared by committees, as well as the product recommended by Council appeared on the accessibility website permanently.

Consultations as part of the standard development process

Consultations are an important part of accessibility standard development. The Council must consult with a wide range of stakeholders affected by standards, including any persons or organizations that the Minister considers advisable. Council has, in fact, consulted with the public respecting the Customer Service and Employment Accessibility Standards.

Information obtained as part of the review suggests, however, that consultations have tended to attract, disproportionately, agencies providing services to Manitobans with disabilities, advocates and larger public sector organizations. Participation among the business and wider non-profit sectors appears to have been limited. Communication from the DIO has been focused on umbrella organizations, such as the Manitoba Chamber of Commerce and the Manitoba Heavy Construction Association, and is reliant on those organizations to further disseminate information to their members. It is worth mentioning that members of these organizations are often very small and are concerned with many competing priorities. Accessibility has only recently become an area of responsibility for them. Going forward, greater and more innovative efforts need to be made to attract and motivate these organizations that will be directly affected by upcoming accessibility standards.

While the Council is required to consult with the public (see step five on page 15), there is no requirement for standard development committees to do so. A further public consultation phase is required of the Minister regarding her/his standard (see step nine on page 15). The review learned that the Information and Communications Standard Development Committee held an additional consultation process during its work. Considering the many concerns expressed during this review regarding the slow pace of standard development, it may be useful to review the number, timing and length of the various consultation phases of the overall process.

Pace of Standard Development

One criticism commonly made during the review was the slow rate at which elements of the Act were being developed. Advocacy and disability-serving organizations told the review that the overall pace of standard development has been slow, and that much remains to be done to achieve full implementation of the AMA. It is not difficult to understand the impatience felt among the disability community regarding the length of time that has passed with only a single standard in force. That said, the review did not find that any legislated timeline respecting the standard development process had been breached. In fact, Government has committed to having all five standards in place in seven years, exceeding the performance in Ontario which took eight years to achieve the same goal, as well as being much earlier than the deadline of 2023 stipulated in the Act (for more information, please see the table on the next page).

Pace to pass accessibility standards ¹⁹

	Manitoba government (since 2016)	Manitoba government (pre-2016)	Ontario	Nova Scotia
Legislation in force	2013 <i>In office in 2016</i>	2013	2005	2017
Statutory obligation	<i>“Significant progress towards achieving accessibility by 2023”</i>		“...achieve accessibility for Ontarians...on or before January 1, 2025”	“Accessible Nova Scotia by 2030”
Number of standards to be passed	4 Customer Service Standard has already been passed.	5	5	6 Includes Education
Expected date to pass all standards	2020	2023	2013	2030
Approximate pace to pass all standards	4 standards over 4 years = 1 standard every year	5 standards over 10 years = 1 standard every 2 years	5 standards over 8 years = 1 standard every 1.6 years	6 standards over 13 years = 1 standard every 2.2 years

Committing to the development of five standards in seven years is an ambitious goal that will require Government leadership if it is to be achieved. The review found that the previous Government recognized this; the Terms of Reference to guide the work of the Customer Service Standard Development Committee in February 2014 required the Minister to “assign an experienced Senior Management individual from the Civil Service to chair committee proceedings.” Chair responsibilities as described in point seven of the document are set forth below as they could help improve the effectiveness of the standard development committee process and facilitate timely completion of this work.

¹⁹ Information in this table has been adapted from an internal Families document that was shared as part of the review.

“In carrying out his or her duties, the Chair will:

- a) Not vote in the decisions of the committee;
- b) Act in an impartial manner and be non-partisan;
- c) Encourage the balanced analysis of all relevant issues and questions for a variety of perspectives;
- d) Determine when a consensus is reached;
- e) Record in writing any declared conflict of interest and provide to the Minister;
- f) Verify that minutes of the meetings are accurately recorded; and
- g) Monitor the work of the committee, and sub-committees, if any, against the requirements of the Act, these Terms of Reference, with a view to keeping it on track to meet timelines.

Government provided additional support by making “... staff from the Department of Finance [then led by Minister Jennifer Howard] available to support the work of the committee.” (This was in addition to the administrative and coordinating support provided by the DIO).

The role of Chair and description of attendant responsibilities detailed above were retained in Terms of Reference documents for committees that followed after 2014. However, central, high-level leadership and direction provided by senior management in the Civil Service were missing from the Terms of Reference produced for subsequent standard development committees: Employment (September 2015) and Information and Communications (May 2017). Although both committees have completed their work, neither standard is yet in force. Both committees, as well as Council, may have benefited from greater attention and support from government. It is not clear why that oversight was withdrawn by the previous Government; nor is it clear that the present Government was apprised of the earlier approach.

Reinstating the role of Chair as an experienced senior management individual from the Civil Service and with knowledge of areas relevant to outstanding accessibility standards (such as the Transportation Policy Division of the Department of Manitoba Infrastructure to oversee the transportation accessibility standard development committee) could prove very helpful.

“We felt the forecast timelines didn’t feel they were very realistic for the act to roll out by the end of the current government’s mandate. In order to see that actually stand a chance of being rolled out, we need an increase in resources in terms of available staff and the DIO department, and other government resources” (public forum participant).

In recent months Government has taken a number of important actions suggestive of a strong commitment to the full implementation of the Act and all five standards. Notable among them:

- The Premier of Manitoba publicly directed Minister Stefanson, who is currently responsible for the AMA, to complete implementation of the legislation (October 18, 2018).

Excerpt from Ministerial Mandate Letter Issued by the Premier

As the Minister of Families, you are responsible for achieving better outcomes for children and families who need our support. In particular, you are responsible for the following commitment [among six others]:

Completing the review and implementation of The Accessibility for Manitobans Act to ensure its effectiveness in removing barriers to Manitobans with disabilities.

...the mandate I am setting out for you is not just a series of goals; they are the crucial building blocks for a better Manitoba. We promised a prosperous future for Manitobans – and with your dedication and passion we will succeed in delivering it to them...

Sincerely,

Original signed by

Brian Pallister

- The Clerk of the Executive Council appointed Manitoba’s Civil Service Commissioner, Charlene Paquin, as Manitoba’s Government Accessibility Champion (November 2018). Ms. Paquin will lead the development of accessibility measures within the provincial government, in order to remove barriers and provide improved services for government clients and colleagues.

- Ms. Paquin will chair a reinvigorated Accessibility Steering Committee comprised of senior government Executives: The Clerk of the Executive Council, the Deputy Minister of Families, and the Deputy Minister of Growth, Enterprise and Trade.
- The Deputy Minister of Families seconded two full time government staff members from other areas of the Department of Families to report to him in his capacity as Director under the AMA and develop a compliance and enforcement framework, as well as assist with Ministerial reporting requirements and other strategic accessibility projects (June 2018)
- The Deputy Minister of Families directed the development of a roadmap and timelines to ensure the achievement of completing all five standards by fall of 2020.

The above actions (bullets) provide important evidence of Government's commitment to the AMA. These steps should help to address concerns among members of the disability community regarding Government's ability to achieve significant progress in 2020.

"As reported in this brief's introduction, BFM [Barrier Free Manitoba] recently received reason for cautious optimism that work is currently underway to get the implementation of the landmark AMA back on track. This is a promising development that merits attention in this brief." (source: Barrier Free Manitoba, Brief to the Comprehensive Four-Year Review of the Accessibility for Manitobans Act; October 2018; page 19)

ACCESSIBILITY PLANS

Completion of Accessibility Plans among large public sector organizations

The AMA requires the Government of Manitoba, as well as public sector organizations to develop accessibility plans. Public sector bodies, as outlined in [The Designated Public Sector Bodies Regulation](#), include municipalities, regional health authorities, crown corporations, colleges, universities and school divisions in Manitoba.

The review found that 64 of the 65 larger public sector organizations, which had to develop an accessibility plan did so by the required deadline of December 31, 2016. This demonstrates a compliance rate of 98.5 per cent among five regional health authorities, 10 largest municipalities, 37 school divisions, four crown corporations, and nine universities and colleges throughout Manitoba. The trend is promising and during the review, government staff advised that work was underway to ensure 100 per cent compliance achieved.

The review also found that, while all 37 schools divisions had completed accessibility plans. The Manitoba School Boards Association expressed concerns on behalf of school boards respecting their ability to meet obligations related to access to buildings and playgrounds by non-members of the student body who make use of facilities outside of school hours (e.g., members of the public using school facilities for an evening club meeting).

Accessibility Plans: small public sector organizations (small municipalities and agencies, boards and commissions)

With respect to other public sector organizations (e.g., 127 smaller municipalities in Manitoba) the picture was less encouraging. Documentation obtained as part of this review noted that only 53 of 127 smaller municipalities (42 per cent) had accessibility plans (see appendix B for more information). For these smaller entities, the deadline for having an accessibility plan was December 31, 2017.

Meetings were held with small municipalities and members of the executive of the Association of Manitoba Municipalities to better understand the reasons for this. All those interviewed expressed both support for the objectives of the AMA and commitment to maximizing accessibility for all residents in their communities. They advised, however, that they face a number of challenges, including current and future fiscal capacity, an aging infrastructure for which structural renovations are not a viable option, and a lack of in-house expertise to develop accessibility plans.

Frequent among the comments made by municipalities was the lack of financial resources to implement requirements under the act. Many municipalities have very limited fiscal capacity to implement changes in those instances where significant costs would be involved. Many believed that the Government has committed them to the AMA without providing resources to offset costs that may arise.

Municipalities were also concerned that completion of an accessibility plan would commit them to both short and long range fiscal planning to upgrade facilities. They were also concerned that failure to do so could result in the demolition of valuable infrastructure in their communities because they would not meet accessibility requirements.

“Our community has many old buildings that are not easily changed to accommodate the new Act, as the changes required are very costly” (representative of a small municipality).

“There are a number of facilities that are towards the end of their life – we cannot afford to spend money on major upgrades...community halls and hockey rinks would require significant investments...there is a hockey rink that was built 55 years ago and has stairs to a viewing area. The facility would need to be totally redone to meet accessibility. The expectation of the community is that grandpa will be able to see his grand-daughter play hockey [by being able to go up to the viewing area]. We will not be able to comply. We don’t have the financial resources to create an elevator. How do we come up with the money?” (representative of a small municipality)

To achieve compliance among small municipalities, The Association of Manitoba Municipalities expressed interest in having staff from the Department of Municipal Relations (Community Places Program) deliver tailored workshops to assist municipalities to meet the requirement of having accessibility plans in place. Representatives of municipalities who were consulted also stated that they would benefit from accessibility plan templates, tools and resources that were developed to reflect their unique realities. Reliable and consistent information from government on what can realistically be achieved as well as everyday small town examples of measures that could or have been developed would also aid to manage apprehension and promote accessibility outside of Manitoba’s largest urban centres.

As at June 2018, there were 84 Agencies, Boards and Commissions (ABCs), which are considered to be government agencies under The Financial Administration Act. The review found that, of the 84 ABCs, 67 (or 80 per cent) were deemed to have accessibility plans in place, as they were captured under the general 2016-2018

Manitoba Government Accessibility Plan (MGAP). It was discovered, however, that 16 ABCs are required to have individual accessibility plans and, as at June 2018, nine of them had been contacted by the DIO to advise them of this requirement. No additional information about the existence of these 16 plans could be obtained as part of this review.

As public sector organizations are required under the AMA to update their accessibility plans every two years, it appears that increased support and guidance is needed to help organizations (particularly small ones) to plan ahead in a practical, realistic and achievable manner.

Accessibility Plans: Existing tools and Resources

The accessibility plan tools and resources that are currently found online at <http://www.accessibilitymb.ca/how-to-write.html> are:

- How to Create Your Accessibility Plan – A Guide for Public Sector Organizations
- Accessibility Plan Update – Guide and Template – for Public Sector Organizations
- Examples of accessibility plans by public sector organizations

The Guide (first document listed above) is 50 + pages, 30 of which are appendices. It is geared to public sector organizations and lists among its action items: the establishment of accessibility working groups, the appointment of accessibility coordinators and the development of online training by HR on how to respond to requests.

Most small municipalities have no more than a handful of part time staff, have no HR department and no in house expertise to develop accessibility plans and accompanying documentation. Currently there are no tools available that speak to, or provide guidance to small public sector organizations in developing accessibility plans. Existing tools are written for large organizations with a significant number of employees, as well as formalized administrative structures, and written policies.

Worth mentioning is that subsection 33(6) of the AMA includes a provision whereby two or more municipalities are able to develop a joint accessibility plan. The DIO advised that, to its knowledge, there has been limited take up of this approach, although it was unable to provide information as to how many joint plans existed. Taking advantage of this legislated option, under the guidance of the provincial Department of Municipal Relations (Community Places Branch) with whom municipalities have ongoing working relationships, may assist in improving compliance among Manitoba municipalities.

2016-18 Manitoba Government Accessibility Plan

The Government of Manitoba is required to have an accessibility plan and to update it every two years. The plan must also be made available to the public. Although the 2016-18 Manitoba Government Accessibility plan made available to the reviewer meets the legal requirements of specifying the measures government has taken (and intends to take) to identify, prevent and remove barriers, the plan does so in a general and rudimentary way. Details regarding proposed measures are broad and leadership responsibilities are not assigned with respect to specific measures. No timelines for the achievement of each measure are listed in the plan. A more detailed Government of Manitoba plan, such as the one prepared by [The Winnipeg Regional Health Authority](#) can promote accountability and demonstrate to the public government leadership in the effective implementation of the AMA.

Review of sample of Accessibility Plans

As required under the Review's Terms of Reference, a sample of accessibility plans for larger public sector organizations and smaller public sector organizations, was reviewed. The review found that the plans met the legal requirements, as outlined in the Act (see appendix C for an excerpt of accessibility planning provisions in the AMA). The plans that were reviewed included organizations' statements of commitment to accessibility, lists of identified barriers, as well as accessibility achievements and planned actions to remove barriers. It was not possible to determine whether plans progressed from publication towards implementation, because no tracking mechanism on implementation exists.

Highlights from Plans that were reviewed

City of Brandon:

- ✓ Formed a working group sub-committee made up of customers (clients)
- ✓ Announced the Mayor and the City Manager as Champions of their accessibility program
- ✓ Developed a policy of ensuring that service animals are welcomed in all City facilities with the exception of food handling areas and the Enhanced 911 Centre where access is restricted for everyone

For more information about accessibility resources listed on the City of Brandon website, please visit: <http://www.brandon.ca/accessibility/accessibility-overview>

Municipality of Louise:

- ✓ Administered an accessibility feedback survey to all residents in October 2017 to establish baseline information
- ✓ Partnered with Senior Services to install temporary ramps at local businesses through the Stop Gap Program.



- ✓ Created an accessibility list for use by organizations holding events in municipal buildings

Liquor and Lotteries:

- ✓ Public tastings, education events, and annual public meetings are held at accessible venues
- ✓ Home delivery of liquor products is available in Winnipeg and Brandon
- ✓ Training helps staff differentiate behaviours between intoxicated individuals and those with a developmental disability to avoid misinterpretation

Tracking Completion of Accessibility Plans

According to the AMA, public sector bodies must make their accessibility plans available to the public. Often, this means uploading the plans on organizational websites. The review found that tracking progress towards compliance in completing accessibility plans has proved to be time consuming. This tracking responsibility currently rests with the DIO, whose staff visit websites to determine the existence of accessibility plans, and follows up with phone calls when a plan cannot be located. Amending regulations under the AMA to permit the Director to require, as needed, organizations to report on compliance will assist in this regard. It will also free government staff to provide education and assistance to affected organizations and to promote greater awareness more broadly throughout all sectors.

IMPLEMENTATION OF THE CUSTOMER SERVICE STANDARD

The Customer Service Standard

The first and only accessibility standard that has become effective in Manitoba is [The Customer Service Standard Regulation](#), which became law on November 1, 2015. By way of introduction the meaning of “accessible customer service” is stated in the regulation as follows:

- “For the purpose of this regulation, accessible customer service is provided when all persons who are reasonably expected to seek to obtain, use or benefit from a good or service have the same opportunity to obtain, use, or benefit from the good or service” (page 2 of the Customer Service Standard Regulation).

In practical terms, this means that under the standard, organizations are required to:

- meet the communication needs of customers, clients or members
- allow assistive devices, such as wheelchairs, walkers and oxygen tanks
- welcome support people, who are there to assist
- welcome people with service animals
- ensure accessibility is maintained as intended (e.g., ramps, wide aisles, removal of clutter)
- let customers know when accessible features and services are not available
- invite customers to provide feedback; and
- train staff on accessible customer service, including reasonable accommodations under The Human Rights Code (Manitoba).

According to the standard, organizations that have 20 or more employees must document the measures, policies and practices they implement and must provide a copy of the documentation upon request. This includes training policies, and a written summary of the content of the training, as well as when the training is to be (has been) provided.

Notice of measures, policies and practices must be displayed in a prominent way on the premises of an organization and on the organization's website, or through another reasonable means.

If a person with a disability requests the documentation, the organization must provide it:

- in a manner that takes into account the barrier; and

- within a reasonable time and at no cost to the person.

Requirement to document policies, measures and practices

Ontario was the first province in Canada to pass accessibility legislation in 2005. Manitoba, which followed suit in 2013, has had the opportunity to learn from Ontario's lengthier experience in developing its legislation and accessibility standards. In fact, as stated earlier, Manitoba's Act and standards development to date have consistently followed the Ontario model.

During the review, it was learned that, up until recently (and like Manitoba), Ontario's customer service standard regulation exempted organizations with fewer than 20 employees from documentation requirements. However, after a five year review of this Standard, Ontario raised the threshold of organizations not required to document their accessibility policies, measures, and practices to organizations with fewer than 50 employees.

In making this amendment, Ontario ensured consistency of this standard with its other four standards where the threshold for documentation requirements was 50 employees. As part of this review, information was sought from a senior civil servant in Ontario responsible for standards development and review in that province. Ontario advised that when the customer service standard development committee was deliberating around this recommendation, officials noted that many small businesses which fall into the category of 20-49 employees, often did not have HR departments or formal policies in place, and would not have the business resources/capacity to actually document/develop policies in the same manner as would large organizations. Ontario did point out, however, that such organizations would still be required to provide accessible goods, services and facilities and to submit accessibility compliance reports.

Similar concerns regarding documentation requirements among small businesses were voiced in Manitoba, a part of this review.

“A level of fairness is important. A business with under 75 employees does not have an HR specialist onsite. This is a problem. Ontario has encountered difficulties with small businesses – they were disproportionally getting in trouble for not adhering to documentation and other requirements. We are setting small businesses up to fail if, for example, they have a staff of four and we beat them up if they do not comply. For this legislation to accomplish what we want it to...I worry that we are very ill equipped to implement requirements. If we do not focus on education, the business sector will probably disappoint us around the table” (accessibility advisory council member)

“We think there’s a giant concern that smaller and not for profit business that don’t have HR departments are going to be able to effectively develop and implement their policies” (public forum participant).

“Large organizations [are] moving a little faster because [they have] resources” (public forum participant).

As referenced earlier in this report under the section titled **Setting the Context**, more than 85 per cent of Manitoba businesses have fewer than 20 employees. Given Ontario’s challenging experience in gaining compliance with The Customer Service Standard among small organizations, and based on the reaction by members of the business community as part of this review, it would appear likely that Manitoba’s experience will mirror that of Ontario.

Throughout this review, it has been important to focus on the objective in establishing the AMA: maximizing opportunities for all Manitobans to participate fully in all aspects of everyday life. Achieving this will require the goodwill and support of the wider community. Creating undue hardship on small businesses would likely not advance this objective. It is therefore advisable that Manitoba adopt Ontario’s approach and amend the documentation requirement under the Customer Service Standard and the remaining four accessibility standards to apply to organizations with 50 or more employees.

Training Requirements under the Standard

The Customer Service Standard Regulation requires all employees in Manitoba to be trained on how to provide accessible customer service. This is an enormous undertaking that cannot be achieved through in person training sessions. Government has recognized this and directed the DIO to develop a free online training tool, which was launched in November 2018, and is available at

<http://www.accessibilitymb.ca/online-training.html>. While providing useful information, the training tool would benefit from a more animated and engaging format.

Improving Understanding of what constitutes Reasonable Accommodation

The Customer Service Standard Regulation, as is typical of many pieces of legislation is difficult to read and understand. The DIO has developed tools intended to guide organizations to comply with the requirements under the standard. Those tools, as will be addressed in more detail in a later section of the report, have not been viewed by some as helpful. As a result, a number of organizations are unclear respecting their obligations under the regulation. One example relates to the requirement to train staff, and its application to volunteers.

A further example concerns service animals. During the review, questions arose on how to determine if an animal is a service animal, and responsibilities around welcoming them in facilities. In one instance, and during the review, a municipality asked the reviewer if denying a request to allow a service dog in a public pool would violate the Human Rights Code and thus the AMA. Clarification was sought from The Manitoba Human Rights Commission, and its response appears in bold text below. This information was provided to municipalities in case similar situations were to arise in the future.

Service Animals and Pools

A facility would need to think about whether or not the person is able to substantiate the need to have the animal with them in the pool. It may be that the animal is not trained to provide assistance in the pool. A person using a guide dog, for example, may be able to swim or take lessons with other assistance in place other than the animal and this is what commonly occurs.

It is also important that organizations think about the hardship that might be created by having an animal in the pool, which includes looking at health and safety issues. It would be unlikely that a person could establish that having a dog with them in a public pool is a disability-related need.

In some cases, a person with a disability may need to have their animal tethered to the pool deck because it is assisting with a disability-related need (i.e. detecting a seizure) but is not required to be in the pool).

The Manitoba Human Rights Commission has developed useful [guidelines on discrimination against persons with disabilities who use service animals.](#)

Helping organizations know what would constitute compliance under these and other circumstances is not a service that can easily be provided by a website. The DIO has limited staff whose main areas of responsibility are to: assist departments with public policy development, develop tools and resources, promote awareness raising and training, and provide research and administrative support to standard development committees and Council. Seconding a dedicated individual with a background in communicating with the public to answer calls and emails that organizations may have on the implementation of this and future standards, will be beneficial. As part of that responsibility, the seconded individual can serve as a mentor to other staff at the DIO on approaches to accommodation. This person can help tailor policies and measures that are reasonable and practical, while still constituting compliance, with both the AMA and the Human Rights Code.

“There is no room in the legislation for variations and no government person or place to ask about differentiating” (small municipality)

Awareness of the Standard

Prior to the spring 2017, awareness building efforts undertaken by the DIO focused on public sector organizations and the development of accessibility plans. Although, in the summer of 2017, the DIO created a contact list and sent emails to businesses and non-profit associations alerting them to the deadline for compliance respecting the customer service standard, no significant awareness building initiatives were undertaken until March of 2018 during which a social media campaign ran for the month.

In October 2018, in an attempt to prepare businesses, the non-profit sector and smaller municipalities for the effective date on which the Customer Service Standard would become mandatory for them, a newspaper article appeared in the business section of the Winnipeg Free Press. A Media Bulletin was also released by government on October 11, 2018. At the direction of the Director under the AMA, the DIO forwarded the Media Bulletin to a wide range of businesses and non-profit associations, sector councils, municipalities and professional organizations and encouraged them to share the Media Bulletin with their members (see appendix E for a distribution list). According to the DIO, the Manitoba Federation of non-profit organizations committed to sharing the Media Bulletin with its member organizations. The United Way also indicated it would do the same with its member agencies.

While the above-cited awareness raising activities in fall 2018 were far-reaching as they pertained to obligated organizations, it should be noted that, other than the social media campaign referenced above, no significant awareness building was undertaken targeted to the broader public. Organizations consulted as part of the review, particularly from

the business sector, expressed concern regarding the very short notice, and that so little had been done to publicize the very existence of the Act and the Customer Service Standard. Notification regarding future deadlines with standards will need to be proactive and take place months before coming into effect. Government has acknowledged this and timely notification regarding future obligations under the AMA has been taken into account as part of the proposed compliance and enforcement framework.

“Implementation, 35,000 organizations have a compliance deadline with the [Customer Service] Standard by November 1, 2018. Our view is if there had been a poll or survey done of all those 35,000 organizations less than 1% of them right now would know about the AMA or about what their obligations are” (public forum participant).

“...businesses just need more awareness. Because with awareness, we can get more stuff done” (public forum participant).

Compliance: Customer Service Standard

There are different timelines stipulating when various sectors had to comply with the standard. The Customer Service Standard Regulation came into force on November 1, 2015.

- The Manitoba Government had one year to comply - November 1, 2016
- Large public sector organizations had two years to comply - November 1, 2017
- The private and non-profit sector, as well as small municipalities had three years to comply - November 1, 2018

The above timelines have limited the capacity of the review to address compliance of the customer service standard, with the exception of large public sector organizations. Compliance with the training requirement has been good. By way of example, 8,000 City of Winnipeg staff, 97 per cent of Manitoba Hydro employees, between 80 percent and 90 per cent of WRHA staff and 61 per cent of Manitoba civil servants had received accessible customer service training as at August 30, 2018. More detailed information is available in appendix B. Compliance with the requirement to document policies, practices and measures is unknown.

ACCOUNTABILITY AND COMPLIANCE

At the time of this review, compliance means different things to different organizations. For example, the Minister of Families is required to comply with the Act through the development of annual plans and reports. For government and public sector organizations, compliance constitutes the completion of an accessibility plan and adherence of requirements under the Customer Service Standard. Much more recently, on November 1, 2018, the private and non-profit sectors, as well as small municipalities were required to comply with the Customer Service Standard (note: private and non-profit sector organizations are not required to develop accessibility plans).

Ministerial Annual Reports

The AMA requires that those responsible for the legislation be accountable to the public. One measure of accountability is by communicating activities carried out by government to implement the AMA in any given year. According to section 19 of the AMA, the Minister responsible for the legislation must, within six months after the end of each year, prepare a report describing the activities undertaken to carry out her/his mandate under the Act, as well as the activities of the Accessibility Advisory Council (for more information about the Council, please refer to page 53).

Ministerial Annual Reports, which have been written since 2015/16, are found on the <http://www.accessibilitymb.ca> website. The review found that future annual reports could be enhanced by including data on specific performance accessibility measures, which could be tracked yearly (e.g., progress made in creating government documents in alternate formats).

Ministerial Annual Plans

Accountability under the Act also requires that the Minister prepare an annual plan that “sets out the activities that the minister intends to undertake in the coming year, in carrying out his or her mandate.” These plans, which must be made available to the public, have been completed and published each year since 2015/16. The review learned that Manitoba’s annual plan reporting requirements exceed those of its counterparts with standards-based accessibility legislation (i.e., In Ontario and Nova Scotia, the Minister is not mandated to produce annual plans).

Annual Reports: With respect to the timing of reports being made public, there is some confusion. Although some review participants indicated that the public release of the annual plans and annual reports was consistently tardy, the legislation itself is somewhat confusing regarding the timelines by which these reports are to be filed. For

example, annual reports are to be prepared “within six months after the end of each year”, but nothing is said whether this is in reference to a fiscal year or a calendar year. All government departments are required to file annual reports, which detail their activities of a fiscal year. These reports, however, are required to be filed on or by September 30 each year. Previous accessibility annual reports, as seen below, have been tabled in October of each year.

Approval and Tabling of Annual Reports

Ministers Annual Report 2015-16: October 19, 2016

Ministers Annual Report 2016-17: October 23, 2017

Ministers Annual Report 2017-18: October 11, 2018

Annual Plans: The Minister’s annual plan, on the other hand, is to be made in relation to the government’s fiscal year. While one can infer that these plans are to be filed on April 1 of each year, further clarification is required. The approval of these annual plans has been, as is seen below, inconsistent.

Approval: Annual Plans

Ministers Annual Plan 2015-16: May 13, 2015

Ministers Annual Plan 2016-17: September 16, 2016

Ministers Annual Plan 2017-18: July 17, 2017

Minister’s Annual Plan 2018-19: June 29, 2018

On a go forward basis, reporting timelines for both sets of reports that are clearly understood by government and the public could provide clarity and increased public accountability.

Compliance Activities to date

At the time of this review and the writing of this report no compliance and enforcement framework has been put into effect. Pursuant to the development of this framework, The Deputy Minister of Families, Jay Rodgers, was appointed Director under the AMA,

which encompasses responsibility for compliance and enforcement. His appointment was formalized in December 2016, through an Order-in-Council. It was in his capacity as Director of the AMA, that the Deputy Minister of Families was interviewed as part of this review. He advised that a draft compliance framework had been recently submitted to the Accessibility Steering Committee for consideration (for more information about the committee, see page 23).

As part of this review, the proposed framework was reviewed and found to be thorough, comprehensive and in compliance with sections 20 through 32 of the AMA. Although the AMA is silent respecting any responsibility to consult in the development of its compliance and enforcement framework, government has advised that once implemented, the framework will constitute a living document and will be made publicly available to facilitate comment and feedback by members of the disability community, as well as obligated organizations.

As stated earlier in this report, a review of the effectiveness of the AMA cannot address those elements that have not been put into effect. This has limited the opportunity to comment on the effectiveness of the framework. Observations respecting compliance have been largely limited to concerns expressed by obligated organizations and members of the disability community regarding the lack of a compliance framework and attendant accountability.

During the review, almost all ²⁰ obligated organizations that were consulted expressed fear about the consequences of being unable to comply with current and future accessibility standards, despite wanting to do so. Many review participants were concerned about a lack of a publicly available compliance and enforcement framework in Manitoba, further exacerbating anxiety and fear of the unknown:

²⁰ The large retail sector appears to be prepared to meet accessibility standard requirements in Manitoba because they have franchises in Ontario and have been subject to that province's accessibility requirements for some time. In addition, training and other resources, as well as "lessons learned" can be shared inter-jurisdictionally among franchises.

“The fines in the act...that’s a big fear” (education sector representative)

“Expenses are an issue again, so resources, and having a way to ensure there's compliance. There's no information on how to reach somebody, who to complain to, where to report issues to and how that's going to be dealt with, there's very little information on how things are going to actually be dealt with” (public forum participant)

“Compliance, there is no compliance framework, so it's hard to comment on what we have, we don't have one. The compliance officer needs to be a dedicated position and not basically just an add-on to a Deputy Minister's position. What is the process to complain to appeal? So we have no framework to comment upon. We know that workplace health and safety conducts 60,000 inspections per year, so as another group said we have compliance frameworks, we simply haven't adopted one that's meaningful yet for this legislation” (public forum participant)

Although no formal and publicly available compliance and enforcement framework has been put into effect, dedicated compliance-related activities have been carried out by the DIO, particularly with respect to large public sector organizations. Such efforts include, but are not limited to: notifying organizations of compliance deadlines, offering information sessions on how to provide accessible customer service, and delivering training workshops on the development of accessibility plans. The review learned that the compliance and enforcement framework in Manitoba will utilize the capacity of “educating into compliance” as a first step in a progressive system that would also include reviews, audits, inspections, and sanctions.

- “Educating into compliance” means: providing support to sectors in ways that best encourage and promote compliance with the AMA, its standards and reporting deadlines. It includes sending notices and letters, launching targeted outreach and awareness campaigns and developing, refining and sharing tools and resources with affected organizations (power point presentation).

During the review, an Accessibility Advisory Council member supported this collaborative and non-punitive approach as an initial step to achieve compliance.

“With respect to compliance, it is not [or should not be] a heavy-handed thing. There is often a teaching moment. There needs to be continuous training” (Accessibility Advisory Council Member)

While information sharing and education were seen as worthwhile, other Advisory Council members warned about not having ‘toothless legislation’ with a weak enforcement capacity:

“Places sometimes will not make changes unless there is an order or a consequence in the back pocket.”

“Apparently, there are regulations [outside of the disability sector] that are never enforced, and they are quickly known not to be enforced...these regulations live on shelves. I wouldn’t want that to be the case with these [accessibility] standards.”

The review was also told that Manitoba intends to place emphasis on a “whole of government” approach to compliance and enforcement. The concept will be such that key government departments with existing compliance structures and enforcement officers could be trained to incorporate inspection respecting compliance of the AMA into their current responsibilities. This approach is both creative and cost effective. As noted in a November 1, 2018 CBC article, utilizing existing bylaw enforcement officers is an approach which represents “a step above what Ontario is doing.”²¹

A central accountability centre will be necessary to coordinate and direct responsibilities under compliance. This function must be separated from education and awareness activities undertaken by the DIO. Such an organizational approach will mitigate against conflict of interest concerns and also maximize objectivity. Ontario has also taken the step of separating these two sets of responsibilities. In fact, Government has already begun to move in this direction. As stated on page 23, the Deputy Minister of Families, in his capacity as Director of Compliance under the AMA has seconded two senior staff to assist him in addressing all aspects of compliance.

With respect to compliance, an important mechanism currently lacking in Manitoba is one that allows the Director under the AMA to compel organizations, as needed, to report on compliance. The development of a regulatory reporting mechanism could provide a means to facilitate ongoing progress towards compliance. As noted in Ontario’s second review of its legislation:

²¹ “Disability advocates criticize lack of teeth in new Manitoba accessibility regulations” CBC News – Posted November 1, 2018. <https://www.cbc.ca/news/canada/manitoba/disability-advocates-criticize-lack-of-teeth-in-manitoba-accessibility-regulations-1.4887189> (accessed November 20, 2018).

- “The AODA requires organizations to file accessibility reports when directed to do so, confirming compliance with applicable standards. This self-reporting mechanism is fundamental, as the review of reports is the primary tool for monitoring compliance. Self-reporting represents the first stage in a progressive enforcement regime that also encompasses inspections, orders, administrative penalties, appeals, and ultimately prosecutions and fines.” ²²

PUBLIC AWARENESS AND EDUCATION

Low level of awareness among the broader public

As referenced earlier, consultations were held among a wide cross-section of individuals and organizations. Overwhelmingly, however, and perhaps unsurprisingly, interest in the review and the AMA itself was most evident among members of the disability community and agencies that serve Manitobans experiencing barriers (e.g. Barrier Free Manitoba and The Society for Manitobans with Disabilities). It cannot be inferred from this that interest in, and support for, the AMA and accessibility is minimal. Rather, it reflects the low level of awareness among the wider community of Manitobans of the existence of the legislation and its aims. Clearly more needs to be done.

“The theme that came through was more awareness of the whole process that’s out there. Although there might be a website with all those resources, people didn’t know that they were there” (public forum participant).

Changing Attitudes

The most common sentiment expressed by members of the disability community was the need to improve attitudes toward individuals with disabilities. Making what is known as ‘the access offer’ would go a long way toward helping Manitobans with disabilities feel welcomed and included while improving their access to goods and services in retail stores, restaurants and medical facilities to name just a few examples. Simply put, the AMA requires the members and staff of all organizations to approach, rather than ignore, individuals with disabilities and ask ‘how can I help?’

²² Mayo Moran. “Second Legislative Review of the Accessibility for Ontarians with Disabilities Act, 2005.” November 2014. Page 10.

<https://dr6j45jk9xcmk.cloudfront.net/documents/4019/final-report-second-legislative-review-of-aoda.pdf>

The DIO has produced access offer signs (tent cards) that pose this question illustrated with icons that symbolize ways in which help might be provided. These can be placed on the counters at banks, hair salons, checkout stations in stores, reception desks at hotels, businesses and municipal offices. The signs are available at no cost and do more than convey a willingness to serve; they raise awareness among all Manitobans: fellow shoppers, business clients, and patrons at entertainment venues that there are some among us that encounter barriers in order to participate in many aspects of society that the able bodied may take for granted; and that we all have a role to play.



Government led awareness efforts

The DIO advised that a paid social media ad campaign to create public awareness of the Customer Service Standard was carried out in March 2018. Almost three million ads appeared on Twitter, Facebook and Instagram, which resulted in a less than one per cent “click through” rate ²³ to the <http://www.accessibilitymb.ca/> website.

As previously noted, in October 2018, in an attempt to prepare businesses, the non-profit sector and smaller municipalities for the effective date on which the Customer Service Standard would become mandatory for them, a newspaper article appeared in the business section of the Winnipeg Free Press. A Media Bulletin was also released by government on October 11, 2018 and distributed to a wide range of businesses and non-profit associations, sector councils, municipalities and professional organizations, encouraging them to share it with their many member organizations (see appendix E for a list of recipients). However, other than the social media campaign referenced above, no significant awareness building was undertaken targeted to the broader public.

²³ A click through is the action of following a pop up ad (hypertext link) to a particular website.

Organizations consulted as part of the review, particularly from the business sector, expressed concern regarding the very short notice and that so little had been done to publicize the very existence of the Act itself. Sadly, this has been typical since the Act's proclamation. Notification regarding effective dates for upcoming standards, as well as compliance obligations should be publicized months before coming into effect. As stated earlier, government has acknowledged this and the timely notification regarding future obligations under the AMA has been taken into account in the proposed compliance and enforcement framework.

It appears that the Act was proclaimed by the former Government in 2013 without much publicity. The Customer Service Standard came into effect on November 1, 2015 (applying initially to government and then much of the public sector: regional health authorities, universities and colleges, school divisions as well as Manitoba's ten largest municipalities) without much notification to the public at large. Expecting broad public awareness to happen in this vacuum of communication is unrealistic.

"We've had two years, we don't know why there hasn't been a more effective communication and marketing program to make sure people do know" (public forum participant).

"Overall we just felt that more public awareness needs to be done with respect to the AMA" (public forum participant).

Some of the communication deficit can be properly attributed to a lack of resources. As stated earlier, the Act was implemented on a cost-neutral basis. This likely afforded the legislation an easier ride through the governmental legislative process and, without significant cost implications, contributed to its unanimous support on passage. That said, the previous Government was the architect of the legislation and was responsible for its stewardship until the change in administration in April 2016 yet did little to promote it.

Although it can be argued that the incoming Government inherited responsibility for implementing the Act, it also has done little, until recently, to promote it. Prioritizing the AMA in recent months, the current Government has made noteworthy improvements in moving the implementation process forward. A concrete example is the October 2018 mandate letter to Minister Stefanson from the Premier of Manitoba, which includes direction to complete the implementation the Act. More needs to be done, however, to raise awareness among organizations and the public in order to make Manitobans aware of their responsibilities under the Act, as well as to garner the goodwill and

support needed to maximize opportunities for all Manitobans to participate as fully as possible in all aspects of everyday life.

Posting of public information online

As with all branches of government, and as part of the Department of Families, the DIO has a web presence on the Government of Manitoba website at <https://www.gov.mb.ca/dio/>. The DIO has created an additional website <http://www.accessibilitymb.ca/> and uses it to promote the AMA by posting substantial information on it, such as the legislation itself, summaries of Advisory Council meeting discussions, and tools such as handbooks for employers on how to provide accessible customer service. There is some confusion as to the purpose of and interplay of both websites, particularly where one site contains information that the other does not.

The Government of Manitoba website (<https://www.gov.mb.ca/dio/>) for example, does not contain the latest annual plan and annual report that the Minister is required to produce and make publicly available, while <http://www.accessibilitymb.ca/> does. This does not present an accurate picture of how government is doing relative to its responsibilities. Some stakeholders appear to be aware of one or the other site but few are aware of both. This situation requires clarification and direction from government.

The most recent published annual report indicated that www.accessibilitymb.ca received 28,000 visits in the past fiscal year. While this figure is not insubstantial, in a province of 1.352 million with 40,000 plus businesses, more than 8,000 non-profit organizations and 137 municipalities affected by the legislation it cannot be said that the site itself is being widely used. Advantage can only be taken of this resource, if there is widespread awareness of its existence. In addition, while accessible and relatively easy to navigate, the website lacks a search function meaning that an individual accessing the site must scroll through a lot of content that may have no relevance to the information being sought.

THE DISABILITIES ISSUES OFFICE

Historical Background

The DIO is a part of the Department of Families currently reporting to the Deputy Minister of Families. Its role, as described on the Manitoba Government website, is to “support the Province of Manitoba in promoting the participation of persons with disabilities as full citizens in all aspects of society within the framework of public policy and programs of the provincial government”. As such, the office “supports the Minister responsible for the AMA in ensuring the development of disability inclusive policies and programs” and “promoting accessibility legislation throughout Manitoba”.

First established in 2003, well before the introduction of the AMA, following release of then NDP Government’s White Paper, titled [*Full Citizenship: A Manitoba Provincial Strategy on Disability*](#), the DIO operated on an assigned project basis contributing to such issues as the then Government’s housing and poverty reduction strategies. Following the establishment of the Accessibility Advisory Council and the introduction of the AMA, the DIO was ‘repurposed’ to focus on the AMA, although no review of the branch’s resource levels or strategic direction was ever undertaken by government.

Major areas of activity

To carry out its present mandate and, despite what many participants told the review were very limited resources, the DIO has developed a variety of ‘how to’ tools and information pieces and carried out training workshops at locations in Winnipeg and beyond. The office has done an effective job working with large public sector organizations. In particular, it has reached out to public sector organizations to encourage them to participate in the promotion of the AMA (e.g., Manitoba Hydro wrote an article in their Energy Matters magazine in 2017, and included information about an accessibility survey in MB Hydro bills).

As part of this review, the reviewer observed a training session delivered by the DIO in Brandon and organized by the Chamber of Commerce. The two hour session focused on an overview of the Act along with its objectives and attendant responsibilities and featured small group activities in which the attendees worked to identify barriers within their own organizations as a first step toward addressing or eliminating them. Attendance was largely representative of small non-profit organizations such as day cares, YMCA and YWCA as well several small municipalities. The approach was practical and appeared to be well received.

In contrast, some review participants described being somewhat overwhelmed after having attended training sessions.

“What was presented to community groups by the DIO...When you look at the presentation that was given, it suggested everything from lowering secretary desks to [inaudible]...you’re going to encounter every type of disability...we can only do so much to plan for groups that we know...if you’ve seen that presentation, it would require all accommodations...massive upgrades to our schools and other buildings” (educational representative).

“If you’ve seen the presentation that was delivered after the standard was out...if you’re a Council all of your minutes have to be accessible. Some accessibility requirements that were outlined in the presentation scared me: “boy we have a lot of work to do.” The presentation talked about pdf format that was macro enabled. It was a litany of things in which in an ideal world with infinite resources, we would do those things” (educational representative)

The tools available on-line, such as guidelines for developing accessibility plans have not been viewed as ‘user friendly’ by some, and have been described as overly prescriptive and complex.

“There was some information around online information sometimes not being very user friendly, making sure that it’s summarized and very concise and just to the point...so keep it simple, in other words” (public forum participant)

Recently, efforts have been made to modify tools to make them simpler, concise, and more flexible in their instructions, which should help to encourage goodwill key to maximizing the effectiveness of the AMA. Examples include a [one page checklist](#) on the Customer Service Standard and [an Accessibility Plan Update Guide and Template](#).

The review heard that, although well regarded in the disability community, the DIO is viewed as being overwhelmed by its many demands and has not been able to meet the needs across the various sectors affected by, and subject to, the legislation.

“I feel for the DIO office; they’re caught in the middle” (educational representative)

“The DIO is doing training but they have little resources...while they have done a good job with respect to customer service to date, the new standards will stretch them unbearably” (accessibility advisory council member)

Support to small organizations

The review heard that DIO support to small organizations trying to develop accessibility plans and/or meet requirements under the Customer Service Standard, and lacking the capacity in-house to develop them, has not been widely forthcoming. DIO staff advised that until spring 2017, their primary area of emphasis had been with public sector organizations that were required to complete accessibility plans. Information received as part of this review indicates that notification to the business sector (other than an email in the summer of 2017), that its obligations under the Act would commence in November of 2018, did not take place until October 2018.

This cannot be considered adequate notice and speaks to a more problematic lack of communication; more importantly, however, it does not demonstrate recognition or understanding of a key stakeholder critical to the successful implementation of the AMA. It is worth noting that the DIO entry on the Government of Manitoba website does not list support to the field: businesses, non-profit organizations and municipalities as a core responsibility area. Relying on punitive measures such as penalties and fines to force compliance ignores the values of and benefits that can be realized through relationship building and the attendant good will that would flow from it.

Role Clarification for the DIO

It seems clear that the DIO must be supported in carrying out its work. It has done a fine job with limited resources and it has been surprising to discover how much it has accomplished. Going forward it may also be necessary to clarify the DIO’s areas of responsibility to permit it to focus on activities most likely to produce results, such as online training and tailored workshops to support obligated organizations, assistance with policy development within government, and administrative/research support to Council and its committees.

Given its small staff complement, it is critical that the Department of Families develop clear priorities and objectives for the DIO, as well as the results it expects. Staff are very busy but it has not been clear that they are focusing on those activities that will achieve

the best results and in the most efficient way. For example, Government has already recognized that while in-person training is beneficial, the DIO cannot possibly meet the demand/needs of more than 50,000 obligated organizations, and so has recently begun to develop on-line training tools, the first of which went live on November 2, 2018.

Other examples for improved DIO effectiveness and efficiency that were learned during the review include:

- prioritizing staff time to the development of practical guides and assistive tools to support compliance as well as to providing telephone support to obligated organizations in their efforts to improve accessibility
- reviewing existing tools and resources on its website to simplify them wherever possible and include practical examples tailored to each sector
- working with Legislative Council to draft regulations as standards are developed
- working with the Civil Service Commission to ensure that government, and the broader public sector demonstrate leadership and help to 'pave the way'
- developing a formalized system to respond to both queries and concerns regarding accessibility and what specific responsibilities mean to individual organizations in their particular situation (e.g., help obligated organizations determine what is 'doable'). The review heard of a situation where an organization phoned the DIO Office and received different answers to a compliance question from different staff.
- reducing the frequency of the DIO's [newsletter](#) (which, according to the most recent annual report, had a subscription of more than 290 subscribers as at March 2018) from bi-monthly to quarterly.
- establishing greater consistency regarding information provided to organizations and the public on two levels: (a) between various staff members of the DIO (b) between information provided by the DIO and the Human Rights Commission
- establishing an awards program for municipalities as well as organizations in the public, private and non-profit sectors to showcase innovative and/or exemplary successes in advancing accessibility (this practice has been very well received in Ontario).

Example - Customer Service: Accommodations in Portage La Prairie

Council Chamber (situated on the second floor of an older two story building that does not have an elevator)

- Sign with contact information is available at the front door should anyone face barriers entering the building (a push button door is not available)
- The city's website outlines accommodations for meetings, such as:
 - The ability to Skype/conference call in from the main floor of City Hall, or an alternative location should individuals experiencing barriers wish to address Council
 - There is a live YouTube broadcast of all Council meetings
 - There is the ability to accommodate presenters by relocating meetings to alternative accessible locations, if needed.
 - Large text font agendas of Council meetings are printed and available
 - Large screen display of Council Reports are available
 - There is a sound system to amplify Council discussions in the Chamber

For more information: visit <http://www.city-plap.com/cityplap/services/accessibility/>

Clarifying the relationship between the DIO and the Council

One element of role clarity that needs attention concerns the relationship between the Accessibility Advisory Council and the DIO. While the DIO describes its Mission as “support(ing) the Province of Manitoba in promoting the participation of persons with disabilities...within the framework of public policy and programs of the provincial government” it also lists among its key areas of responsibility “support[ing] the accessibility legislation in Manitoba and serving as the Secretariat to the Accessibility Advisory Council...”. This dual role has created the potential, likely unintended, for a conflict of interest resulting in a lack of clarity with respect to roles and responsibilities.

Arm's length bodies such as the Accessibility Advisory Council are mandated to provide advice and consultation independent of government direction; government, for its part, must listen to the advice provided and then must weigh that advice in light of its degree of agreement with that advice, competing priorities for government as a whole and fiscal capacity, where applicable. The DIO as a part of government, while clearly working to advance the goals of the AMA, has a responsibility to provide the Minister with information that will enable her/him to make informed decisions on behalf of government. This then begs the question: how do advocacy and public policy intersect?

At present, Council relies heavily on staff of the DIO who are knowledgeable in a variety of areas associated with both disability and accessibility: barriers, accommodations, as well as legislative initiatives in other jurisdictions. At the direction of Council, DIO staff do the bulk of the research and writing associated with the work of developing and recommending Standards. The finished product is then forwarded by Council to the Minister. The part of the DIO's responsibilities in promoting accessibility have been given priority and that relating to assisting the Minister to make informed decisions as viewed through the lens of implications for government, is conspicuously absent.

Clarifying the relationship between the DIO and the Department of Families

Although a part of the civil service, and subject to government regulations respecting responsibilities of employment, the DIO has functioned as an arm's length, somewhat independent office. This has contributed to the emphasis on advocacy over obligations to employer. Moving the DIO into a division of the Department of Families with a direct reporting relationship to an Assistant Deputy Minister would provide the DIO with much needed support while helping to create within it an improved understanding of the functions of government. Strengthening the relationship between the DIO and the Department of Families would also serve to ensure that executive level leadership is provided by government regarding implementation of the AMA, in addition to the direction received from the Deputy Minister. This reporting structure was proposed by KPMG in its report of September 30, 2016 which included among its Key Discussion Points:

The recent government reorganization provides an opportunity for savings and, in some cases, enhanced service within and outside the Department (of Families):

- by considering integration of distinct, dedicated support to sectors and/or issues within established programs (e.g. Disabilities Issues Office)"

KPMG report

Supporting the staff of the DIO

Additional resources are, of course, an option and government has begun to address this having seconded two additional senior staff to the task of moving the process forward towards meeting the legislated target deadline for full implementation of the five standards named in the Act.

Beyond secondments, government as employer, possesses significant expertise in areas having direct relevance to implementation and administration of the AMA. For example, centrally, government employs highly skilled and trained personnel developing and maintaining sophisticated communication and technology systems. Staff from these areas could be utilized to provide direction and assistance to the DIO in improving its own communication vehicles such as its website.

Communication online, and via platforms such as YouTube and Facebook, is not a static field. Rather, technologies are turning over at a rapid pace. It is not reasonable to expect that all staff within government can remain current and, even more importantly, that consistency can be maintained across government departments in the utilization of accessibility technology and software. Ideally, then, technological support should not be limited to the DIO. A logical accountability centre for accessible technological formats and software is Business Transformation and Technology (BTT).

As referenced earlier, Government is considering using existing staff to support the various elements of compliance and enforcement under the AMA. This would offer the additional advantage of separating the education and awareness raising functions from compliance, eliminating the possibility of conflict of interest while clarifying DIO responsibilities. Ontario has also taken the step of separating these two sets of responsibilities.

Civil Service Transformation:

The current government has committed to transforming the civil service. This means, among other things, looking at government services as an integrated whole rather than a series of 'silos,' as well as making better use of government resources. Adopting a 'whole of government approach' is in line with government direction. Examples include:

- compliance (working with other departments whose responsibilities include compliance with legislation, to share expertise and resources)
- collaboration (using a senior representative of the Transportation Policy Division to chair the Transportation Standard Development Committee),
- support (using Municipal Relations staff to assist small municipalities), and
- technology and communication (using highly trained central government resources to assist the DIO and government departments in improving communication and awareness)

An added benefit would be furthering the integration and collective awareness of accessibility on a government wide basis.

Creating a focal point for concerns and complaints

Because of its visibility as the central point of contact within government for accessibility issues, and because as referenced earlier, the DIO has a responsibility to support organizations with achieving compliance, the DIO would likely continue to be a key first point of public contact regarding concerns and complaints. Once received, the DIO would be required to forward said complaints to the centre designated by government as the centre accountable for compliance.

Creating a positive identity for the Disabilities Issues Office

The review heard that the name 'Disabilities Issues Office' has a negative connotation. Moreover, it does not describe its mandate. The DIO assists the Accessibility Advisory Council with the development of standards and raises awareness of the importance of accessibility. Their work is not to resolve issues; it is to bring awareness about the Act, promote inclusion and assist government in the development of policies. As suggested by a public forum participant, re-naming the DIO to 'Accessibility Enhancement Office'

would be more positive while more accurately describing its role in awareness building and training, and promoting the Act.

“Their work isn’t to solve issues. It’s to bring awareness about the act. We need people to assist and answer questions” (Staff member – agency serving Manitobans with disabilities)

“It would be good to rename the Disability Issues Office...to the Accessibility Enhancement Office, because it is seen that the Disabilities Issues Office term, terminology [sic] is fairly negative. Because our legislation is about barrier removal and accessibility, not about disability” (public forum participant).

“The name Disability Issues Office may deter people, just in the name itself” (public forum participant).

THE ACCESSIBILITY ADVISORY COUNCIL

Council Overview

The Accessibility Advisory Council is an advisory body comprised of nine members appointed by the Minister responsible for implementing and administering the Act (AMA). Its role as set forth in section 14 of the AMA, as follows:

The council is to advise and make recommendations to the minister respecting

- (a) Priorities for the establishment of accessibility standards and, in accordance with sections 9 and 11, the content of accessibility standards and the time periods for their implementation;
- (b) Measures, policies, practices or other requirements that may be implemented by the government to improve accessibility;
- (c) Long-term accessibility objectives for furthering the purpose of this Act; and
- (d) Any other matter relating to accessibility on which the minister seeks the council's advice.

The Council was established by legislation (The Accessibility Advisory Act) on June 16, 2011. This legislation was sun-setted in 2013 with the establishment of the AMA in December 2013. Terms of Reference for the operation of the Council were developed in 2011. While these terms of reference refer, prospectively, to legislation that “may be enacted” the review was unable to find evidence that they were ever updated following proclamation of the AMA. As a result, the role of the Council associated with implementing the legislation has not been reviewed by government. In effect, the Council has operated without operational guidelines. This has led to ambiguity respecting the roles of government, the Council, the Standards Development Committees, as well as the Disabilities Issues Office.

Clarifying the responsibilities of Council

This lack of clarity is particularly noticeable in the absence of procedural rigor noted by a number of entities (i.e., organizations, Council members [current and past], and members of Standard Development Committees). This has resulted in a number of instances where parties involved are sometimes unclear of their responsibilities. Examples include but are not limited to:

- Scheduling of meetings: the Act specifies that the Council must meet a minimum of four times per year while the 2011 terms of reference state that meetings will

be held twice each month between November and June and will be scheduled at the end of each meeting. In practice, the review found that meetings have not been scheduled on a regular basis and have been determined by the administrative support (secretary) to the Council on an ad hoc basis making it difficult for some members to protect dates in their calendars or signal in advance dates that would be problematic.

- Alternate Individuals being able to attend meetings: The review heard requests to permit alternate individuals to attend meetings where there is a scheduling conflict for a Council member. The Act is silent on the designation of an alternate attendee at meetings. Similarly, the terms of reference established in 2011 for the Council, prior to the proclamation of the AMA, are also silent on this matter. In practice, Council has prohibited either the naming of an alternate or the attendance of an alternate at meetings. The argument against this centers around “corporate memory” and continuity. This is, indeed, important. However, as Minutes of each meeting are provided to members, understanding of what has been under consideration could readily be shared with the alternate and would have the added benefit of maximizing the participation of all of Council’s member voices as contemplated by the Act.
- Appointments to Standard Development Committees: the Act prescribes that Council may establish committees and assign to them the functions that it considers appropriate, “subject to the approval of the Minister”. In practice, selection appears to have been heavily influenced by the DIO’s utilization of its network of contacts, augmented by suggestions from Council members. The Minister appears to have been involved only after prospective committee members have been contacted and agreed to serve. In other words, despite having overall authority regarding the establishment of committees, it appears that the Minister has had little opportunity to weigh in on the selection of committee members. This has served to limit the Minister’s opportunities to influence such appointments and to ensure that stakeholders affected by the standard are adequately represented.

In this regard, concern has been expressed that insufficient weight has been given to considering representation by those affected by a particular standard. While the Act encourages consideration of and participation by “the sectors or the persons or organizations that may be made subject to the accessibility standard” insufficient consideration appears to have been given to small organizations such as small or micro businesses, and non-profit organizations. Ensuring a more balanced make up of sector representation in Standard

Development Committees would ensure the challenges experienced by these organizations would be heard.

- Confidentiality: The 2011 Terms of Reference state that while deliberations of the Council are held in strict confidence, “what information can be provided to principals” of Council members will be determined by a majority of Council members”. In practice this has been interpreted to mean that a Council member may never share information with the executives of organizations that they have been nominated to represent.
- Consensus: the Act requires that Council must attempt to achieve a consensus among its members on its recommendations, but one or more members may submit separate recommendations if a consensus is not achieved. This has not been communicated clearly to members. In fact, members with dissenting views have been advised that they can issue a public statement respecting their position following Council’s submission to the Minister. Dissenting views should, in fairness, be appended to the Council’s submission to facilitate a comprehensive review by the Minister.
- Summaries of Discussions of Accessibility Advisory Council meetings: The Council must also make public a report after each meeting that summarizes the discussions and any actions taken at the meeting. During consultations, no comments were made regarding the timing of the posting of summary reports. A review of the content of the reports, however, found that they were written in an overly general manner, without elaboration of Council members’ concerns or dissenting opinions. Examples are:

“The Council had a successful meeting with representatives of the Association of Manitoba Municipalities in September to work out issues of concern regarding Council processes. There was agreement on several outstanding issues that will allow the council to work more effectively in the future (October 11, 2016)”

“With the exception of some clarification required by the AMM [Association of Manitoba Municipalities], little comment was provided by members. The report was submitted to the Minister on April 4” (April 11, 2017)”

The above excerpts from Council summary documents leave the reader with questions about the processes that are causing concern. The review proposes that, in addition to being more substantive, the Council’s discussion summaries could benefit from including more concrete information regarding *decision* and *action* items, thereby improving transparency.

Opportunities, Challenges and Suggestions for Improvement

The purpose of this review, as stated in the Terms of Reference was to “undertake a compressive review of the effectiveness of this Act and report on the findings to the Minister.” This report has made numerous observations, assessments and suggestions aimed to meet this objective. This summary section enumerates those key findings and opportunities for improvement.

SECTION 1: STANDARD DEVELOPMENT PROCESS

Challenge: The process for developing an accessibility standard is cumbersome and protracted; role clarification among players is needed and efficiencies in how the process is undertaken by various players are required.

- Improve Terms of Reference for committees: The review found the need to strengthen the Terms of Reference documents to clarify reporting relationships, provide role clarification and timelines by which committees are to complete their work.
- Establish Concurrent committees: To ensure that Government will meet its deadline for developing the remaining standards, committees should be struck and function concurrently.
- Promote Greater transparency and the provision of feedback: Greater transparency in the concluding stages of the standards development process is needed to ensure openness in key steps in the process. This includes the transition of a proposed standard from a standard development committee to the Council, the Council to the Minister, and then ultimately the Minister into a government regulation.
- Attract the private and non profit sectors to take part in consultations: Better and more innovative efforts need to be made to attract and motivate businesses and the non-profit sector (beyond those directly serving the disability community), and that will be directly affected by upcoming accessibility standards.
- Review number, timing and length of consultation phases: Review the number, timing and length of the various consultation phases of the overall process.

- Reinstate the role of committee chair as originally established: Reinstating the role of Chair as an experienced senior management individual from the Civil Service and with knowledge of areas relevant to outstanding accessibility standards (such as the Transportation Policy Division of the Department of Manitoba Infrastructure to oversee the transportation accessibility standard development committee) could prove very helpful.
- Consider Ontario's Information and Communications Standard once its review is completed: Ontario is reviewing its standard as required by legislation and updates or amendments may be instructive as Manitoba finalizes its own standard.

SECTION 2:

ACCESSIBILITY PLANS: PUBLIC SECTOR ORGANIZATIONS AND GOVERNMENT

Challenges: Large public sector organizations are better equipped to complete accessibility plans than small ones. Although the Manitoba Government Accessibility Plan made available to the reviewer meets the legal requirements under the AMA, its specificity is lacking and needs to be improved. Monitoring compliance among public sector organizations has been arduous and time consuming.

- Enhance compliance among small municipalities: Engage the Department of Municipal Relations to deliver tailored workshops to small municipalities and encourage them to consider developing joint plans, making the workload more manageable.
- Tailor tools to reflect small municipalities' unique realities: Provide accessibility plan templates, tools and resources that reflect municipalities' unique realities (e.g., documents with practical, small town examples of reasonable accommodations).
- Engage the ABC Office of the Manitoba Government to ensure Agencies, Boards and Commissions have accessibility plans in place.
- Assist small organizations to update accessibility plans: As public sector organizations are required to update their accessibility plans every two years, increased support and guidance is needed to help organizations (particularly small ones) to plan ahead in a practical, realistic and achievable manner.

- Improve the Manitoba Government Accessibility Plan: Strengthen the plan to include specifics regarding proposed measures, leadership responsibilities and timelines.
- Facilitate Compliance Reporting: To promote the efficient use of resources, a regulatory amendment is needed to permit the Director to require, as needed, organization(s) to report to government respecting compliance (e.g., when accessibility plans are updated).

SECTION 3:

IMPLEMENTATION OF THE CUSTOMER SERVICE STANDARD

Challenge: The Customer Service Standard serves as a proxy for all accessibility standards. Greater awareness and supportive environments with the view to improving compliance, are needed.

- Modify the existing online training tool on the customer service standard: Creating a more engaging and animated training tool should help promote compliance.
- Create a time-limited secondment to address public inquiries: The assigned individual should be experienced in communicating complex information in an understandable way and employing a problem solving approach.
- Develop adequate and appropriate notice periods respecting obligations under the Act: A communication strategy regarding notification of all future implementation effective dates must be developed. Notifications should take place months before coming into effect.
- Adopt Ontario's approach and amend the requirement to document policies and measures so that it applies to organizations with 50 or more employees. To promote compliance and reduce undue hardship on very small businesses and non-profit organizations, the documentation threshold should be raised. This will require amending the existing Customer Service Standard Regulation.

Note: To ensure consistency, and following the approach taken in Ontario, the threshold of 50 or more employees should apply to all future standards.

SECTION 4: ACCOUNTABILITY AND COMPLIANCE

Challenge: The aim of the AMA is to maximize accessibility. This requires clarifying with stakeholders what they are accountable for and following through to ensure that those responsibilities are met (compliance).

- Clarify timeliness with respect to tabling of annual reports and plans: Reporting timelines for both sets of reports need to be clarified and clearly understood by government and the public, in order to promote increased public accountability.
- Situate Responsibility for Compliance: A central accountability centre for compliance is necessary to coordinate and direct responsibilities under compliance. This function must be separated from education and awareness activities undertaken by the DIO. Such an organizational approach will mitigate against conflict of interest concerns while maximizing objectivity and effectiveness.
- Facilitate Compliance Reporting: To promote the efficient use of resources, a regulatory amendment is needed to permit the Director to require, as needed, organization(s) to report to government respecting compliance.
- Finalize and Make Publicly Available a Compliance and Enforcement Framework: Compliance under the AMA has been hindered in part by fears about the consequences of non-compliance with current and future standards. Government must finalize and publicly release all relevant information and documentation about compliance and enforcement at the earliest possible date.

SECTION 5: PUBLIC AWARENESS AND EDUCATION

Challenge: A principal challenge regarding implementation of the AMA is an unacceptably low level of awareness about the AMA. Among those organizations that are aware, there is considerable confusion and concern about the precise nature of their responsibilities under the Act.

- Improve the level of awareness among Manitobans of the existence of the legislation: The Minister and the Deputy Minister should identify opportunities to raise awareness in their interactions with the public and the media. Similarly, other government departments could be directed to review their points of contact with organizations and the public to ensure that accessibility is explained and promoted, as appropriate (e.g., businesses in Manitoba are required to renew their operating licenses on a periodic basis. Incorporating awareness around obligations respecting accessibility into the renewal process would serve to

heighten awareness). Finally, the Government may wish to introduce the designation of Minister responsible for Accessibility, in order to further highlight its importance to all Manitobans.

- Clarify publicly available information: As two websites dedicated to accessibility exist, information must be consistent. Further, the Government of Manitoba website must include all information pertinent to government of Manitoba responsibilities, actions and progress.
- Improve existing websites on accessibility: <http://www.accessibilitymb.ca/> contains considerable information but could benefit from technology that would direct the user to information being sought in an expeditious manner (e.g., search function is required). Improvements are also needed respecting the presentation of content to adopt a more positive and motivating attitude. The website needs to function more directly as a bridge between the 'letter of the law' and real world implementation.
- Develop adequate and appropriate notice periods respecting obligations under the Act: As stated in section 3, a notification strategy which includes timely communication with organizations must be developed.

SECTION 6: THE DISABILITIES ISSUES OFFICE

Challenge: As has been frequently noted, the DIO is very small and has been confronted with many competing demands. A key challenge in accelerating the pace of implementation is supporting the DIO in carrying out its work and clarifying exactly what it should focus on, on a go forward basis.

- Clarify roles and responsibilities for the Disabilities Issues Office: To maximize effectiveness, the DIO's areas of responsibility should be clearly spelled out, and those responsibilities should focus on activities that will produce optimal results (e.g., policy development support to government departments, and the development of online training and tailored workshops).

Other suggestions for improving effectiveness and efficiency are enumerated on page 47.

- Clarify the DIO's relationship with, and responsibilities to, the Minister and the Accessibility Advisory Council: As part of government, the DIO has a responsibility to provide the Minister with information that will enable her/him to make informed decisions on behalf of government. At the same time, the DIO serves as the Secretariat to the Accessibility Advisory Council, an independent

and arms' length body. This dual role has created the potential for conflict of interest, making it unclear when the DIO is expected to provide information regarding implications for government, as distinct from supporting the positions put forward by Council. Government must remedy this.

- Re-align the DIO within the Department of Families: Moving the DIO into a division of the Department of Families with a direct reporting relationship to an Assistant Deputy Minister would provide much needed support to the DIO while helping to create within the DIO an improved understanding of the functions of government.
- Buttress the DIO's capacity to carry out its mandate: The DIO is a small office with limited staff resources. Engaging departments of government having expertise relevant to the AMA, as well as making use of secondments, would provide the DIO with much needed support.
- Re-name the DIO to more appropriately reflect its role: The review heard that the existing name of the office has a negative connotation. Moreover, it does not accurately reflect its mandate "to support the Province of Manitoba in promoting the participation of persons with disabilities...within the framework of the public policy and programs of the provincial government."
- Ensure that tools developed by the DIO to promote implementation of the AMA are practical and 'user friendly': Recently, efforts have been made to modify tools to make them simpler and more flexible in their instructions. All information on the <http://www.accessibilitymb.ca/> website should be reviewed to ensure that this approach is utilized in all of its public communications.

SECTION 7: THE ACCESSIBILITY ADVISORY COUNCIL

Challenge: The Accessibility Advisory Council predates the establishment of the AMA. While the Council was incorporated into the AMA, no updated Terms of Reference regarding its operations within the context of the legislation have been prepared. In effect, the Council has functioned without operational guidelines.

- Develop Clear Terms of Reference for the operation of the Council: The review was unable to find evidence that Terms of Reference, originally developed in 2011, were updated following proclamation of the AMA. Clear and current operational guidelines are needed to expedite the processes outstanding in the implementation of the AMA.

- Establish and communicate a meeting schedule on an annual basis: The review found that meetings have not been scheduled on a regular basis and have been determined by the administrative support (secretary) to the Council in an ad hoc manner, making it difficult for some members to protect dates in their calendars or signal in advance dates that would be problematic. Annual meeting schedules should be developed.
- Permit alternate Individuals to attend meetings: The review heard requests to permit alternate individuals to attend meetings where there is a scheduling conflict for a Council member (note: implementing an annual meeting schedule developed in collaboration with Council members and referenced above may resolve the need to consider alternates). While the Act is silent on the designation of an alternate attendees at meetings, Council has prohibited this practice. A review of Council meeting attendees may have merit.
- Ensure that appointments to standard development committees reflect Ministerial Input: The Act prescribes that Council may establish committees and assign to them the functions that it considers appropriate, “subject to the approval of the Minister.” Despite having overall authority regarding the establishment of committees, it appears that the Minister has had little opportunity to influence appointments. Providing for increased Ministerial input in this process could help ensure that particular stakeholders affected by the standards are adequately represented and heard (e.g., micro businesses and other smaller stakeholders).
- Adopt a more flexible approach to information sharing by Council members: The 2011 Council Terms of Reference state that while deliberations of the Council are held in strict confidence, “what information can be provided to principals” of Council members will be determined by a majority of Council members”. In practice this has been interpreted to mean that a Council member may never share information with the executives of organizations that they have been nominated to represent. Adopting a more flexible and practical approach to information sharing by Council members could help facilitate decision making at the Council.
- Provide Complete Information to the Minister: the Act requires that Council must attempt to achieve a consensus among its members regarding its recommendations, but one or more members may submit separate

recommendations if a consensus is not achieved. This has not been communicated clearly to members and dissenting views have not formed part of Council's submissions to the Minister. Dissenting views should, in fairness, be appended to the Council's submission to facilitate an open and comprehensive review by the Minister.

- Ensure Transparency with respect to Council Discussions: The review found that the Council's discussion summaries, which are posted online, could benefit from including more concrete information regarding *decision* and *action* items, thereby improving transparency.

Concluding Remarks

As stated at the outset of this report, this legislative review has taken place at a unique point in time. At the time of this review, one accessibility standard has been passed: The Customer Service Standard Regulation. As a result, the parameters of the review have been determined and constrained by the degree of implementation to date.

The findings and suggestions for improvement in this report have focused on those aspects of the legislation currently in force: Accessibility Plan requirements and the degree of compliance, The Customer Standard Regulation as well as compliance on documentation requirements as detailed in the Act (e.g., Ministerial Annual Reports). Attention has also been paid to the practices supporting and/or hindering implementation of the Act. The process for developing standards received particular attention as did the extent of public education and awareness about the legislation.

Central to the foregoing have been the contributions made by the Disabilities Issues Office and the Accessibility Advisory Council. In the interest of improving the effectiveness of the Act's implementation, and recognizing that four of the five accessibility standards are yet to be passed, considerable attention has been paid to ways in which both compliance with the Act and the development of accessibility standards could be improved.

The AMA calls for significant progress towards achieving accessibility by 2023, and the current Government has committed to developing all remaining standards referenced in the Act by the end of its mandate, in 2020. This is, as noted earlier, an ambitious goal that will require sustained commitment, partnerships and collaboration among all affected sectors (government, the private, public and non-profit sectors, municipalities, Manitobans with disabilities, and the public at large).

The encouraging news is that the goodwill is there. It was heartening to hear (over and over again, and, by all review participants) the importance of making Manitoba a more accessible province. Much work, however, lies ahead. This report has described numerous challenges, and each challenge presents an opportunity. It is hoped that this review and its suggestions for improvement will assist Manitoba through the journey towards full inclusivity and the creation of a *new social norm* that values, accepts and includes all individuals. In the words of a few of the review's participants:

“We believe that this is desirable and everyone should be responsible for it” (public school boards association)

“At the end of the day, people want to do the right thing...Manitoba is in the start of a long journey; it takes time; do not be critical of the fact that you're so far down the line – it's a journey that we're on” (senior official from Ontario)

“We need to bust barriers one relationship at a time, over time” (member of Employment Standard development committee)

“This is a long term goal. Things won't change today, tomorrow, next month. Standards will evolve with time. Will there be growing pains? Absolutely. We're going through them right now” (DIO staff member)

“The AMA is creating awareness. It is beginning to create conversation. Change will be a long process. It's the right thing to start the conversation” (member of Employment Standard development committee)

APPENDIX A: Terms of Reference - Legislative Review

1. BACKGROUND:

The Accessibility for Manitobans Act (AMA) received Royal Assent and became law on December 5, 2013. The purpose of the legislation is to provide a clear and proactive process for the identification, prevention and removal of barriers. Physical, communication and systemic barriers prevent a significant portion of the population from fully participating in all facets of society.

The AMA will eliminate barriers through the development of accessibility standards with respect to customer service, employment, information and communications, transportation and the built environment. The accessibility standards cover fundamental areas involving the interaction of persons disabled by barriers and the broader society in which they live, work, learn and play. As such, they apply to the government, public sector organizations, including municipalities, private and not-for-profit organizations.

Standards developed under the AMA will build on requirements of the Human Rights Code by setting out specific processes to achieve equal opportunity, independence and full economic and social integration. The AMA states the Human Rights Code is a paramount act, and compliance with provisions under established accessibility regulations would not preclude a human rights complaint against a person or organization.

Beginning in 2016 and every two years after that, public sector organizations must prepare an accessibility plan that addresses systemic barriers. The AMA requires public sector organizations to identify, remove and prevent policies, practices and procedures that may result in some individuals receiving unequal access or being excluded from public programs and services.

2. PURPOSE:

2.1 Within four years after this act comes into force, the minister responsible for the AMA must appoint a person to undertake a comprehensive review of the effectiveness of this act and report on the findings to the minister.

2.2 To guide and direct the appointed individual in carrying out his or her responsibilities.

3. LEGISLATIVE REQUIREMENTS

Pursuant to section 39 of the AMA,

- (1) Within four years after this act comes into force, the minister must appoint a person who is to undertake a comprehensive review of the effectiveness of this act and report on his or her findings to the minister.
- (2) The person to be appointed by the minister must be approved by the Lieutenant Governor in Council before the appointment becomes effective.
- (3) A person undertaking a review under this section must consult with the public and, in particular, with persons disabled by barriers or representatives from organizations of persons disabled by barriers.
- (4) Without limiting the review under subsection (1), a report may include recommendations for improving the effectiveness of this act.
- (5) The minister must table a copy of the report in the Assembly within 15 days after receiving it if the Assembly is sitting or, if it is not, within 15 days after the next sitting begins.

4. SCOPE OF THE REVIEW

The four-year review of the AMA should focus on those activities already undertaken in carrying out the purpose of the AMA. They include, but are not limited to the following areas:

4.1 Standard Development Process

- Review the development of standards in accordance with AMA sections 8-12, with authority of the minister responsible for the AMA, leadership from the Accessibility Advisory Council, the research and analysis undertaken to support development activities, and expertise of standard development committees.
- Review measures to engage and respond to feedback of stakeholders during the standard development process, including persons disabled by barriers and the efforts to support their participation.
- Evaluate the adequacy of time, resources, and administrative support in the standard development process.
- Offer recommendations to strengthen the effectiveness of the standard development process.

4.2 Accessibility Plans by Government and Public Sectors

- Review the activities, measures, policies and practices of the Disabilities Issues Office to guide affected organizations in creating and implementing their accessibility plans in accordance with the AMA section 33.
- Review the implementation of accessibility plans in the Manitoba Government and among a sample of larger public sector organizations, with plans due in 2016, and smaller public sector organizations, with plans due in 2017.
- Offer recommendations to strengthen the effectiveness of accessibility plans.

4.3 Implementation of the Customer Service Standard

- Review the activities of the Disabilities Issues Office to guide affected organizations in creating and implementing the Customer Service Standard in accordance with the Customer Service Standard Regulation.
- Review the implementation of the Customer Service Standard in accordance with the Customer Service Standard Regulation by the Manitoba Government and public sector organizations with deadlines of November 1, 2016 and November 1, 2017 respectively.
- Review the activities of the Disabilities Issues Office, and more broadly of the Manitoba Government, to create awareness among private organizations with a November 1, 2018 deadline to comply with the Customer Service Standard.
- Review the activities of the Disabilities Issues Office, and more broadly of the Manitoba Government, to create public awareness about the Customer Service Standard.
- Offer recommendations to strengthen the effectiveness of standard implementation.

4.4 Accountability and Compliance

- Review the activities undertaken to ensure accountability in accordance with the AMA, including:
 - Timely posting of the Minister's Annual Plans and Reports
 - Timely posting of summary reports of the Accessibility Advisory Council meetings
 - Monitoring compliance of affected organizations
- Review the activities of the Disabilities Issues Office to monitor and educate toward AMA compliance.
- Review the steps taken by Compliance Director to develop a compliance framework to support AMA.

4.5 Public Education

- While public education and awareness are not directly aligned with a particular section of the AMA, education is a key component in ensuring

greater public awareness of the benefits of full accessibility, and in creating a clear understanding of the obligations individuals and organizations will have under standards established by the act.

4.6 Disabilities Issues Office

- Evaluate the level of resources, time and activities required by the Disabilities Issues Office to support implementation of the AMA and respond to the needs and expectations of affected organizations, the disability community, and the general public.

5. PROPOSED REVIEW ACTIVITIES

- 5.1 The appointed individual is required to consult with: current and past members of the Accessibility Advisory Council; current and past members of standard development committees; the Disabilities Issues Office and other Government representatives; organizations that must meet AMA requirements; and, the public, particularly with persons disabled by barriers or representatives from organizations of persons disabled by barriers.
- 5.2 Consultations should be independent of government staff to ensure neutrality in the feedback obtained.
- 5.3 The consultations can involve, but not be restricted to, an online survey or email questionnaire, small group and individual meetings, and one large public consultation in Winnipeg. Limited car travel may be included.

6. DELIVERABLES

- 6.1 The appointed individual will conduct consultations (as per section 5).
- 6.2 Complete a final report with recommendations. This report will be submitted to the Minister no later than December 15, 2018.

7. SUPPORT FOR REVIEWER

The Disabilities Issues Office serves as the government's administrative body for the AMA. The Disabilities Issues Office will support the reviewer by providing:

- background materials, including, but not be limited to, past documents related to standard development and all other documents requested by the reviewer;
- background information about the AMA, its activities and contact information of key informants; and
- some logistical support, including meeting rooms, disability accommodations and the coordination of a public forum.

Appendix B: The Accessibility for Manitobans Act (AMA): Timelines

(Numbers accurate as of August 30, 2018)

Organization	Timeline for Accessibility Plans (AP) under s. 33 of AMA (bi annually)	Total number of organizations at March 2018	Number in compliance (Plan)	Timeline for Compliance with Customer Service Standard Regulation (CSS)	Total number of organizations	Number in compliance (measures, policies, practices)	Number in compliance (Training for all sectors; documented policy on training for sectors with 20 employees or more)
Manitoba government (Excludes: Minister's Annual Plan)	December 31, 2016 Next due December 31, 2018	1	1 - Manitoba government released its AP in December 2016 (accessibilityMB.ca)	November 1, 2016	1	1	61% of Manitoba public servants have been trained
Large public sector organizations (Includes: Crown corporations, universities and colleges, Regional Health Authorities (RHAs), *school divisions/districts,	December 31, 2016 (school division only)	65 5 RHAs (excludes Shared Health Services – it was established as	64 of 65, or 98.5% are in compliance 5/5 required RHAs (Shared Services did not exist in 2016, so is not required to have a 2016-18 AP)	November 1, 2017 (school division and school district)	66 (adds Shared Health)	Unknown	Some training has been provided to all organizations. Unsure if meets requirements: - Universities, Crown

Organization	Timeline for Accessibility Plans (AP) under s. 33 of AMA (bi annually)	Total number of organizations at March 2018	Number in compliance (Plan)	Timeline for Compliance with Customer Service Standard Regulation (CSS)	Total number of organizations	Number in compliance (measures, policies, practices)	Number in compliance (Training for all sectors; documented policy on training for sectors with 20 employees or more)
and municipalities under **Schedule A of municipal regulation)		<p>an RHA in June 2017)</p> <p>10 large municipalities</p> <p>37 school divisions</p> <p>9 universities / colleges</p> <p>4 Crown corporations</p> <p><i>All are government agencies under The Financial</i></p>	<p>10/10 large municipalities</p> <p>37/ 37 school divisions</p> <p>8 / 9 Universities and Colleges (development of AP is in progress for organization)</p> <p>4 / 4 Crowns</p>	<p><i>3(c) does not apply: Must document policies and training plan regardless of size</i></p>			<p>corporations and the Winnipeg RHA have trained 80% 90% of their staff</p> <p>- Manitoba Hydro – 97%</p> <p>- City of Winnipeg 8,000 employees trained</p> <p>- Disabilities Issues Office has provided training to 6,983 Manitobans</p>

Organization	Timeline for Accessibility Plans (AP) under s. 33 of AMA (bi annually)	Total number of organizations at March 2018	Number in compliance (Plan)	Timeline for Compliance with Customer Service Standard Regulation (CSS)	Total number of organizations	Number in compliance (measures, policies, practices)	Number in compliance (Training for all sectors; documented policy on training for sectors with 20 employees or more)
		<i>Administration Act (FAA)</i>					through workshops and presentations
Small public sector organizations The rest of Manitoba's municipalities	December 31, 2017	Municipalities: 125* *Number has been updated to 127 since last review <i>Are NOT government agencies under FAA</i>	Municipalities: - 53 / 127 or 41.7% have plans - 3 / 127 or 2.4% have plans in development - 72 / 127 or 56.7% not yet in compliance	November 1, 2018 <i>3(c) applies: Only municipalities with 20 employees or more must document policies and training plan</i>	Municipalities: 127*	Unknown, To Be Determined (TBD)	Unknown, TBD

Organization	Timeline for Accessibility Plans (AP) under s. 33 of AMA (bi annually)	Total number of organizations at March 2018	Number in compliance (Plan)	Timeline for Compliance with Customer Service Standard Regulation (CSS)	Total number of organizations	Number in compliance (measures, policies, practices)	Number in compliance (Training for all sectors; documented policy on training for sectors with 20 employees or more)
Small public sector organizations Agencies, boards and commissions (ABC)	December 31, 2017	ABCs: 84 (June 2018) <i>All ARE government agencies under FAA</i>	ABCs: 67 / 84 or 79.8% of ABCs have plans (b/c they are included in Manitoba government plan (June 2018) 58 / 67 have been contacted by Manitoba government staff to advise them of inclusion in Manitoba government plan	November 1, 2017 <i>3(c) does not apply (ABCs are government agencies): Must document policies and training plan regardless of size</i>	ABCs: 84	Unknown, TBD	Unknown, TBD

Organization	Timeline for Accessibility Plans (AP) under s. 33 of AMA (bi annually)	Total number of organizations at March 2018	Number in compliance (Plan)	Timeline for Compliance with Customer Service Standard Regulation (CSS)	Total number of organizations	Number in compliance (measures, policies, practices)	Number in compliance (Training for all sectors; documented policy on training for sectors with 20 employees or more)
			16 are required to have independent plans; 9 / 16 have been contacted by Manitoba government staff to advise them of their requirements				
Organizations that provide goods or services directly to the public or to another organization in Manitoba and have one or more	Not applicable (n/a) – applies to public sector bodies only	n/a	n/a	November 1, 2018	Outreach: Sent letters to 3,626 businesses and non profit organizations on CSS		

Organization	Timeline for Accessibility Plans (AP) under s. 33 of AMA (bi annually)	Total number of organizations at March 2018	Number in compliance (Plan)	Timeline for Compliance with Customer Service Standard Regulation (CSS)	Total number of organizations	Number in compliance (measures, policies, practices)	Number in compliance (Training for all sectors; documented policy on training for sectors with 20 employees or more)
employees in Manitoba:							
a) Private sector (Includes: shops, restaurants, hotels; legal, healthcare, and other professional services)	n/a – applies to public sector bodies only	n/a	n/a	November 1, 2018 <i>3(c) applies: Only private sector organizations with 20 employees or more must document policies and training plan</i>	Total businesses in Manitoba (MB): 41,334 (Note – Statistics Canada number includes non-profit organizations) MB businesses with 20 or more staff: 6,042	TBD	TBD

Organization	Timeline for Accessibility Plans (AP) under s. 33 of AMA (bi annually)	Total number of organizations at March 2018	Number in compliance (Plan)	Timeline for Compliance with Customer Service Standard Regulation (CSS)	Total number of organizations	Number in compliance (measures, policies, practices)	Number in compliance (Training for all sectors; documented policy on training for sectors with 20 employees or more)
					(Source: Statistics Canada, 2017)		
b) Non-profit organizations (Includes charities, unions, places of worship, community organizations, and membership associations)	n/a – applies to public sector bodies only	n/a	n/a	November 1, 2018 <i>3(c) applies: Only non-profit organizations with 20 employees or more must document policies and training plan</i>	MB non-profits (included in figure above)	TBD	TBD

* Under The Public Schools Act, a **"school district"** means a school district which is not designated by the minister as a remote school district; (« district scolaire ») and a **"school division"** means a school division having the responsibility of providing for elementary and secondary public school education and includes a remote school district as designated in subsection 3(4) but does not include a school district; (« division scolaire »)

**Includes: Brandon, Dauphin, Flin Flon, Morden, Portage la Prairie, Selkirk, Steinbach, Thompson, Winkler, and Winnipeg.

List of acronyms used:

ABC = Agencies, boards and commissions

AMA = The Accessibility for Manitobans Act

AP = Accessibility Plan

CSS = Customer Service Standard Regulation

FAA = The Financial Administration Act

MB = Manitoba

n/a = Not applicable

RHA = Regional Health Authority

TBD = To be determined

WRHA = Winnipeg Regional Health Authority

Appendix C: Accessibility Plans – Requirements under the AMA

Public sector body to prepare annual accessibility plan

33(2) For 2016 and for every second year after that, a public sector body must prepare an accessibility plan that addresses the identification, prevention and removal of barriers that disable people in the policies, programs, practices and services of the public sector body.

Content of accessibility plan

33(3) An accessibility plan must include

- (a) a report on the measures the public sector body has taken to identify, prevent and remove barriers that disable people;
- (b) the measures the public sector body intends to take in the period covered by the plan to identify, remove and prevent barriers that disable people;
- (c) the measures in place to ensure that the public sector body assesses the following to determine their effect on the accessibility for persons disabled by barriers:
 - (i) any proposed policies, programs, practices and services of the public sector body,
 - (ii) any proposed enactments or by-laws that will be administered by the public sector body; and
- (d) all other information prescribed for the purpose of the accessibility plan.

Consultation required

33(4) In preparing an accessibility plan, a public sector body must consult with persons disabled by barriers or representatives from organizations of persons disabled by barriers.

Plans available to the public

33(5) A public sector body must make each of its accessibility plans available to the public.

Combined municipal plan

33(6) For certainty, the councils of two or more municipalities designated as public sector bodies may agree that one accessibility plan be prepared for all the municipalities that are party to the agreement.

Appendix D: Other Topics Heard

The review did hear representations concerning some issues that were outside of the scope of the review, or did not lend themselves to reference in a particular section of the report. Brief descriptions of these issues are set out below.

- The review heard from a number of representatives and individuals from the disability community that the Act should include additional accessibility standards (health and education).
- Representatives from the Francophonie expressed concerns with respect to services available to Francophones with disabilities, noting that for the most part those services were only available by English-speaking caregivers and service providers. Fears were expressed that individuals whose first language is French would be required to learn English, which in turn may contribute to the assimilation of Francophones into the English speaking community.

Issues were also raised with respect to the translation of the Act from English into French centering on the appropriateness of certain terms that, when translated were technically correct, but not reflective of typical French language usage/characterization.

- At the public forum, representatives of the Indigenous community expressed concern that access to services for members with disabilities were often inadequate. They placed particular emphasis on services in rural and northern communities and noted the lack of many services for Indigenous Peoples living on reserve.
- The review heard that there was uncertainty respecting the legislation's reach as it pertained to areas with federal as opposed to provincial jurisdiction (e.g., Canada Post offices).

Appendix E: Distribution List – October 2018 Mailing

Accessibility Standard for Customer Service - November 1, 2018 Deadline

1. Large Business Associations:

- Manitoba Chamber of Commerce
- Winnipeg Chamber of Commerce, and chambers throughout Manitoba
- Canadian Federation of Independent Businesses (MB chapter)
- Manitoba Employers' Council
- Manitoba Hotel Association
- Manitoba Restaurant and Food Services Association
- Retail Council of Canada (Prairies)
- Manitoba Federation of Non-profit Organizations
- World Trade Centre Winnipeg
- Credit Union Central

2. Major Channels of Distribution to Non-Profits:

- Manitoba Federation of Non-Profits (distributing to 7,000 Non-Profits)
- United Way of Winnipeg
- Manitoba Federation of Labour
- Religious Institutions, for example Anglican Diocese of Rupert's Land

3. Sector Councils:

- Manitoba Customer Contact Association
- Alliance of Manitoba Sector Councils
- Canadian Manufacturers and Exporters
- Film Training Manitoba
- Food and Beverage Manitoba
- Manitoba's Information Communication Technology Sector
- Forks Renewal Corporation
- Forks North Portage Development Corporation
- Manitoba Aerospace
- Manitoba Aviation Council
- Manitoba Construction Sector Council
- Manitoba Environment Industries Association
- Manitoba Music
- Manitoba Print Industry Association
- Manitoba Tourism Education Council
- New Media Manitoba
- Manitoba Federation and Non-Profit Organizations, Inc.
- Northern Manitoba Sector Council

- Workplace Education Manitoba

4. Municipalities

- Association of Manitoba Municipalities
- 127 smaller municipalities

Professional Organizations, including:

- Chartered Professionals in Human Resources Manitoba
- College of Licensed Practical Nurses of Manitoba
- College of Midwives of Manitoba
- College of Occupational Therapists of Manitoba
- College of Pharmacists of Manitoba
- Electrical Association of Manitoba
- Engineers Geoscientists
- Manitoba Eye Physicians and Surgeons of Manitoba
- Insurance Council of Manitoba
- Law Society of Manitoba
- Manitoba Association of Architects
- Manitoba Association of Medical Radiation Technologists
- Manitoba Association of Optometrists
- Manitoba Athletic Therapists' Association
- Manitoba Bar Association
- Manitoba Chiropractors Association
- Manitoba College of Social Workers
- Manitoba Dental Association
- Manitoba Naturopathic Association
- Manitoba Physiotherapy Association
- Manitoba Professional Planners Institute
- Manitoba Real Estate Association
- Manitoba Veterinary Medical Association
- Massage Therapy Association of Manitoba
- Midwives Association of Manitoba
- The Chartered Professional Accountants of Manitoba
- Pharmacists Manitoba
- Opticians of Manitoba
- The Professional Interior Designers Institute of Manitoba
- The Psychological Association of Manitoba