

ACCESSIBILITY COMPLIANCE SECRETARIAT – COMPLAINTS PROCEDURES

*** This document is available in alternate formats upon request. To request an alternate format, please email accessibilitycompliance@gov.mb.ca or call (204) 792-0263.

Policy Statement

- 1.1 The Accessibility Compliance Secretariat implements [Manitoba's accessibility compliance framework](#), including the compliance and enforcement provisions under The Accessibility for Manitobans Act.
- 1.2 Among the functions of the Secretariat is the process of receiving complaints from members of the public who believe an organization is failing to comply with a legislated accessibility requirement.
- 1.3 The Secretariat will hear complaints, provide information to complainants regarding the legislation, and carefully analyze the information to inform its activities respecting reviews, inspections, achieving compliance plans, orders and administrative monetary penalties. Each complaint received by the Secretariat is reviewed by staff.
- 1.4 This policy relates to the complaints process, and excludes information on procedures to be taken during reviews, inspections and the issuing of orders and administrative monetary penalties.

Background

- 2.1 The Secretariat was established as a means to conduct compliance and enforcement functions under The Accessibility for Manitobans Act and its associated regulations.
- 2.2 Although the Secretariat operates independently from The Manitoba Accessibility Office, collaborative information and awareness raising efforts between the two offices are expected.
- 2.3 In handling compliance related complaints, the Secretariat will operate under the guiding principles set forth in the [accessibility compliance framework](#). These are: equal rights; awareness raising and education; respectful and strong relationships; evidence based activities; targeted and outcomes-based activities; accountability; transparency; fairness, consistency and impartiality.

Purpose

- 3.1 This policy guides the Secretariat in its role of receiving complaints from the public, raising awareness about requirements among affected organizations, issuing Achieving Compliance Plans; tracking information in an organized fashion, analyzing trends, and reporting information related to complaints in public accessibility annual reports.

Definitions

4.1 Guiding Principles:

- ✓ **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.
- ✓ **Awareness Raising and Education:** Activities strongly emphasize using education to help organizations achieve 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.

Policy

- 5.1 All complaints and questions relating to an accessibility situation or the legislation that come to the attention of the Manitoba Accessibility Office (MAO), including those within government departments, are to be referred to the Secretariat.
- 5.2 Based on patterns arising from complaints, the Secretariat can make recommendations to senior management on where to focus efforts for future compliance activities, such as formal reviews and inspections.

- 5.3 In the undertaking of its role and mandate, the Secretariat will review every complaint it receives. The Secretariat is authorized to connect with organizations to gather information regarding the situation (complaint). The Secretariat is also encouraged to provide information to the organization, in line with the principle of awareness raising and education.
- 5.4 Organizations are required to cooperate with the Secretariat by being available for conversations and providing information in response to the complaint.
- 5.5 Where, due to investigating a complaint, information indicates that an organization is non-compliant with an accessibility requirement, the Secretariat is authorized to issue an Achieving Compliance Plan to the organization.
- 5.6 When determining whether to issue an Achieving Compliance Plan, Secretariat staff are to exercise discretion. This allows them to make decisions that reflect the specific circumstances of a situation.
- 5.7 Achieving Compliance Plans must include the legislative reference and its requirement, the observed area of non-compliance, and the steps and time frame required to achieve compliance (see appendix A for a copy of an Achieving Compliance Plan). Importantly, the plan is to include reference to free tools and resources, as well as training opportunities. The plan should also reference the availability of Secretariat staff to offer guidance and assistance.
- 5.8 Through an Achieving Compliance Plan, the organization will be provided the opportunity to achieve compliance through training, guidance and receipt of practical tools and resources.

Standards

- 6.1 The Secretariat reports directly to the Assistant Deputy Minister of The Corporate Services Division of the Department of Families.
- 6.2 The Secretariat does not provide mediation or advocacy services. If deemed appropriate and based on the information gathered, complainants may be referred to The Manitoba Human Rights Commission for potential mediation supports.

- 6.3 The Secretariat must receive consent from a complainant to contact an organization and gather information. Consent should be in writing, but accommodations can be made to obtain consent in alternate ways, if requested by the complainant.
- 6.4 A complainant may request that the Secretariat deal directly with an advocate or other third party but the Secretariat must receive consent by the complainant before it can discuss the details of a complainant's case with the advocate or third party. As above, consent should be in writing, unless doing so poses a barrier to an individual.
- 6.5 The personal information provided to the Secretariat is collected under section 36(1)(b) of The Freedom of Information and Protection of Privacy Act (FIPPA) and section 13(1) of The Personal Health Information Act (PHIA), as the information is directly related to and necessary for the purposes of carrying out the functions of the Secretariat. Personal information will not be used or disclosed for any other purpose without consent or unless required to do so by law.
- 6.6 At the end of each fiscal year, the Secretariat will prepare a summary of complaints received, and provide a narrative of its activities for inclusion in the Ministerial annual report on accessibility.

Procedures

- 7.1 Manitoba residents may access the services of the Secretariat directly or through referrals from other sources, such as The Manitoba Accessibility Office or the Manitoba Human Rights Commission.
- 7.2 Upon receiving a complaint, the Secretariat will review all information provided. The following list of non-exhaustive questions may be asked by the Secretariat:
 - Can you tell me about the situation that you have encountered?
 - What is the name of the organization in question?
 - Where in Manitoba is the organization located?
 - Why do you believe the organization failed to provide accessible services?
 - If applicable, when did the incident occur?
 - Did the complainant try to resolve the issue with the organization before contacting the Secretariat? If so, what was the outcome?
- 7.3 The Secretariat will take the opportunity to inform all complainants of their rights under The Accessibility for Manitobans Act and its regulations. In particular, and with respect to complaints, individuals will be made aware of organizations' legal requirement to:

- a) Implement a process for receiving and responding to complaints about accessibility, and
 - b) Documenting the actions they have taken to address the complaints, as well as making that documentation available on request.
- 7.4 Once being made aware of the above, complainants will be asked to take the following step before the Secretariat becomes further involved and reaches out to the organization directly:
- Provide the organization with feedback regarding the service received and request documentation on how it acted further to the complaint. The Secretariat will encourage complainants to provide feedback in writing unless doing so poses a barrier.
- 7.5 Should the individual be dissatisfied with the outcome of the complaint or not receive a response from the organization in a suitable timeframe, they can re-connect with the Secretariat, which may proceed to contact the organization and undertake awareness raising and compliance efforts.
- 7.6 If, after reviewing information, the Secretariat determines that an organization did not contravene requirements, it will inform the complainant, citing legislation, and note the information in a database.
- 7.7 If the Secretariat believes an organization has failed to comply with accessibility legislation, including providing information on how it acted further to a complaint, it will utilize discretion and may reach out to the organization by phone or email to bring awareness of the legislation and its requirements. If deemed appropriate, the Secretariat will issue an Achieving Compliance Plan to the organization.
- 7.8 If a complainant requests anonymity during a follow up with an organization, this is to be documented in the database. The Secretariat must advise the person that every effort will be made to keep their personal information private, but confidentiality cannot be guaranteed in all circumstances, as some situations and barriers are unique.
- 7.9 The Secretariat must make every effort to maintain confidentiality whether the complainant has explicitly requested this or not. This is done to minimize the risk of punitive action being taken against a complainant for contacting the Secretariat.
- 7.10 Complainants are not entitled to receive detailed information on the communications that take place between the Secretariat and an organization. However, upon request

they may be advised that the organization was contacted by the Secretariat, and that their complaint was documented to inform trends and patterns related to non-compliance, which can affect the nature of future compliance-related initiatives.

7.11 In order to identify repetitive trends in complaints and provide senior management with recommendations for systemic policy and procedural changes designed to improve compliance, the Secretariat will maintain records and statistics regarding the number and nature of the complaints received. Statistics to be collected include:

- The alleged area of non-compliance, including the type of accommodation requested
- The applicable regulation or act, including specific sections
- The name and contact information of the organization
- The sector the organization belongs to (e.g., private, public or non-profit)
- The size of the organization (e.g., does it have fewer than 50 employees?)
- If applicable, the steps the Secretariat took to promote compliance with the organization.

Appendix A: Achieving Compliance Plan

Failure to implement this plan may result in further compliance and enforcement actions.

1. Name of organization that is required to comply with The Accessibility for Manitobans Act and its regulations
2. Organization's address
3. Contact name and information, if known
4. What is the area of non-compliance that requires improvement?
5. What is the relevant provision of the act or regulation?
6. What actions and activities are required to achieve compliance?
7. What free tools, resources and/or training opportunities are available to achieve compliance?
8. When (date) will the activities be completed, and compliance re-assessed by the Accessibility Compliance Secretariat?

If you have any questions or require assistance to implement this plan, please contact the Accessibility Compliance Secretariat at accessibilitycompliance@gov.mb.ca or at (204) 792-0263.

*** Include: Date, signature of Secretariat staff

Note: Send electronically as a pdf document and request a "read receipt" from the recipient.