

Accessibility Compliance Secretariat – Procedures for Receiving and Responding to Complaints, Concerns, and Questions

***** 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](#), and has the potential to enforce requirements under The Accessibility for Manitobans Act and its regulated standards.
- 1.2 Among the functions of the Secretariat is the process of receiving complaints, concerns or questions from members of the public who think an organization is failing to comply with a legislated or regulatory accessibility requirement.
- 1.3 The Secretariat will receive complaints, concerns or questions and provide information to members of the public regarding the legislation.
- 1.4 The Secretariat will carefully analyze the information gathered from members of the public to inform its activities respecting reviews, inspections, achieving compliance plans, orders and administrative monetary penalties.
- 1.5 This policy excludes information on procedures to be taken during reviews, inspections and the issuing of orders and administrative monetary penalties.

Background

- 1.6 The Secretariat was established as a means to conduct compliance and enforcement functions under The Accessibility for Manitobans Act and its associated regulations.
- 1.7 Although the Secretariat operates independently from the [Manitoba Accessibility Office](#), collaborative information and awareness raising efforts between the two offices are expected.

- 1.8 In handling compliance related complaints and concerns, 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 outcome-based activities; accountability; transparency; fairness, consistency and impartiality.

Purpose

This policy guides the Secretariat in its role of receiving complaints, concerns and questions 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, concerns and questions 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 aim to 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 which 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 about an accessibility situation or questions regarding legislative requirements, which come to the attention of the Manitoba Accessibility Office, are referred to the Secretariat.
- 5.2 Based on patterns arising from complaints, concerns and questions, 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 is authorized to connect with organizations to gather information regarding the situation that initiated the complaint or concern. 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 situation that initiated the complaint or concern.
- 5.5 Where, due to investigating a situation, 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 which reflect the specific circumstances of a situation.
- 5.7 Achieving Compliance Plans must include the legislative or regulatory 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 with 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 Policy, Programs and Legislation Division of the Department of Families.
- 6.2 Secretariat staff are impartial and do not provide mediation or advocacy services.
- 6.3 If deemed appropriate and based on the information gathered, members of the public may be referred to the Manitoba Human Rights Commission to file a complaint.
- 6.4 The Secretariat is unable to seek individual remedies (e.g., financial compensation) for a person who has been harmed by an organization's non-compliance with accessibility requirements. The Secretariat's role is to work with an organization to bring it into compliance.
- 6.5 The Secretariat must receive consent from the individual prior to contacting an organization to gather information. Consent should be in writing, but accommodations can be made to obtain consent in alternate ways, upon request..
- 6.6 An individual may request that the Secretariat deal directly with an advocate or other third party, but the Secretariat must receive consent from the person before it can discuss the details of the case with the advocate or third party. As above, consent should be in writing, unless doing so poses a barrier to an individual.
- 6.7 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, unless required to do so by law.
- 6.8 At the end of each fiscal year, the Secretariat will prepare a summary of complaints, concerns and questions received and provide a narrative of its activities for inclusion in the Ministerial annual report on accessibility.
- 6.9 Not all matters are covered by accessibility legislation. In some instances, where the concern falls outside the scope of The Accessibility for Manitobans Act, the Secretariat will assess if another governing body may be able to investigate the complaint or concern and make a referral.

Procedures

- 6.10 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.
- 6.11 Upon receiving a complaint, concern or question, 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 did not comply with accessibility requirements?
 - What barrier(s) do you think the organization needs to remove? If applicable, when did the incident occur?
 - Did the person try to resolve the issue with the organization before contacting the Secretariat? If so, what was the outcome? How did you learn about the Secretariat?
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- 6.12 The Secretariat will take the opportunity to inform all persons who have a question, concern or complaint of their rights under The Accessibility for Manitobans Act and its regulations.
- 6.13 If, after carefully reviewing information, the Secretariat determines that an organization did not contravene requirements, it will inform the member of the public and note the information in a database.
- 6.14 If the Secretariat suspects an organization may have failed to comply with accessibility legislation, 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.
- 6.15 If an individual requests not to be identified as the person who contacted the Secretariat 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.
- 6.16 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 person for contacting the Secretariat.

- 6.17 In some situations, the Secretariat may ask the person for permission to use their name when following up with an organization to assess compliance. For example, if a person is needing an accommodation to access services or employment.
- 6.18 Members of the public 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.
- 6.19 In order to identify repetitive trends 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, concerns and questions 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
 - If applicable, the steps the Secretariat took promote compliance with the organization.

Appendix A: Achieving Compliance Plan

Failure to implement this plan may result in an order to remedy a contravention, per section 27 of The Accessibility for Manitobans Act.

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.