



# MINUTES

## Fort Erie Accessibility Advisory Committee

<b>Meeting Date, Time, and Location</b>	
Tuesday, March 28, 2023 at 4:00 p.m. at the Town Hall – Conference Room #1	
<b>Members</b>	<b>Staff Resources</b>
Dennis Hernandez-Galeano, Chair Bev Ferris, Vice-Chair Ashley Greaves Adam McLeod Lori Brant (regrets) Joe Kissman Marilyn Abbs Jennica Giesbrecht (new member just notified) Councillor Ann-Marie Noyes  Gary Kooistra*	Keegan Gennings, Chief Building Official Sean Hutton, Facilities Supervisor (regrets) Bev Bradnam, Manager, Strategic Initiatives  Guest: Lauren (PSW)

1) **Call to Order**

The March 28, 2023 AAC meeting was called to order at 4:06 p.m. Dennis welcomed and acknowledged Joe and Marilyn as new members to the AAC. Introductions were made. \*Gary has served on the Committee since March 25, 2014. Council chose some new members to serve on the Committee; however, following the meeting the Mayor has confirmed that he will ask Council to reconsider the number of members serving and reappoint Gary. Gary has been instrumental on a number of projects and has been part of many public consultations to help improve accessibility in our community.

2) **Approval of Minutes**

**Recommendation No. 1:**

**Moved by: Adam McLeod**  
**Seconded by: Bev Ferris**

**THAT: The February 28, 2023 Minutes of the Fort Erie Accessibility Advisory Committee meeting be approved as printed.**

**(CARRIED)**

3) **Nomination of Chair and Vice Chair**

Nomination of Chair and Vice Chair as well as confirming the ground rules for effective AAC Meetings. Deferred until May meeting to allow for all members to be present.

4) **Outstanding Matters**

1) Regional Accessibility Advisory Committee

Bev B. advised that the Region of Niagara still has not put out a call for Committee members.

2) Parking Concerns

Bev B. advised that Ryan LeMay provided a revised plan for the accessible parking space in front of the Ridgeway Post Office and thanked Lori for her suggestion to cut back the bump out to utilize a portion of it as the ramp for a rear loading van.

3) Fort Erie Active Transportation Committee (FEAT)

It was noted that Council has dissolved this Committee as the Active Transportation Master Plan has been completed. Dennis, as Chair of FEAT, was not aware that the Committee was dissolved and questioned some work that he felt was still outstanding, such as an extension to the trail system through the old CN corridor behind the Italo Club. Chris Millar will be asked for a status of the FEAT Master Plan and it was noted that trails are also part of the Parks & Open Space Master Plan and the AAC can also bring forward matters related to active transportation. Remove from outstanding.

4) Stevensville Garden Gallery

Bev B. advised that she followed up with the Stevensville Garden Gallery as they had noted they were waiting to hear by March 1 if they were successful in their grant application for the automatic main door. No response has been received. Keep on outstanding.

5) Adult size Change Table at Bay Beach

Bev B. provided an explanation to the new members about the adult size change table being removed from the Bay Beach washrooms and noted that once planning staff is in place the adult size change table will be replaced. Committee members agreed that hopefully the table will be in place for the next summer season. Keep on outstanding.

4) **Outstanding Matters, continued**

6) Stop Gap Ramp Project

Bev B. advised that a sub-committee will begin developing the program and reaching out to the BIAs and other interested commercial business owners to move forward with improving access to stores. The Town has still not hired a solicitor, which will be required to provide input into the agreements.

7) Barrel Restaurant Access

The letter was forwarded to the Barrel Restaurant. Keep on outstanding.

5) **Site Plans**

No site plans were reviewed.

6) **Multi-Year Accessibility Plan 2019-2023**

- 1) AODA Non-Compliance with Website – extension granted until June 1, 2023.
- 2) Interim Report of the 4<sup>th</sup> Review of the AODA by Richard Donovan – Dennis questioned the status of the review and Bev provided excerpts from the document dated March 1, 2023, which is attached to the Minutes as Appendix “6.2”. Bev will also email AAC members the document. Bev read the following statement under the heading Outcomes: “It hardly needs repeating that AODA outcomes have been poor. PWD (persons with disabilities) report continued disappointment in the AODA since its inception, and as has been indicated in previous reviews, progress has been painfully slow and uneven”.

7) **Other Matters**

1) Accessible Parking spaces at the Leisureplex

Councillor Noyes shared an email from a resident that suggested additional accessible parking spaces at the Leisureplex. Marilyn noted that if the Town wanted to host a sledge hockey tournament, attendance may be limited by how many accessible spaces are available. It was noted that temporary spaces could be assigned, as has been done for senior events and election events hosted in the Banquet Hall. The Committee discussed the number of spaces in the main lot and looked at the suggestion provided. It was noted that the suggested spaces would be of concern as someone with a disability would have to cross in an area where drop offs occur and traffic can become congested and it would not be the safest path of travel.

7) **Other Matters, continued**

1) Accessible Parking spaces at the Leisureplex, continued

Marilyn suggested that the northern accessible space could have additional spaces to the right of it and the sidewalk could be extended so that the path of travel would not have to be in the line of traffic.

Keegan advised that Planning staff would have to review how many spaces were part of the initial plan and whether there were excess spaces that could be reassigned. Keegan advised that it may be as simple as a Housekeeping amendment to the Zoning By-law. Joe noted that we should take the easiest route to make it happen and then take it to the Planning Committee if that doesn't work.

Keegan will speak with Planning staff and with Sean to identify the number of current spaces and the ratios laid out for accessible parking spaces.

Keegan asked how wide the sidewalk should be and it was agreed that it should be wide enough for two wheelchairs to pass comfortably or someone with a large hockey bag (i.e. 7-8 feet wide). Keegan cautioned that there may be infrastructure buried in that area and he would have to follow up with Sean. Keegan noted that a curb could be placed at the northern side of the sidewalk and it was noted that curbs should also be at the end of each accessible space and then curb cuts in between spaces, that way vehicles will not cross onto the sidewalk.

Six or more additional accessible spaces would be ideal, if possible. Keegan will provide further details at the next meeting. A recommendation may be required at that time. Add to outstanding matters.

- 2) The Checkered Eye Project – Keegan provided details for the AAC to view, related to persons with low vision that may have difficulty using a cane. The following video was viewed by the Committee: <https://checkeredeye.com/video/>
- 3) Councillor Noyes advised that there is a new bridge at Black Creek, along the boulevard. She has heard from a resident that when looking at the drawings there were concerns shared that curb cuts were not as accessible using the Provincial standards as those from the Region, which are more user-friendly. Keegan was asked to check with the Director, Infrastructure Services, to determine if the Town is a commenting agency. Bev F. noted that the Province should be adopting the best practice.

*(Following the meeting, Keegan advised that the Town is not a commenting agency and was provided with a contact for the Niagara Parks Commission. Due to the timing of review and construction beginning, Keegan will reach out. It was uncertain at this point as to which is the better standard; however, Keegan will request that the NPC view the alternative that the Region uses).*

7) **Other Matters, continued**

- 4) Joe asked how much lead time is needed to change the destination for a FAST pick-up. Joe provided the example that he had a trip planned to the Fort Erie Legion and the event was changed to the Ridgeway Legion. Bev advised that she would ask Jennifer Pennell-Ajie to clarify. *(Following the meeting, Jennifer provided the following response: “I would say that if anyone has questions about changing their reservation for FAST that they should call the FAST booking line directly they will be able to tell that rider what is possible for that day based on bookings. Fort Erie is not as much of an issue as it is for rides outside of Fort Erie. But I would say they would need at bare minimum a couple of hours to change a ride so that they can look at the schedule and see what is available and if the ride can be accommodated. If you would like further direction then I would definitely call the main customer service line for the NRT at 1-833-678-5463”).*

8) **Date for Next Meeting**

The next AAC meeting has been scheduled for Tuesday, May 30, 2023 at 4:00 p.m. in Conference #1 (Keegan to run the meeting as Bev is at a conference). Bev Ferris offered to take the minutes.

9) **Adjournment**

**Recommendation No. 2:**

**Moved by: Bev Ferris**  
**Seconded by: Councillor Noyes**

**THAT: The March 28, 2023 meeting of the Fort Erie Accessibility Advisory Committee does now hereby adjourn at 5:55 p.m.**

**(CARRIED)**

Minutes recorded and prepared by:

Minutes approved by:

Bev Bradnam, DPA, CMM III  
Manager, Strategic Initiatives

Dennis Hernandez-Galeano  
Chair

# **Independent 4<sup>th</sup> Review of the Accessibility for Ontarians with Disabilities Act, 2005 (AODA)**

Interim Report

March 1, 2023

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## Preamble

Francis knows they work harder than their colleagues at work, often putting in extra hours over lunch or in the evening. Despite this, Francis performs at the same level as their colleagues. Francis has dyslexia. It takes them considerably longer to read work documents than most others. The solution that will equip Francis to work as efficiently as their colleagues is relatively simple: a screen reading program that will equip them to listen to, rather than read, the large volume of documents at work. Yet there are two problems. First, to access this technology, Francis must disclose their disability to their employer. They, like hundreds of millions of others with invisible disabilities globally, know that doing so often leads to the perception they are less effective than their colleagues. This will work against their upward mobility. Second, even if Francis is provided with screen reading technology, most documents are poorly constructed for screen reader use. This is despite over 17 years of legislation promoting accessibility in Ontario. Francis thus avoids disclosing their disability, does not receive the technology that would allow them to meet or exceed the productivity of their peers, and struggles to have their extra effort for the same result rewarded in the workplace.

Francis is also an active consumer — and a voter. Every day, Francis spends the income earned from their career. Whether it be in stores or online, Francis constantly adapts to poor information design. Price displays. Signage and links for wayfinding. Product descriptions. Francis must actively manage these design failures. All day. Everywhere. Every day.

Soul crushing.

In 2001, the province of Ontario passed the Ontarians with Disabilities Act (ODA). With it, the Ontario government committed to moving “towards a province in which no new barriers are created and existing ones are removed.” Moreover, this “responsibility rests with every social and economic sector, every region, every government, every organization, institution and association, and every person in Ontario.”<sup>1</sup> In 2005, the Ontario government passed the Accessibility for Ontarians with Disabilities Act, empowering the Ontario government to develop, implement, and enforce accessibility standards. The target goal for an accessible Ontario is 2025.<sup>2</sup> The federal government has set 2040 as a target year for a barrier-free Canada. Yet, experiences like that of Francis are common. Approximately 2.9 million Ontarians aged 15+ currently have one

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<sup>1</sup> *Ontarians with Disabilities Act, 2001*

<sup>2</sup> *Accessibility for Ontarians with Disabilities Act, 2005*



or more disabilities. By 2040, this number will increase by another one million.<sup>3</sup> Most of these disabilities are also invisible.

Despite 17 years since the AODA has come into force, People with Disabilities (PWD) still consistently face barriers in their everyday experiences, from navigating city streets, to applying for jobs, to accessing public transit and government services. In the 10 months since launching the 4<sup>th</sup> review of the AODA, the Reviewer has conducted 34 stakeholder interviews and two town halls. In these, the Reviewer heard consistent stories of frustration, anger, resignation, and disappointment with the state of accessibility in Ontario.

The AODA begins with these words: “Recognizing the history of discrimination against persons with disabilities in Ontario”. It is clear to the Reviewer that this implied “history” of discrimination is still the lived experience of millions in Ontario. Every day. A word that comes up frequently in disability spaces is “ableism” – a form of discrimination that favours people without disabilities. The Reviewer heard this term, and accounts of discrimination, frequently over the past 10 months. The Reviewer has been told, repeatedly, of how Ontario has failed in its commitment to create a more accessible experience for Ontarians with Disabilities.

Following a first round of consultations with PWD and AODA stakeholders, the 4<sup>th</sup> Reviewer of the AODA has no choice but to assess this regulatory regime in its current form and practice to be an unequivocal failure. The reasons for this failure are straightforward and predictable. There is virtually no meaningful data collection on the experiences of PWD in Ontario. This, coupled with no plan for change for how Ontario will get from where it currently is to where it needs to be that can be practically enforced has made the goal of an accessible Ontario by 2025 difficult, if not impossible to achieve. In such an environment, there is no owner of regulatory outcomes, and thus no accountability. The result is a series of failures and missed opportunities that has spanned 17 years. It is the missed opportunities that most anger the Reviewer.

The Reviewer’s assessments of the current state of the AODA are organized around four themes: outcomes, governance structure, leadership, and accountability. The Reviewer also includes a separate assessment of built environment issues. These assessments are based on a combination of interviews with 34 AODA stakeholders, two town halls with a combined 199 participants, and an environmental scan of best legislative practices from

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<sup>3</sup> Disability estimates based on disability rates by age and gender categories as found on the *2017 Canadian Study on Disability* (see Stuart Morris, Gail Fawcett, Laurent Brisebois, and Jeffrey Hughes, *A demographic, employment, and income profile of Canadians with disabilities aged 15 years and over, 2017*).

other jurisdictions (within and outside of disability), including Canadian federal government initiatives<sup>4</sup>.

To be clear, the “customers” of the AODA are individual businesses, municipal services, and the Cabinet of Ontario. Ontarians with disabilities do not need to change. Those entities serving Ontarians with disabilities need to change. It is utterly shocking to the Reviewer that the Cabinet of Ontario has no plan to change the behaviours of the customers of the AODA. There are standards. There is a Minister. There is budget. Yet, there is no plan that adjusts behaviours to achieve an accessible Ontario.

This Review is not intended to be an audit. The assessment that the AODA has failed to achieve – or even come close to – its objective is not new or useful. In his conversations with the “customers” of the AODA, the Reviewer has asked for a dialogue on current state and solutions to urgently achieve the intended state. Rather than dwell on failure, the Reviewer asked questions focused on (1) why are we here? -and- (2) what do you need to achieve success? The goal is not to shame, but to urgently act together to focus the “customers” of the AODA on the experiences of Ontarians with disabilities.

Businesses and the entities under control of Ontario’s Cabinet have had 17 years to act in favour of Ontarians with disabilities. In the assessment of the Reviewer, these entities have not prioritized disability in their operations. Due to 17 years of inaction, any excuse to delay is laughable and wildly insulting. Boards of Directors, business owners and the Premier of Ontario must urgently demand better experiences for Ontario’s people with disabilities.

While a full set of recommendations will be published in the final report in June of 2023, the Reviewer emphasizes that there is an urgent need for action. The Ontario government is not going to achieve its goal of making Ontario accessible by 2025 without an urgent and material adjustment in strategy and output. There are approximately 2.9 million PWD in Ontario, all of whom have friends and family. Consultations as part of this review have revealed consistent anger and disappointment. Demand for an equal experience from people with disabilities is not going away. The Reviewer anticipates that demand will only grow stronger and louder. The Premier of Ontario and his senior team must react accordingly.

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<sup>4</sup> Statistics Canada: 2018. Available at <https://www150.statcan.gc.ca/n1/pub/89-654-x/89-654-x2018002-eng.htm>), which are applied to reference growth projections for 2021 and 2040, as found in the Ontario Data Catalogue. This can be accessed at: <https://data.ontario.ca/dataset/population-projections>

## Introduction to the 4<sup>th</sup> Legislative Review

The 4<sup>th</sup> Legislative Review for the Accessibility for Ontarians with Disabilities Act, 2005 (AODA) was launched in February, 2022 under the direction of Rich Donovan. The final report stemming from this review will be published by June 30, 2023. Previous reviews of the AODA were completed in 2010, 2014, and 2019.

The AODA came into force in 2005. Its purpose is to develop, implement, and enforce accessibility standards to achieve accessibility for Ontarians with disabilities with respect to goods, services, facilities, accommodation, employment, buildings, structures and premises. The target for completion of these goals is January 1, 2025.

Despite the stated goal of making Ontario accessible by 2025, those affected by disability (PWD and those who directly know PWD) report continuous failures. This is consistent with the previous three reviews of the AODA. In a 2021 poll, over 75% of surveyed individuals affected by disability report having negative experiences, while over 25% report no or limited access to experiences in either a public place or work setting.<sup>5</sup>

To put these numbers into context, there are approximately 2.9 million people aged 15+ with disabilities currently living in Ontario. This number is only increasing. No other demographic group faces these kinds of negative experiences, barriers, and outright discrimination without public outcry, much less one that represents nearly a quarter of the population. These numbers, and this language may sound alarming. It should be.

The motivation for the 4<sup>th</sup> review is straightforward: *The current experience for many people with disabilities in Ontario is poor. This stems from design flaws in services, products, technology, buildings, infrastructure, careers, processes, and human imagination.*

From this motivation, the vision of the Reviewer's assessment, both in the interim and final report, is comprehensive. It is for meaningful improvements for people with disabilities in Ontario by designing a future in which barriers to accessibility are prevented and removed, enabling them to lead unconstrained lives – socially, economically, and institutionally. This is consistent with the spirit of the AODA, and its previous three reviews.

Yet, the assessment strategy of the 4<sup>th</sup> review differs substantively from past AODA reviews. There are six principles embedded in the assessment approach of the 4<sup>th</sup> review.

1. Focus on execution: ensuring that final recommendations address actionable ways to drive immediate change.

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<sup>5</sup> IPSOS *Awareness & Attitudes Towards Accessibility* 2021.

2. Not tethered to past reviews: use a comprehensive approach that reflects recent innovative thinking.
3. More than compliance: a focus on what will work to create a barrier-free environment, not just checking a box.
4. Grounded in lived experience: continuously seeking and embedding real world PWD experiences to prioritize change and evaluate success
5. Considering multi-year implications: develop recommendations focused on both 2025 deadline and continuous improvement objectives.
6. Evidence-based data-centric approach: apply credible data to form evidence-based approach for assessments and recommendations

Put differently, the emphasis of this review is on data and outcomes. Both data and outcomes are centered on the everyday experience of People with Disabilities as consumers, employees, family members, taxpayers, voters and citizens.

The 4th review of the AODA is not focused on defining disability or accessibility. Definitions in this space have been fluid as new knowledge and agendas emerge. This distracts from creating sustainable processes that lead to durable outcomes. These processes are essential to put Ontario back on track to meet its goal of an accessible 2025.

Neither this interim report nor the final report will create a more accessible Ontario. Accessibility requires data, action, and accountability. These must be sustained and improved over time.

In the following sections, this interim report will outline the state of disability in Ontario, the process of conducting the 4<sup>th</sup> review, what the Reviewer heard during consultations, and an assessment of where Ontario currently sits in terms of accessibility under the AODA. This interim report concludes with next steps.

To both reiterate and foreshadow the sections to come, the current state of accessibility in Ontario is poor. So poor that many People with Disabilities report little change in experience over the past 17 years. Each review of the AODA has captured anger and frustration. This continues to increase.

To avoid a surge in anger – by a population group of 2.9 million – material action is needed. Discussions of accessibility in Canada are changing. The federal government is mandating federally regulated entities to act. Young people are increasingly comfortable discussing their disabilities and accessibility needs. In consulting with accessibility

stakeholders in higher education, the Reviewer was told that in some cases a single accessibility officer must handle over 350 students to meet demand.

Accessibility is gaining traction in news cycles. Opportunities for government and businesses to drag feet or defer to the future are past their peak. While stopping short of recommendations, this interim report highlights that urgent actions, supported by data and that are sustainable over time, need to become an operational and political priority for the Premier of Ontario.

# Setting the Stage: the state of disability in Ontario

## How many people have disabilities?

Amongst the general population, there are two common images of disability. The first, perhaps inspired by accessibility icons, is an individual in a wheelchair. The second is that of the blind person, complete with white cane, dark glasses, and possibly a service dog. These images persist for a reason: they are the most visible examples of disability. They are also the least common.

People with Disabilities using wheelchairs make up about 1-2% of the total population, and about 5-10% of the population with disabilities.<sup>6</sup> The majority of PWD have disabilities that are less visible or entirely invisible. These include those with limited vision, limited hearing, and/or that manage cognitive disabilities, mental health, or neurodiversity.

In part due to this lack of visibility, there is a general misconception as to the size of the population with disabilities. Relying on self-reporting, the most recent Statistics Canada data estimates that at least 22% of the Canadian population has at least one disability.

People are more likely to acquire disabilities with age. For senior citizens (aged 65+), approximately 38% are People with Disabilities. This is compared to 20% for those aged 25-64.<sup>7</sup>

The Reviewer asserts that these numbers materially undercount disability, due to many factors. Immature data gathering and analysis have failed to keep pace with the evolving demands of PWD.

In the context of Ontario, this means roughly 2.9 million Ontarians 15 years or older currently have a disability. This number will increase over time. By 2040, the target year for an accessible Canada, there will be over 3.9 million PWD living in Ontario – one *million* more than today. Just over 2 million will be of working age. Accessibility is not “just” a seniors’ issue, even though their needs are often amplified. Accessibility is

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<sup>6</sup> Catherine A. Okoro, Natasha D. Hollis, Alissa C. Cyrus, and Shannon Griffin-Blake, “Prevalence of disabilities and health care access by disability status and type among adults—United States, 2016”, *Morbidity and Mortality Weekly Report*, Vol. 67 no. 32, (2018): 882-887; Morris et al. *A demographic, employment, and income profile*

<sup>7</sup> Morris et al. *A demographic, employment, and income profile*

essential to maximize the potential of Ontario's workforce and its increasingly knowledge-based economy.<sup>8</sup>

## **The Accessibility for Ontarians with Disabilities Act, 2005 (AODA)**

Passed unanimously in 2005, the Accessibility for Ontarians with Disabilities Act, 2005 (AODA) was intended for "developing, implementing and enforcing accessibility standards in order to achieve accessibility for Ontarians with disabilities with respect to goods, services, facilities, accommodation, employment, buildings, structures and premises on or before January 1, 2025".<sup>9</sup>

A key element of the AODA is that it empowers government to regulate specific accessibility standards. These are intended to identify, remove, and prevent barriers. These barriers can be physical, architectural, information, communications, attitudinal, technological, or be embedded in policies and practices.

For enforcement, the AODA can require organizations to file reports on compliance with accessibility standards. The enforcement system also can include inspections, orders, administrative penalties, prosecutions, and fines. The maximum fine that can be levied is \$100,000 per day.

At the time of this interim report, there are five AODA standards, pertaining to:

- Information and Communication
- Employment
- Transportation
- Design of Public Spaces
- Customer Service

In addition, two new standards are currently in development:

- Health Care
- Education

Three reviews of the AODA have been completed to date, in 2010, 2014, and 2019. Each review has a substantive focus on adding additional standards or expanding existing

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<sup>8</sup> Disability projections are based on disability rates by age and gender categories as found on the 2017 Canadian Study on Disability (see Morris et al. *A demographic, employment, and income profile*), which are applied to reference growth projections for 2040 as found in the Ontario Data Catalogue. The data catalogue can be accessed at: <https://data.ontario.ca/dataset/population-projections>

<sup>9</sup> *Accessibility for Ontarians with Disabilities Act, 2005*

ones. Each has also stressed a need for resources, leadership, and accountability. These needs remain at the time of writing.

## **Accessibility in Ontario**

In 2010, the 1<sup>st</sup> Reviewer of the AODA, Charles Beer, noted that he consistently heard from PWD that there were “concerns” over how the AODA had been implemented at that time. In 2014, nine years after the initial signing of the AODA, Mayo Moran conducted the 2<sup>nd</sup> review of the AODA. In that review, it was concluded that “the pace of change is seen as agonizingly slow by persons with disabilities”. These findings were echoed in the 3<sup>rd</sup> review of the AODA. They are frustratingly repeated here today.

To foreshadow the following sections, Ontarians with disabilities consistently told the Reviewer of barriers and negative experiences that they encounter in public and at work. In addition, 77% report having a negative experience, while only 8% report their experiences as positive – a jarring indicator of the current experience of PWD in Ontario.<sup>10</sup> One town hall participant with a disability put this succinctly: “we’ve been conditioned to deal with crap”.

PWD note that accessibility initiatives have focused overwhelmingly on those with the most visible disabilities, especially those pertaining to wheelchairs and other mobility aids. This has left the accessibility needs of the majority of PWD unaddressed, leading to consistently poor experiences.

Even for built environment initiatives, changes are often made without the experience of the user in mind, and without their inclusion at the design table. This includes accessible entrances located on the opposite side of a building from elevators, or accessible washrooms too small to accommodate many mobility devices. A common theme from users is that while a “thing” may be technically accessible by a standard, that “thing” results in a poor experience. This is the result of not involving users in design. An over-reliance on standards cooked up by “experts” secluded in a Toronto hotel ballroom for 2 weeks. This prevents an understanding of what PWD actually want in their experiences.

Beyond the design, failure to adequately maintain features severely limits the ability of PWD to independently navigate their environment. In Ontario, this is often as simple as clearing snow from ramps and sidewalks. New city construction also often renders sidewalks impassable to those using mobility devices. While these features themselves

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<sup>10</sup> IPSOS *Awareness*



may still be compliant with accessibility standards, the absence of experience focus, maintenance, or consideration in other projects often renders them pointless.

As a final note on built environments, both government and corporate entities have struggled significantly with financial risk. There is little funding for built accessibility improvements and retrofitting legacy buildings is a capital-intensive project. This focus on built environments thus causes significant friction, often at the cost of overlooking more cost-effective adaptations of practice that would improve accessibility for a greater number of people.

Following the observation that most PWD do not use mobility devices or service dogs, the most common barriers and drivers of negative experience tend to be service driven and attitudinal: everyday interactions with the public, coworkers, managers, and merchants. Rather than a single, acute barrier – such as a steep set of stairs denying some access entirely – attitudinal barriers persist regardless of physical infrastructure investment, and are far more pervasive in day to day experience.

Attitudinal barriers, in turn, reduce the effectiveness of other accessibility standards. For example, PWD with less visible disabilities are unlikely to disclose their disability at work, even if this could be used as a basis for needed accommodations, due to potential stigma from managers.<sup>11</sup>

Curiously, there is a significant section of the Ontario population that perceives notable improvements in accessibility over the past decade. 10 years ago, nearly 60% of the general population viewed Ontario as not very accessible. Today, 88% of the general population views Ontario as “somewhat” or “very” accessible.<sup>12</sup> Far from a success story, there is now a perverse perception that accessibility has made progress by all except those who most require it.

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<sup>11</sup> Sarah von Schrader, Valerie Malzer, and Susanne Bruyere, “Perspectives on Disability Disclosure: The Importance of Employer Practices and Workplace Culture,” *Employee Responsibilities and Rights Journal* 26 (2014): 237-255

<sup>12</sup> IPSOS *Awareness*

## Process of the 4<sup>th</sup> AODA Review

The key focus of the 4<sup>th</sup> AODA review is data and outcomes. Driving both is experience and demand. First and foremost is that of PWD, the experience of whom the AODA is intended to improve. Also included are the key stakeholders of the AODA: those in the public and private sectors responsible for following the legislation, and those in the Ministry for Seniors and Accessibility responsible for monitoring and enforcing it. Finally, this review looks beyond accessibility legislation to identify best practices and success stories that can be leveraged for systemic change management.

Historically, reviews and stakeholder engagement with the AODA have fixated on three issues: defining disability, creating or expanding accessibility standards, and complying with or enforcing these standards.

The experiential focus of the 4<sup>th</sup> review departs from this focus on definitions, standards, and compliance, while acknowledging the crucial role of enforcement. There are three reasons for this.

1. PWD do not demand standards or definitions, they demand positive experiences similar to that of the rest of the population.
2. Grounding assessments in experience prevents viewing accessibility as “checking a box” tied to standards
3. Definitions tied to identities like disability are fluid. An experiential focus elevates assessment and action above attempts to expand or narrow categories. This is consistent with the goal of an accessible Ontario for all.

To collect experiences of AODA stakeholders, the 4<sup>th</sup> Reviewer conducted extensive consultations prior to the interim report. This included 34 stakeholder interviews, and two town halls with a total of 199 participants. These consultations form the backbone of the Reviewer’s assessments in the following section.

The Reviewer incorporates his experience as a business leader, government appointee, and a PWD who has engaged thousands of other PWD in research conversations spanning decades and borders, pre-dating the AODA. These experiences permit the Reviewer to synthesize and analyze (wildly) imperfect information.

In addition to direct consultations with AODA stakeholders, the Reviewer commissioned a jurisdictional scan of analogous successes within and outside accessibility to inform leading practices for systemic and effective change management. Following the focus of the 4<sup>th</sup> AODA review, the strategic choice themes of the jurisdictional scan were:

- Anchoring in lived experience
- Ensuring accountability
- Behavioural change via incentives and compliance

Not limited to accessibility or Canadian activity, this jurisdictional scan examined actions taken in Australia, Canada, India, Indonesia, New Zealand, the United Kingdom, and the United States. The scan included government entities, non-profits, and corporations. It is noteworthy that most comparable legislation was federal.

Combined, these robust consultations and jurisdictional scan learnings inform the assessments of the 4<sup>th</sup> review. They provide the basis for clear and practical paths forward to achieve the intended outcomes of the AODA that have languished for the past 17 years. The intention is to foster this system change without additional legislation. The recommendations for this will be included in the final report.

## What we heard

In the 38 hours of consultations held by the 4<sup>th</sup> Reviewer, PWD, government, and private sector stakeholders expressed combinations of disappointment, anger, and resignation with the current state of the AODA. At the same time, numerous individuals provided ideas for substantive improvement. To provide structure to what we heard, this section is organized into seven categories:

- Outcomes are poor
- Enforcement does not exist
- Data/research does not exist
- Basic leadership does not exist
- Nobody owns outcomes/no accountability
- Best outcomes are demand-driven
- Opportunity to restructure with Accessible Canada Act (ACA)

### Outcomes are poor

There was an almost unanimous consensus that the AODA is currently failing People with Disabilities. In particular:

1. Experience design and execution does not consider disability functionality: PWD told the Reviewer that they do not receive the same level of experience as their non-disabled peers. This is due to designs failing to incorporate their fundamental needs and wants. Whether it be basic access to a building or absorbing information in a classroom, designs must improve.
2. Careers are unfulfilled: Studies show that 30% of the “white collar” workforce has a disability, yet current policy focuses only on the unemployed and barriers to employment.<sup>13</sup> People with Disabilities simply want to be at their best and compete on a level playing field. Today, they over-perform to achieve the same outcome as their peers.
3. Prioritization of accessibility: Both PWD and senior leaders in business and government told the Reviewer that changing behaviours to incorporate disability is not a priority. In the words of many PWD consulted for this review, “it is all talk, no action from government and businesses”.

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<sup>13</sup> Lisa Sherbin, Julia Taylor Kennedy, Pooja Jain-Link, and Kennedy Ihenzie, *Disability and Inclusion: US Findings* Coqual (2017). Available at [https://coqual.org/wp-content/uploads/2020/09/CoqualDisabilitiesInclusion\\_KeyFindings090720.pdf](https://coqual.org/wp-content/uploads/2020/09/CoqualDisabilitiesInclusion_KeyFindings090720.pdf)

## **Enforcement does not exist**

There was a strong sense amongst those consulted that there is no meaningful enforcement of the AODA. It should be noted this observation is consistent with the 3<sup>rd</sup> review of the AODA.

The 4<sup>th</sup> Reviewer would like to highlight the general difficulty of enforcing legislation that applies to more than 460,000 organizations, from large corporations, to small and medium sized businesses. These sentiments were echoed by those with inside knowledge of AODA enforcement. In conversations with various government entities, the Reviewer discovered that the team tasked with enforcing the AODA consists of 25 people to cover over 460,000 organizations subject to AODA. This is an absence of enforcement.

Still, the 4<sup>th</sup> Reviewer heard consistent stories of frustration from PWD about lack of enforcement. In the words of one advocate: "Legislation is great, but if there is no enforcement, it's not going to do anything."

## **Data/research does not exist**

Stakeholders familiar with the challenges of complying with the AODA and/or improving accessibility consistently pointed to a lack of data as a significant problem. According to respondents, this makes it difficult to know what PWD want or their relative satisfaction. In turn, this makes it impossible for organizations, especially municipalities, to gauge success rates for accessibility solutions.

Those with experience working in the disability space underscored how a lack of data made their work extremely difficult. Often, data is limited to assessing accessibility through population aging or via proxy data from the health care system, rather than data based on the experience of actual PWD. There was an expressed concern that the Ministry for Seniors and Accessibility were not yet experts on disability by an individual with significant insight on these issues.

The Reviewer considers the lack of experience-focused research and data collection over the 17-year span of the AODA to be the single biggest missed opportunity since the birth of disability regulation in Ontario. This would have been an enduring public asset from which to guide decisions and policy.

## **Basic leadership does not exist**

Numerous stakeholders, and public consultation participants, indicated there was little government leadership on this file. There was a call that the Ontario government needs to lead by example. Some government stakeholders indicated that there was a “lack of urgency in the government to get this right”.

Stakeholders also indicated that legislative and senior staff turnover has also hindered leadership. The AODA was enacted by one government, but largely put in force by another. As one high ranking official noted “something needs to stand the test of time to make change”.

Respondents indicated lack of leadership is not just a government issue. Often, accessibility is not on the agenda for major private or public decision makers. As one expert respondent noted for the current population of accessibility advisors and implementers “They are advisors and implementers...but not decision makers.”

## **Nobody owns outcomes/no accountability**

Tied closely to lack of data and leadership, there was persistent feedback indicating a lack of accountability for AODA compliance. This is especially an issue for the AODA given the layers of government involved, and especially the need for the Ontario government to monitor and encourage municipalities to act. As one municipal expert noted, while some municipalities take accessibility seriously, there are a number that do not. Even for those that do take accessibility seriously this “patchwork of municipalities who want to advance accessibility [...] can’t mandate it”.

An additional issue raised by most stakeholders and town hall participants was a general lack of public knowledge about accessibility or the AODA. This lack of knowledge both perpetuated barriers and made it more difficult to mobilize public interest. The Reviewer consistently heard how this lack of public interest made it difficult to establish accountability for removing barriers in accordance with the AODA. From the perspective of AODA-compliant organizations, part of this lack of knowledge was also what success looks like in this space.

## **Best outcomes are demand driven**

The Reviewer did not hear extended feedback on accessibility initiatives that could be considered a success. That said, a common theme for those the Reviewer did hear was

the importance of listening to demand, rather than standards, when designing experiences.

The most notable sector in which the Reviewer heard this feedback was in transit. As one municipal transit executive noted, transit is fundamentally a customer service industry. It was noted that even “accessible” programs can be awful. Their municipality was willing to take a risk, reframing their regime as one based on experience. This led to better outcomes.

The Reviewer also heard that one of the reasons organizations can be unwilling to act on demand is a fear of getting it wrong. Attempts at moving away from standards can lead to negative publicity if it fails. Yet, as one stakeholder who had success in this space noted “the shift has to be that we need to try, and get it wrong, and do better, vs. not trying at all”.

### **Opportunity to restructure with Accessible Canada Act (ACA)**

The 4<sup>th</sup> Reviewer consistently heard from provincial stakeholders that there was an opportunity to leverage the ACA to improve shortcomings in the AODA. As one stakeholder noted: “why should Ontario create data alone?”. Multiple stakeholders indicated the federal government could potentially assist in data collection to create a more consistent, robust accessibility regime.

Some stakeholders also noted how aligning with the purchasing power of the federal government could increase procurement leverage. According to one respondent working in provincial procurement, the federal government issued an ultimatum to a multi-national software provider that they would “not [be] using their service unless it’s already accessible”.

Numerous government stakeholders noted positively that the ACA has an independent review and encourages harmonization. This would potentially reduce the complexity, confusion, and cost of implementing accessibility regulation in Ontario.

## **Assessments of the 4<sup>th</sup> Reviewer**

Based on what was heard, combined with a fulsome jurisdictional scan, the 4<sup>th</sup> Reviewer has organized their assessments into four primary buckets: outcomes, governance, leadership, and accountability. The Reviewer has an additional assessment as it pertains to the built environment. These assessment areas are considered below.

### **Outcomes**

It hardly needs repeating that AODA outcomes have been poor. PWD report continued disappointment in the AODA since its inception, and as has been indicated in previous reviews, progress has been painfully slow and uneven. The 4<sup>th</sup> Reviewer has identified two main drivers of these poor outcomes: a reliance on standards, and the absence of enforcement/incentives.

A key assessment of the 4<sup>th</sup> Reviewer is that a major driver of failed outcomes is an over-reliance on standards. At present, the AODA provides a series of standards in five areas. The majority of those under the purview of the AODA are tasked with self-reporting compliance to these standards.

A key issue with this standard driven approach is that it ignores the lived, everyday experience of PWD: the very issue this legislation is intended to target. As noted in the previous section, many experiences can be technically accessible, from the point of view of standards, but be such a negative experience that they would be unused. A website or app can comply with a technical standard, yet be rendered practically useless by containing too many links to too much confusing information. While less likely, the reverse is also possible.

Standards are also a point of friction for those subject to the AODA. Standards do not identify where there is the biggest “bang for the buck,” nor do they identify clear priorities. This has led to significant business lobby pushback against the AODA, even though the aims of the AODA align with the goals of individual businesses – revenue maximization. The greatest pushback has been on issues pertaining to the built environment. A result has been an incentive structure encouraging the bare minimum, while punting costs as far down the road as regulators will permit.

It is the conclusion of the 4<sup>th</sup> Reviewer that this emphasis on standards is due in significant part to a lack of data – and the best data comes from experience. Over the course of our jurisdictional scan outside of the realm of disability, we consistently



identified how collecting lived experience insights reduced program cost and improved outcomes.

An example of lived experience integrated to design is the UK Fulfilling Lives Programme, which funded local partnerships across 12 areas in England to address complex needs such as homelessness, mental illness, and substance abuse. This program saved more than £700 per person, per year in government services.

Essential to this program was that its intended beneficiaries were engaged as experts to co-produce program reports. Many people, not 4 "experts". This led to the abandonment of programs that actual disadvantaged individuals knew would be ineffective, saving significant resources.

There is potential to engage in similar initiatives within the context of the AODA. However, at present, program reports are unilaterally filed by those under AODA jurisdiction, while meaningful consultations with actual PWD only typically occur during external AODA reviews, with extremely limited implementation success. This represents a material failure.

Alongside standards is a critical lack of enforcement or incentives to comply with the AODA or improve accessibility more generally. According to one MSAA official interviewed as part of these consultations, there are 20-25 staff to monitor approximately 460,000 compliant organizations. Under these constraints, there are minimal, if any, onsite visits. Those audits that do occur focus primarily on a narrow slice of a technical standard. A good example of a narrow technical investigation is website accessibility, for which 600 audits have occurred. Over 17 years. For 460,000 organizations.

For small businesses, AODA enforcement is essentially self-certification, with no need to maintain documents. This means that some 380,000 Ontario small businesses have been left to the honour system to implement standards that can have capital intensive built environment costs, and for which small business owners lack the finances and tools to implement. This is not a strong impetus for change.

For larger businesses, the provincial government, and municipalities, there have been few teeth to AODA enforcement. While there is the technical ability for large organizations to be fined up to \$100,000 per day for non-compliance, this threat has never materialized.

One element to potentially drive outcomes that is missing is a lack of positive incentives for improving accessibility. A major component of this is the lack of data to identify easy

wins that satisfy demand. Put differently, the AODA has not provided a positive reason *why* organizations in Ontario should meet accessibility standards, nor why the public should care. The provincial and federal governments have the tools and capacity to absorb risk to incentivize change demanded by society. These tools have been ignored.

## **Government and Governance**

There are two governance issues that limit the ability of organizations to eliminate barriers as intended under the AODA. First is a lack of a “north star” or positive role model(s) to follow for leading practices. Second is a lack of harmonization across accessibility regimes, especially for organizations that operate in multiple provinces.

There is currently no organization that is widely regarded as a leader in accessibility under the AODA whose processes can be emulated by other actors. This leads to an inefficient process in which organizations must continually reinvent the wheel on their respective accessibility regimes.

The government of Ontario should be the north star of accessibility in the province. At present this is not the case. Enforcement of the AODA is difficult when its owner has not complied with standards. A rapid and substantive improvement of accessibility within the Ontario government is needed to establish credibility on this file.

There is also a substantive harmonization problem across accessibility regimes. For organizations conducting business across the country, this necessitates compliance with multiple provincial regimes, leading to a confusing and inefficient process.

One critical area of harmonization in the next three years is that with the Accessible Canada Act (ACA), which covers federally regulated entities such as crown corporations, financial institutions, and airlines. This also eliminates potential duplication problems for organizations under the jurisdiction of the ACA.

## **Leadership**

It is the assessment of the 4<sup>th</sup> Reviewer that leadership on accessibility – and the AODA – has been absent for 17 years. Without leadership, progress on this file is impossible.

A key reason for the lack of leadership on accessibility is there has been little perceived incentive for potential leaders to prioritize it. Lacking “breaking news” stories, accessibility rarely enters the media cycle in a sustained way. This has helped keep accessibility off the social or political agenda in Ontario.

The absence of disability in the news cycle reflects a failure of Ontario and Canada's major media outlets. The reality is that People with Disabilities regularly face discrimination not just in attitudes, but in the physical and digital environments in which businesses and government operate. People with Disabilities are over one fifth of the population and reflect a larger population than many other equity-deserving groups whose (rightful) challenges are far more prominent in news cycles.

Blame for accessibility not being an agenda item is not limited to the media. It is the obligation of the government of the day to serve the population. It has failed to do so for 22% of that population. Opposition parties have failed to hold governments of the day accountable for this lack of service. These failures are shared by all of Ontario's political parties. As one stakeholder eloquently put it, the "legacy of ineptitude knows no party boundary".

At the outset of this review, the Reviewer intended to confine himself to process and actions of senior staff within the Ontario Government. Regrettably, given the scope and scale of the failures of disability regulation in Ontario, political leadership is required for change. The Premier and Leader of the Opposition have not led for the 2.9 million disabled people of Ontario. Ultimately, the buck stops there.

## **Accountability**

Without leadership, there can be no accountability. This has certainly been the case with the AODA. Yet this difficulty goes beyond ownership of this file. It is the assessment of the 4<sup>th</sup> Reviewer that even with engaged leadership, as it stands today, accountability would be a significant challenge. A key reason is there are no metrics for what success looks like.

This review has outlined how a lack of data has led to an overreliance on standards. Beyond this, it has made it impossible for media, advocacy groups, government, and private organizations to track process and hold others, and themselves, accountable.

It is noteworthy to compare accessibility data collection and public dissemination in New Zealand when compared to Ontario. There, the Office of Disability Issues has created a series of interactive Tableau dashboards to visualize accessibility data for public consumption.

In New Zealand, disability data is derived by benchmarking outcomes and attitudes of People with Disabilities compared to those without disabilities. This includes satisfaction with government services, ease of transit use, and attitudes towards local authorities.

Public data availability enables voters to hold government accountable. It also enables media to track progress, keep issues on the agenda, and provides a tool for opposition parties to question governments on progress. Interestingly, Ontario has done this on other files, just not disability.

During the peak of the Covid-19 Pandemic, Ontario's Science Table posted daily, interactive Covid statistics for public consumption. This enabled citizens and media to hold public officials accountable, provide a clear baseline of information that stakeholders could refer to, and allowed for real time tracking of progress and setbacks. This model should be extended to disability.

The Reviewer notes that Canada's federal government is currently in the process of collecting more robust disability and accessibility data. They have openly stated that they have a critical deficit in their understanding of disability. Most importantly, they have a plan to fix that data deficit. There is an opportunity for the Ontario government to leverage this process for its own data collection. Without data, even engaged leadership cannot be held accountable.

## **Built Environment**

It is the assessment of the 4<sup>th</sup> Reviewer that accessibility as it pertains to built environments should be treated as a separate entity compared to the remainder of accessibility priorities and standards under the AODA. For 17 years there has been pushback on built environment changes due to capital costs. Concerns over these costs are real. Not addressing these costs is a significant risk.

It should be emphasized that inaccessible buildings represent a serious economic risk to Ontario. Under the Accessible Canada Act, federally regulated entities must act to remove barriers in built environments. Organizations such as financial institutions that have thousands of retail locations will be forced to abandon leased property that is not accessible. Addressing this issue will take additional resources and strategies beyond that of other AODA areas.

## Conclusion and Next Steps

Do you care? The Reviewer has been haunted by this question since having candid discussions with senior government officials early in this review process. All the standards, meetings, papers, and public statements are meaningless to change if leaders do not actively prioritize a plan for change. Change at this scale is complex and hard. Without prioritization and dogged action over 17 years, disability regulation in Ontario has failed.

Ironically, People with Disabilities are well acquainted with empty charitable pledges.

The AODA was a pledge made to Ontarians with Disabilities 17 years ago. After almost two decades of promises and deferred payments, the bill is due.

This interim report has outlined what the 4<sup>th</sup> Reviewer heard over the course of 38 hours of consultations, and the Reviewer's assessments of the AODA and accessibility in Ontario. This is not the end of the process.

Over the following three months, the Reviewer will continue to engage in consultations with People with Disabilities and AODA stakeholders. This will include reactions to this interim report, and a survey of Ontario's PWD population. These will help inform the final report of the 4<sup>th</sup> Reviewer.

In the final report, the 4<sup>th</sup> Reviewer will present their final recommendations for government action. In advance of this report, it must be emphasized that as of today the AODA has not realized its goals of an accessible Ontario. Without urgent and sustained intervention, disability regulation tied to the AODA will fail to make Ontario accessible by 2025.

The Reviewer also emphasizes the significant risk in failing to meet AODA targets. Federally regulated entities must remove barriers under the ACA. If built environment issues are not addressed, there is a material risk that these entities will not renew lease space in the province. The government is also failing to maximize the talent and tax revenue that 2.9 million PWD contribute to the economy.

Yet, not all failures in realizing a fully accessible Ontario lie with government alone. One of the most common forms of barrier PWD face in their day-to-day life are attitudinal. Until there is a greater societal shift in how people conceptualize and interact with People with Disabilities, barriers will remain. Government can, and needs to be, a leader. But it cannot lead alone.

As a conclusion, the Reviewer is obliged to highlight that the Premier of Ontario and his Cabinet have yet to meet the basic needs of a group of people totaling over one fifth of its population. While there has been little media attention of this issue, this is unsustainable. Conversations around disability are shifting. The federal government has set a new direction and is embarking on a new research agenda. The Cabinet of Ontario must act quickly or risk falling further, and publicly, behind.

The Reviewer has a simple question for the Premier of Ontario. Mr. Premier, do you care?