

# Compliance Framework under The Accessibility for Manitobans Act

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## Guiding principles

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These principles guide the activities under Manitoba's Framework for Compliance:

- ✓ **Equal rights:** Activities reflect the equality rights of all Canadians, including persons disabled by barriers, as enshrined in the Canadian Charter of Rights and Freedoms and stipulated in The Accessibility for Manitobans Act.
- ✓ **Educating into compliance:** Activities strongly emphasize using education to help organizations achieve and return to compliance.
- ✓ **Respectful and strong relationships:** Activities build and sustain respectful and strong relationships within and across sectors.
- ✓ **Evidence-based:** Activities are based on sound and objective information and evidence.
- ✓ **Targeted and outcomes-based:** Activities are focused on outcomes that have the most positive impact on accessibility, and make the most effective use of resources.
- ✓ **Accountability:** Activities align with the Manitoba government's mandate, values and laws.
- ✓ **Transparency:** While respecting privacy, information provided about compliance activities is clear, accessible, and timely.
- ✓ **Fairness, consistency and impartiality:** Activities are carried out in reasonable, professional, unbiased and unprejudiced ways to ensure fair, consistent and impartial decisions and actions.

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## Scope: The Manitoba context

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### Application

This framework applies to all persons and organizations<sup>1</sup> in Manitoba that are subject to The Accessibility for Manitobans Act (AMA) and its regulations, including businesses, non-profit organizations and public sector organizations.

- **Businesses** include but are not limited to shops, restaurants and hotels, as well as legal, healthcare and other professional services.

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<sup>1</sup> For simplicity, "persons and organizations" are stated as "organizations" throughout this document.

- **Non-profit organizations** include but are not limited to charities, unions, places of worship, community organizations and member associations.
- **Public sector organizations** include but are not limited to the Manitoba government, Crown corporations, regional health authorities, post-secondary institutions, school divisions, municipalities, and government agencies.

There are over 41,275 organizations in Manitoba that have requirements under the AMA. Of these organizations, there are:

- over 41,000 businesses and non-profit organizations
- 68 large public sector organizations, including: the Manitoba government, five Crown corporations, five regional health authorities, 10 post-secondary institutions, 37 school divisions and Manitoba's 10 largest municipalities
- 211 small public sector organizations, including 127 small municipalities and 84 government agencies.

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One in four Manitoban adults, or approximately 234,000 people, have a disability.

Compliance among organizations in Manitoba that have obligations under the AMA helps to ensure that Manitobans with disabilities can participate equally in fundamental aspects of daily life.

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### **Requirements and timelines determined by sector**

Some requirements vary across sectors and by size of the organization. Some sectors have more time than others to comply with accessibility standards. The sector that an organization belongs to determines when it needs to comply.

**Example:** Public sector organizations are required to have accessibility plans and update them every two years, while private sector organizations and non-profit organizations are not required to have them.

**Example:** Under the [Customer Service Standard](#) and the [Accessible Employment Standard](#) regulations, organizations with 50 or more employees are required to write down their accessibility and training policies, while organizations with fewer than 50 employees are not required to do so.

**Example:** The Customer Service Standard Regulation became law on November 1, 2015.

The Manitoba government needed to comply with the standard by November 1, 2016.

Large public sector organizations needed to comply with the standard by November 1, 2017.

Small public sector, private sector and non-profit organizations needed to comply with the standard by November 1, 2018.

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## Phased-in implementation

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An Accessibility Compliance Secretariat in the Department of Families will promote and oversee compliance activities under the AMA and its various standards (regulations).

Over the coming years, a phased-in approach will be taken to implement the compliance framework. Initially compliance activities will focus on large public sector organizations and the retail sector, and after that on small organizations, including those in the private and non-profit sectors. Compliance activities will start to look at the availability of accessibility plans among public sector organizations, and then focus on compliance with the Customer Service Standard Regulation, as this was the first accessibility standard to come into force in Manitoba.

Future compliance activities for each year will be outlined in [annual Ministerial accessibility plans](#). In addition, reporting of compliance activities will be included in a section of the [Ministerial annual reports on the implementation of the AMA](#).

As work continues over time, compliance initiatives, processes and timelines will be reviewed and refined to ensure compliance activities meet the stated purpose and principles of the framework.

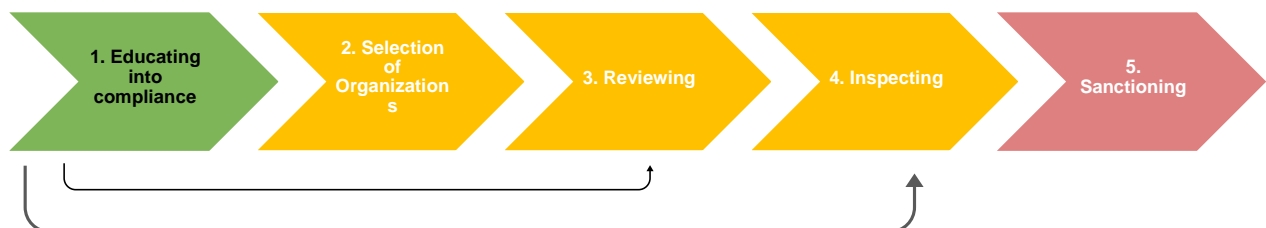
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## Framework for compliance

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This framework uses a progressive approach to compliance, which aims to reduce the use of punitive enforcement processes, actions and decisions. The framework sets out five steps (see Figure 1.0 for more information).

**Figure 1. Compliance Process: Periods and Steps**



Each of the five steps are described below.

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## **Compliance processes**

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### **Step 1 - Educating into compliance**

“Educating into compliance” means providing support to organizations in ways that best encourage and promote their compliance with the AMA, its standards and deadlines. It includes targeted outreach, awareness raising and developing resources and training. Awareness raising activities will be undertaken well in advance of compliance deadlines. This support will allow time for organizations to learn about the coming requirements and to make changes that are needed for them to comply.

Organizations that need to comply will be supported by the following actions:

- sending notices or letters to organizations, associations and stakeholders to inform them about the upcoming compliance deadlines.
- launching targeted outreach and awareness campaigns using a variety of communication channels, including social media, memos, emails, newsletters, consultation, engagement, meetings, and presentations. Outreach and awareness can involve hosting workshops, information sessions and relevant training. It may also include paid advertising.
- developing, refining and providing tools, resources and training for organizations, including brochures, templates, handbooks, FAQs, fact sheets, checklists and other resources that may be helpful.

These efforts to educate into compliance will occur at various points in time in advance of compliance deadlines. The table below shows timelines for pre-compliance actions (e.g., one year, six months, one to four weeks before a compliance deadline).

**Table. Pre-compliance period timelines with actions**

<b>Pre-compliance period timeline</b>	<b>Educating into compliance actions</b>
12 months before compliance deadline	Provide notices / letters Launch outreach and awareness campaign Create and distribute tools and resources, and start to develop training
6 months before compliance deadline	Provide notices / letters Continue outreach and awareness campaign

<b>Pre-compliance period timeline</b>	<b>Educating into compliance actions</b>
	Refine and distribute tools and resources, and deliver training
1 - 4 weeks before compliance deadline	Provide notices / letters Continue outreach and awareness campaign Continue refining and providing tools and resources, and deliver training

Educating into compliance efforts will continue to happen during various steps of the compliance framework.

**Step 2. Selecting organizations for compliance period actions**

A compliance period is a time when an organization needs to comply with requirements under the act and its regulations. A compliance period starts on the date that a requirement comes into effect for an organization (i.e., a compliance deadline). Since compliance deadlines happen at different times for different sectors, the start of compliance periods will vary across sectors as new standards come into effect. A high-level overview of the start of compliance deadlines is provided in Appendix A.

Organizations may be selected for compliance period actions, based on:

- random selection
- targeted, sector-specific selection
- substantiated concerns about an organization
- information provided by partner government departments and bodies that work under complementary legislative and regulatory frameworks, or
- an organization’s non-response to requests about their compliance status

If an organization is found to be not complying at any step in the process, and if educating does not lead to compliance, the organization will be escalated to the next step in the compliance framework.

Unlike the Human Rights Code (Manitoba), the AMA is not complaints based legislation. As such, the Accessibility Compliance Secretariat does not investigate or mediate individual complaints. Feedback from members of the public is systematically tracked to identify trends that inform compliance activities (e.g., reviews and inspections), as well as awareness raising initiatives.

### **Step 3. Reviews**

An organization may be notified that it has been selected for a review through phone calls, emails or letters. Actions in this step may include a review of an organization's written records (policies, training material, reports and other material as needed) and conversations with staff from the Accessibility Compliance Secretariat. A review will be less formal than an inspection, and will be the first level of quality assurance.

If the results of a review of an organization indicate non-compliance, a "return to compliance plan" will be developed and the organization will be provided the opportunity to return to compliance through training, guidance and sharing of tools and resources. If educating into compliance efforts are unsuccessful, the organization may be escalated to the next step in the process: inspections.

### **Step 4. Inspections**

An organization may be inspected with or without advance notice provided and inspections may be done without a warrant. The only exception is entry into a dwelling that is occupied as a residence. Here, consent of the owner or occupant of the residence or a warrant is necessary.

Actions in this step may include site visits. An inspector may ask for electronic copies of written records or go on-site to review written records. An inspector may ask for copies of written records and take them away for review. An inspector may also observe the practices of an organization or interview staff to gather information.

Organizations that are being inspected are required to produce or make available all records and things that the inspector may require. They are also mandated to offer assistance or additional information that may be required to perform the inspection, and, on request, provide written answers to questions asked by the inspector.

If necessary, the inspector will identify what the organization needs to do to comply and by when, and then re-inspect to verify compliance. If the results of an inspection demonstrate non-compliance, an organization will be provided the opportunity to return to compliance through training, guidance and sharing of tools and resources. If educating into compliance efforts are unsuccessful, enforcement measures may be recommended to the director under the act, and the organization may be escalated to the next step in the process: sanctioning.

## Supporting organizations

**The first action will always be to support organizations to achieve or return to compliance.**

**Enforcement, including sanctions like written orders and fines, will be a last resort.**

### **Step 5. Sanctioning**

Actions in this step include issuing an order or an administrative penalty, or laying charges for an offence with a fine.

#### **Inspectors' orders**

The act requires that if an order is used to compel an organization to comply, the order be provided in writing. An inspector may issue an order to require an organization to take steps to come into compliance.

If an order is served, an organization has 14 days to request the director under the act to review it. Although a hearing is not required when a request for a review is made, the organization has the opportunity to make a written submission as part of the review. The director may confirm, revoke or change an order and has to write to the organization to let it know about the decision.

After the director reviews the order and provides a decision in writing, an organization has 30 days to appeal the decision to the provincial court. After the appeal period has passed, the director may impose an administrative penalty (i.e., a fine) if non-compliance continues. An administrative penalty scheme may be outlined in a future regulation.

#### **Administrative penalty**

The AMA requires that if an administrative penalty is issued, the notice has to be served in writing to an organization. The director may issue notice of an administrative penalty for non-compliance with an inspector's order (the amount of the administrative penalty may be set in a future regulation). The organization has 30 days to appeal the administrative penalty to the provincial court. The director may issue public reports with details of orders and administrative penalties, and the reports may include personal information.

#### **Offence and fine as a last resort**

If an organization pays the administrative penalty as directed, it will not be charged with an offence unless it fails to comply after the penalty is paid. The director under the act may identify the specific offences for which an organization may be referred to court for



charges. If the organization does not pay or remains non-compliant, it may be charged with an offence and be liable on summary conviction to a fine, as referenced in the legislation.

\*\*\* The information in this framework does not constitute legal advice. For certainty, please refer to The Accessibility for Manitobans Act or seek legal counsel.

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## **Appendix 1. Compliance deadlines (start of compliance periods)**

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Current sector-specific compliance deadlines set out by statute are as follows:

### **Accessibility Plans (section 33 in The Accessibility for Manitobans Act)**

Accessibility plans require public sector organizations to identify, prevent and remove barriers in policies, services and practices. The plans must be updated every two years to review progress, set future activities, and update policies and actions.

#### **Public sector organizations (PSO): Accessibility Plans**

- Compliance deadlines for large PSOs (i.e., the Government of Manitoba, Crown corporations, regional health authorities, universities and colleges, school divisions, and large municipalities).
  - December 31, 2016 (plans to highlight activities for 2017 and 2018)
  - December 31, 2018 (plans to highlight activities for 2019 and 2020)
  - December 31, 2020 (plans to highlight activities for 2021 and 2022)
- Compliance deadlines for small PSOs (i.e., small municipalities and government agencies)
  - December 31, 2017 (plans to highlight activities for 2018 and 2019)
  - December 31, 2019 (plans to highlight activities for 2020 and 2021)
  - December 31, 2021 (plans to highlight activities for 2022 and 2023)

### **Standards (Regulations)**

#### **Manitoba Government**

##### **Customer Service Standard Regulation**

- Compliance by November 1, 2016

##### **Accessible Employment Standard Regulation (coming into force on May 1, 2019)**

- Compliance with all provisions expected May 1, 2020

#### **Public sector organizations, government agencies and large municipalities**

##### **Customer Service Standard Regulation**

- Compliance by November 1, 2017

##### **Accessible Employment Standard Regulation (coming into force on May 1, 2019)**

- Compliance with two provisions <sup>2</sup> expected May 1, 2020
- Compliance with all provisions expected May 1, 2021

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<sup>2</sup> All affected organizations will be required to comply with two provisions one year after the introduction of the Accessible Employment Standard Regulation. The two provisions are about workplace emergency response and assistance.

## **Business, Non-Profit Organizations, and Small Municipalities**

### **Customer Service Standard Regulation**

- Compliance by November 1, 2018

### **Accessible Employment Standard Regulation (coming into force on May 1, 2019)**

- Compliance with two provisions expected May 1, 2020
- Compliance with all provisions expected May 1, 2022