Accessibility for Ontarians with Disabilities Act, 2005

Transportation Standards Development Committee

TERMS OF REFERENCE

January 2008

This document replaces the previous document, the Transportation Standards Development Committee Terms of Reference, as posted publicly on the MCSS web site in October 2005.

1. Background

The Accessibility for Ontarians with Disabilities Act, 2005 ("the Act") received Royal Assent and became law on June 13, 2005. The purpose of the Act is to:

a) Develop, implement and enforce accessibility standards in order to achieve accessibility for Ontarians with disabilities with respect to the goods, services, facilities, accommodation, employment, buildings, structures and premises by January 1, 2025; and

b) Provide for the involvement of persons with disabilities, of the Government of Ontario and of representatives of industries and of various sectors of the economy in the development of accessibility standards.

The Minister of Community and Social Services ("the Minister")[1] is responsible for establishing and overseeing a process to develop and implement all accessibility standards under the Act. Accessibility standards are established by regulations made by the Lieutenant Governor in Council.

As part of the standards development process under the Act, the Minister is required to establish standards development committees that will develop proposed accessibility standards to be considered for adoption by regulation.

Committee members include:

1. Persons with disabilities or their representatives;
2. Representatives of industries, sectors or classes of persons to which an accessibility standard applies;
3. Representatives of Ontario government ministries; and
4. Other persons or organizations the Minister considers advisable.

[1] All references to the Minister throughout this Terms of Reference may equally refer to the Minister's delegate, as per section 34 of the Act.

Individuals may be appointed to serve on the Committee as advisory members. Advisory members may bring to the Committee additional perspectives, advice, technical expertise and other input. Advisory members will be comprised of balanced representation from Ontario government ministries and persons with disabilities or their representatives.

Committee membership is structured so that overall 50 per cent of voting and advisory members are comprised of persons with disabilities or their representatives.

Although standards development committees will be established under the Act, they are not agencies of the Government of Ontario, and therefore, their members will not be considered government appointees, nor will they be in an employment relationship with the government.

Prior to establishing standards development committees, the Minister will consult with other Ministers that have responsibility related to the industries, sectors or classes of persons or organizations to which an accessibility standard will apply.

The Minister is also required to fix Terms of Reference for each committee and make those Terms of Reference public. If there should be a conflict between the Act and the Terms of Reference, the Act shall take precedence.

2. Standards Development Process

Common Accessibility Standards

The Minister has established standards development committees to develop proposed common standards that may address barriers that are common to all sectors, and may apply broadly to all persons and organizations in Ontario.

The Customer Service Standards Development Committee established in February 2006 fulfilled its mandate. A customer service standard has been adopted by regulation and is in force as of January 1, 2008.

The intention is to develop additional common standards in the following areas. A Standards Development Committee has been established for each area:

- Built environment - Refers to access to, from and within buildings and outdoor spaces, and could include counter heights, aisle/door widths, parking, and signs, as well as pedestrian access routes and signal systems.
- Employment - Refers to hiring and retaining paid employees/workers.
- Information and communications – Refers to, but is not limited to, information and communication provided to the consumer or end-user through print, telephone, electronically and in person.

Proposed common accessibility standards, once adopted in regulation, may apply across all industries and sectors of the economy.

Sector-Specific Accessibility Standards

In February 2006, the Minister established a standards development committee to develop a proposed sector-specific standard in the area of transportation. Transportation, in this context, refers to modes of passenger transportation within provincial and municipal jurisdiction (such as municipal transit and taxis). This committee's initial proposed standard was posted for public review in summer 2007.

If required, additional standards development committees may be established to develop other sector-specific standards.

Proposed sector-specific accessibility standards, once adopted in regulation, may apply to persons and organizations in that sector only, and may address barriers that are unique to the sector, not addressed by the common standards.

3. Purpose

A standards development committee was established under the Accessibility for Ontarians with Disabilities Act, 2005, to be known as the Transportation Accessibility Standards Development Committee ("the committee"). The Minister fixed and made public the Terms of Reference for the committee in October 2005 and has authority over them.

Since the posting of the 2005 Terms of Reference, adjustments have been made to the standards development committees to ensure 50 per cent membership from the disability community. Ministries will no longer participate in voting but they will continue to bring their valuable expertise to the table.

Because of such adjustments, 2008 Revised Terms of Reference have been developed and made public.

The purpose of these revised Terms of Reference is to direct and guide the committee in carrying out its roles and responsibilities. Additional direction on the scope and application of the proposed standard may be provided by the Accessibility Directorate of Ontario ("the Directorate") from time to time and will form part of these revised Terms of Reference.

4. Mandate

The Transportation Accessibility Standards Development Committee will develop and give to the Minister, a proposed Transportation Accessibility Standard as required by the Act and these revised Terms of Reference.

The proposed Transportation Accessibility Standard will address barriers to accessibility for persons with disabilities in the delivery of public and private transportation services.

Public and private transportation services refer to modes of passenger transportation within provincial and municipal jurisdiction (such as municipal transit and taxis).

Under the Act, a “barrier” means anything that prevents a person with a disability from fully participating in all aspects of society because of his or her disability, including a physical barrier, an architectural barrier, an information or communications barrier, an attitudinal barrier, a technological barrier, a policy or a practice (“obstacle”).

Under the AODA, 2005, “disability” means:

a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,

b) a condition of mental impairment or a developmental disability,

c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,

d) a mental disorder, or

e) an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997.

5. Committee Roles and Responsibilities

The committee will:

- Make achieving the purpose of the Accessibility for Ontarians with Disabilities Act, 2005, the primary consideration in all of the committee’s work including its deliberations, activities and deliverables.

- Fulfil its responsibilities under the Act and these revised Terms of Reference through a consensus-based decision-making process; consensus means substantial agreement of members through a process taking into account the views of all members in the resolution of disputes; unanimous decisions are not necessarily required to achieve consensus.

- Consider the full range of disabilities in identifying barriers in public and private transportation services in Ontario and develop a proposed Transportation Accessibility Standard to address those barriers. The

committee should only set requirements that are unique to the transportation sector, and that are not set in the common standards.

- Appreciate and advance, in a balanced and fair way, the views and interests pertaining to the diverse Ontario transportation sector, including those in the public and private sectors that deliver passenger transportation services, organizations, groups, communities and persons with disabilities.
- Carry out committee work in a manner that preserves and enhances public trust in the integrity and skill of the committee to carry out its duties under the Act in the public interest and in a fair, effective and timely manner.
- To the extent possible, provide that all materials produced by the committee, whether written or otherwise, that are to be shared with the public, are clear and in plain language, concise, logical and unambiguous. Such materials include committee meeting minutes, progress reports and the proposed Transportation Accessibility Standard.
- Accommodate persons with disabilities on the committee in all parts of the committee process.
- Abide by these revised Terms of Reference, the revised Committee Rules and Procedures as provided to the committee, any direction the Minister may issue, and the Act as it relates to the committee's roles and responsibilities.
- Review and consider all information, material and guidance provided by the Minister to assist the committee in its work.
- Develop Long-Term Accessibility Objectives for Transportation:
    - As is required by the Act, determine the long-term accessibility objectives for the Ontario industries, sectors of the economy or classes of persons or organizations involved in the delivery of public and private transportation services in Ontario. This will be accomplished by identifying the measures, policies, practices and requirements respecting transportation services in Ontario that the committee believes should be implemented on or before January 1, 2025.
- Develop a proposed Transportation Accessibility Standard:
    - As required, refine the scope and application of the standard, using these revised Terms of Reference and information and materials provided by the Accessibility Directorate of Ontario ("the Directorate").
    - As required, establish sub-committees to provide advice and draft portions of a proposed standard. For example, sub-committees may be established to develop sector-specific (or sub-sector-specific) portions of the draft proposed standard.

- Set out the requirements for the identification, removal and prevention of barriers with respect to passenger transportation services in provincial and municipal jurisdictions that may include but not necessarily be limited to the following transportation vehicles and conveyances:
    - Buses
    - Specialized Transit
    - Streetcars
    - Subways
    - Commuter bus and rail
    - Ferries and Excursion Boats
    - Taxis and Limousines

    And, potentially addressing barriers relating to:

        - Mobility aid accommodation;
        - Boarding vehicles;
        - Interior circulation;
        - Lighting;
        - Seating;
        - Restrooms;
        - Emergency operations or failures;
        - Signage and public information systems;
        - Destination and route signs;
        - Booked services; and
        - Other sector specific barriers not addressed by the common areas (Customer Service, Built Environment, Employment, and Information and Communications).
- Identify the persons or organizations required to implement the requirements.
- Specify dates by which requirements should be implemented, in increments of five years or less.

- The committee is charged with the development of technical requirements, and is not charged with the creation or adjustment of government policies or programs. To develop an achievable proposed standard, the committee will take into account current and future technical and economic considerations. The committee will also have due regard for existing provincial and municipal funding envelopes for transportation services, and regular business planning and capital renewal cycles.
- Submit the initial proposed Transportation Accessibility Standard to the Minister.
- Following the public review of the proposed standard, finalize the proposed standard by:
    - Considering the comments received during the public review,
    - Making any changes the committee considers advisable, and
    - Submitting the proposed standard to the Minister.
- Approve committee meeting minutes and provide them to the Minister to be made public.
- Respond in a timely fashion to requests for information and reports as may be required from time to time by the Minister.

6. Key Deliverables and Timeframes

The committee will complete the following key deliverables within the specified timelines:

a) Mandatory Orientation and Training – New members of the committee must undergo orientation and training conducted by the Directorate.

b) Committee Work Plan: Once the committee re-convenes in spring 2008, it will prepare and give to the Minister an updated work plan no later than the second meeting of the newly constituted committee. The work plan will outline key milestones, activities, and timelines to achieve deadlines established in these revised Terms of Reference. Thereafter, the committee will update the work plan as necessary and submit a copy to the Minister.

c) Finalizing the proposed standard: A report on comments received during the public review will be prepared by the Directorate and the comments will be given to the committee for its consideration. The committee will consider public comments, seek additional information if needed and make changes to the proposed standard based on public comments, as the committee deems advisable. No later than 10 months after re-convening in spring 2008, the committee will deliver the final proposed standard to the Minister along with a report on its consideration of public comments.

The final proposed standard will specify the following:

- The requirements for the identification, removal and prevention of barriers with respect to transportation. This may include but not necessarily be limited to those outlined in Section 5 of these revised Terms of Reference.
- The persons or organizations required to implement the requirements.
- Dates by which requirements should be implemented, in increments of five years or less.

d) Meeting Minutes and Progress Reports – No later than the committee's next meeting, the committee will approve and provide the Minister with its Meeting Minutes for the previous meeting which are to include a progress report on the development of the proposed Transportation Accessibility Standard. Note: Minutes for committee meetings occurring prior to public review that have already been approved and do not require approval from the new members.

7. Member Roles and Responsibilities

In addition to contributing to the fulfillment of the roles and responsibilities assigned to the committee as a whole, all committee members will:

a) complete all mandatory training and orientation designed to assist the committee in carrying out its roles and responsibilities;

b) actively participate in all scheduled committee meetings;

c) during all committee meetings and activities, present their respective views and interests at the strategic level and, to the best of their abilities, present the views and interests of those organizations, industries, sectors of the economy or other classes of individuals or organizations or communities of interest which have endorsed members for the purpose of representing or presenting such views or interests;

d) review materials and background information prior to committee meetings and be prepared to discuss materials at committee meetings;

e) review committee minutes for accuracy and check that interests are properly documented;

f) carry out individual assignments within set timelines;

g) participate effectively and in good faith in all committee activities;

h) work collaboratively with other committee members to achieve consensus on all decisions;

i) provide input into committee agenda items and priorities;

j) participate in sub-committees, if required;

k) work with individuals and organizations outside the committee if required to support the work of the committee;

l) consider the advice and input of other parties including members of the public who are called to present to the committee or who otherwise assist the committee in its work;

m) disclose to the Chair any conflict of interest in keeping with Section 14 of these revised Terms of Reference; and

n) abide by confidentiality requirements in keeping with Section 16 of these revised Terms of Reference.

8. Chair

The Minister will assign an independent and experienced individual to chair committee proceedings and an individual to perform this role in the absence of the Chair.

9. Chair Responsibilities

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

a) act in an impartial manner and be non-partisan;

b) assist in the preparation of meeting agendas;

c) encourage the balanced analysis of all relevant issues and questions from a variety of perspectives;

d) mediate disputes in accordance with the revised Committee Rules and Procedures as provided to the committee;

e) determine when a consensus is reached;

f) determine when a final proposed standard, in whole or in part, is to be submitted to the Minister;

g) record in writing any declared conflict of interest and provide to the Minister;

h) verify that minutes of the meetings are accurately recorded;

i) lead the development of a committee work plan;

j) determine the need for sub-committees in consultation with the Facilitator and the Directorate;

k) consider and authorize any nominated alternates/proxies on a meeting-by-meeting basis; and

l) monitor the work of the committee, and sub-committees if any, against the requirements of the Act, these revised Terms of Reference and as outlined in the work plan, with a view to keeping it on track to meet timelines.

10. Facilitator

An independent facilitator will be available to the committee as required.

11. Role of Facilitator

In carrying out his or her duties, the Facilitator may support the Chair in exercising his or her duties by:

a) guiding discussions to assist the committee in meeting its deliverables;

b) supporting the committee by facilitating discussion, openness and collaboration;

c) providing for the effective, balanced, fair and equal participation all committee members during committee deliberations and discussions;
d) supporting the Chair in dispute resolution; and

e) in consultation with the Directorate, advising the Chair on the establishment of sub-committees and facilitating the work and discussions of sub-committees where established.

12. Term of Membership

Members shall participate on the committee for a term no longer than 10 months after re-convening in spring 2008. The Minister may at her discretion vary the duration of individual membership, including termination of membership, and the duration of the committee as a whole.

Unless otherwise determined by the Minister, the committee ceases to exist once the Minister has informed the committee of her decision on whether or not to recommend to the Lieutenant Governor in Council that the proposed standard be adopted by regulation in whole or in part or with modifications.

13. Accessibility Directorate of Ontario

The Directorate will support the Minister in carrying out her roles and responsibilities under the Act. The Directorate will assist the committee in carrying out its roles and responsibilities to provide for the efficient and effective operation of committee proceedings and activities in accordance with the Act, these revised Terms of Reference, and Committee Rules and Procedures to be provided to the committee.

The Directorate will receive reports and other materials produced by the committee intended for the Minister and provide meeting management support including:

- attending all standards development committee meetings;
- drafting and distributing committee agendas, minutes, and other material for committee review on a timely basis;
- acting as the repository of all committee records and documentation;
- providing administrative support to the committee as required;
- administering all financial matters related to the committee's work;
- providing appropriate and timely accommodation for persons with disabilities with respect to all aspects of committee work, proceedings and activities; and
- consulting with and informing other ministries of any issues or concerns throughout the duration of the committee's mandate.

14. Conflict of Interest

A conflict of interest arises when a member's private or personal interests may take precedence over or compete with his or her responsibilities as a member of a standards development committee. A conflict of interest may be actual, perceived or potential and may occur before, during and after membership on a standards development committee. Without limiting the generality of the foregoing, it shall be a conflict of interest for a member or a member's family to derive a personal gain or benefit arising from his or her membership on a standards development committee. It shall also be a conflict of interest for a member to use or disclose confidential information without prior written permission of the Minister or the Chair, as appropriate.

A member of the committee must, without delay, disclose to the Chair in writing any situation that may be reasonably interpreted as being an actual, perceived or potential conflict of interest.

The Chair must, without delay, disclose to the Minister in writing any situation that may be reasonably interpreted as being an actual, perceived or potential conflict of interest.

Non-compliance with the above may result in the Minister rescinding a member's or Chair's invitation to participate on the committee.

The Minister will determine if a situation constitutes a conflict of interest and will work with the Chair and/or members as appropriate to address the situation.

15. Transparency

In addition to what is prescribed by the Act or elsewhere in this revised Terms of Reference, any documents and materials developed by or for the Committee will be

accessible to the public upon request. Committee documents and material are subject to the *Freedom of Information and Protection of Privacy Act* (FIPPA).

16. Confidentiality

In the course of carrying out their roles and responsibilities as members of the committee, committee members may be given access to sensitive or confidential information by other committee members, the Accessibility Directorate of Ontario, or others. All personal information provided to the committee members and others engaged in committee activity should be treated with sensitivity/confidentiality. In addition, all personal information is subject to the privacy provisions of FIPPA.

Committee members may share information with non-committee members in the course of bringing informed views, interests and positions to the committee and advancing the capacity to achieve consensus. Please note, that although this is not considered breach of confidentiality, personal information should not be disclosed unless there is the legislative authority to do so, or the individual to whom the personal information relates has provided consent to release the information.

All committee documents, communications, work and activities may be subject to the *Freedom of Information and Protection of Privacy Act* and any other applicable federal and provincial privacy legislation.

17. Expenses

There is opportunity for committee members to apply in writing for reimbursement of travel-related expenses through the Directorate, if required. Expenses may be reimbursed in accordance with the government's Travel, Meal and Hospitality Expenses Directive, which will be provided to committee members.

Should financial hardship preclude participation on the committee, there is opportunity to apply in writing to the Directorate for assistance. Assistance may be provided as appropriate at the discretion of the Minister.

18. Accommodation Support for Members

Supports to accommodate people with disabilities will be provided as required. Such supports may include, but are not limited to, the provision of materials in preferred formats such as electronic, print, Braille or large print, the provision of interpreter services or personal attendants, and reimbursement of out-of-pocket accommodation-related expenses (such as travel expenses for personal attendants or caregivers).

Committee members are responsible for identifying their accommodation needs to the Directorate prior to the committee orientation and training, so that accommodations are provided in a timely manner.

19. Meetings and Time Commitment

The committee meetings will normally be held in Toronto for one to two days, approximately every six to eight weeks. Additional time between meetings to review materials and carry out other tasks will likely be required, particularly by members of sub-committees.

20. Quorum

At least 50% of voting members plus 1 voting member will constitute a quorum. Meetings will not normally be held unless there is a quorum and there is representation from voting members of each sector represented on the committee.

21. Alternates or Proxies

If necessary, committee members may nominate alternates or proxies in their place, provided that such alternates or proxies have similar expertise and experience as the original member.

Alternates or proxies must be endorsed by the organization they represent and must be able to act as agents on behalf of the committee member, with full voting and signing authority.

If alternates or proxies are nominated for individuals (i.e. members not representing an organization), then the original member must demonstrate to the Chair that the alternate or proxy has full voting and signing authority on behalf of the member.

The Chair will consider and authorize any nominated alternates or proxies on a meeting-by-meeting basis.