

**SUMMARY OF DISCUSSIONS OF THE
ACCESSIBILITY ADVISORY COUNCIL
1:00 P.M. – 3:00 P.M., THURSDAY, FEBRUARY 16, 2018
EXECUTIVE BOARDROOM, 2ND FLOOR, 401 YORK AVENUE**

PRESENT: Jim Baker (Chairperson), Dianna Scarth, Doris Koop, Judy Redmond, Jesse Turner, Ralph Groening, Scott Jocelyn John Wyndels (DIO)

ABSENT: Jim Derksen, Brad Fulton

The Chairperson reiterated a number of the comments made by Deputy-Minister at the previous council meeting. The government will not be committing to an Education Standard under The Accessibility for Manitobans Act until all standards currently required to be developed under the Act are developed. There are currently two standards in development and a further two standards that have not yet begin; transportation and the built environment. Although the DM would like to develop transportation and the built environment simultaneously, the Disabilities Issues Office (DIO) would be challenged with its capacity to dedicate to such an undertaking. Further discussions of how this could be accomplished would have to take place.

Reasonable Accommodation and Undue Hardship are not defined in the proposed standard, although the terms are used in a number of instances in the proposed standard. There is no consistent definition for reasonable accommodation and undue hardship, and they are terms utilized in the Human Rights Code (HRC), which makes the terms inclusion troublesome.

There is concern over Section 3 – When is accommodation reasonable. The provisions under this section are inconsistent with the HRC, which does not identify when accommodation is reasonable as it pertains to employment. The intent of the section is to say that the standard pertains to employees, but the phrasing is awkward. There is also a question of why this section does not apply to potential applicants.

Sections 9 and 10 have an identical provision that states,

“the accommodation or accommodations provided for a particular employee, if any, may not fully address a barrier that disabled the employee.”

It is assumed that the provision is not meant in any way to undermine other requirements in the proposed standard, but the council doesn't understand its intent. It may be a question of need rather than want, which is an underlying guideline to reasonable accommodation. The Secretary again mentions that, in the absence of a meeting with the legislative drafter, which is not possible at present, the council should see if Victor Minenko is available to address a number of questions regarding the proposed standard.

There was discussion of Section 5 – Recruiting employees. The processes of assessment and selection of potential employees are being performed after the

application process. It has been suggested that the application process be amended to require all job posting be more accessible. The example provided was Joe's Garage having a "Help Wanted" sign on their front window. The job posting is excluding potential employees by its location, format and availability. Should the proposed standard have requirements outlining how job posting are advertised? Would this type of requirement place an unfair burden on small, private organizations? A number of larger organizations and public sector organizations have already taken measures to ensure their job posting are more accessible and inclusive of persons with disabilities.

One recommendation suggest the proposed standard be expanded to include requirements that employers provide information about employment opportunities to agencies and organizations that provide employment services to Manitobans with disabilities. As was discussed at council meetings following public consultations, the guide to support the employment standard would recommend and encourage employers to reach out to these organizations in their job search.

Another recommendation would like the standard to be expanded to require employer participation in a measurement and monitoring system that provides the basis for assessing the standard's impact and province's progress toward achieving a fully accessible labour market. There is a monitoring system in place under The Employment Equity Act, which applies to the federal government and organizations under federal jurisdiction. That is where the proposal originates and supports the premise that the employment standard should move the province towards a fully accessible labour market, where the unemployment rates of able-bodied persons and persons with disabilities would be similar in size. The unemployment rate of persons with disabilities is considerably higher for persons with disabilities than those without disabilities.

It has been suggested that the differential requirement for the employment standard be adjusted to organizations of 50 employees or more. Under the proposed standard, the differential requirement is 20 employees or more. Differential requirement refers to those organizations that must formally document their policies and make them available upon request. The suggestion states that this is the number used in Ontario. The Secretary says that the number of organizations in Ontario with 50 or more employees is equal to the number of organizations in Manitoba with 20 or more employees. The Ontario government also made the change from 20 to 50 after the five-year review of the standard.

Discussion was also had regarding how difficult some of the provisions were to understand. This is a common complaint regarding most legislation and regulations. Section 4 of the proposed employment standard is an example. It has been suggested that the Section have two provisions; one establishing policies and practices and a second provision that closely aligns with the current provision of actively developing, implementing and updating employment policies and practices. It is suggested that this would make the standard easier to understand.

Funding for some organizations continues to be an issue. The issue of funding for organizations to establish policies and practices to comply with standards is an issue to

be discussed with the government department that is responsible for the legislation. The responsibility of the Disabilities Issues Office is to carry out the objectives of the legislation, namely the development of accessibility standards, which it accomplishes through the efforts of the council, and corresponding informational tools and resources to assist organizations comply with the standards.