

# **Know Your Rights**

## **The Built Environment**



A project of the Legal Information Society of Nova Scotia (LISNS) in partnership with the Canadian National Institute for the Blind (CNIB) Foundation

## Contributors:

**Peter Duke, Dalhousie Legal Aid Service**

**Schulich School of Law, Dalhousie University, Pro Bono Students:**

- Liam Gilbert-Walsh
- Regina Vdovina
- Jason Stephanian
- Danielle Wierenga
- Jenna Robertson
- David Sykes
- Keita Szemok-Uto
- Caraid McGinty

**Dr. Wayne MacKay**, Professor Emeritus, Schulich School of Law, is a nationally recognized teacher and scholar, and accomplished author in the areas of Constitutional Law, the Charter of Rights, Human Rights, Privacy Law and Education Law. LISNS is proud to have Dr. MacKay as our Project Expert for our 5-year federally funded Sexual Harassment in the Workplace Project.



# The Built Environment

The built environment includes everything that has been built by humans. Examples include buildings, streets, infrastructure, recreational spaces, and sidewalks. This guide is intended to:

- help people with sight loss understand their rights as they navigate the built environment
- suggest solutions to problems commonly experienced by people who are blind or partially sighted.

Unfortunately, many things in our world have been built without considering the needs of a diverse range of people. As a result, people who are blind or partially sighted often find themselves encountering difficulties when navigating the built environment.

All people should have the same level of access to buildings and facilities. This applies to government buildings as well as privately owned buildings (i.e., malls, apartment buildings, restaurants, etc.). If the way the building is arranged has the effect of restricting your ability to access services, facilities, or accommodations, this restriction could be discriminatory.

## My legal rights

Under Nova Scotia laws, people with disabilities have important legal rights when it comes to accessing the built environment:

- When it comes to accessing public places, you have the right to have an equal level of access as anyone else, without discrimination because of your disability.
- You have the right to receive accommodations for your disability from the business or organization that is responsible for the public place, up to the point of undue hardship.
- You cannot be denied services or denied access to spaces that are normally available to the public because you are accompanied by a guide dog or service dog.

## Duty to Accommodate and Undue Hardship

Physical disabilities, including blindness, are protected under the Nova Scotia **Human Rights Act**. Consequently, service providers have a legal **duty to accommodate** individuals with needs related to their disability. In other words, businesses and organizations must provide you with the support you need to have an equal level of access to public buildings or space as anyone else. However, this duty extends only up until the point of undue hardship.

**Undue hardship** is a legal concept referring to the point at which an organization has accommodated you as much as is reasonably possible and does not have to accommodate any further. The point of undue hardship is determined by the courts or human rights tribunals.

It is difficult to demonstrate that accommodations would result in undue hardship. To establish this, the organization would have to prove that providing accommodations would:

- Be impossible;
- Create serious health or safety risks; or
- Be so costly as to significantly interfere with the organization's ability to operate.

In each case, the organization would have to prove that they had considered all reasonable alternatives to accommodate you.

## The laws

A person's right to access the services, facilities, and accommodation in the built environment comes from different sources including:

1. The Nova Scotia **Human Rights Act**;
2. The **Accessibility Act**;
3. The **Canadian Human Rights Act**;
4. The **Canadian Charter of Rights and Freedoms**;
5. The **Blind Persons' Rights Act**;
6. The **Service Dog Act**;
7. The **Building Code Act**.

The Nova Scotia **Human Rights Act** prohibits discrimination based on protected characteristics such as physical disability. The term “physical disability” includes (among other things) “blindness or visual impediment” and reliance on a guide dog.

The Human Rights Act covers most built environments in Nova Scotia, however, in cases where discrimination has taken place in a space that is federally regulated, owned or operated, the **Canadian Human Rights Act** may apply.

The **Canadian Charter of Rights and Freedoms** guarantees the right to equality and prohibits discrimination by government or public bodies based on disability.

The **Blind Persons’ Rights Act** authorizes police to lay charges in circumstances where people are denied access to services or facilities because they are accompanied by a guide dog. The **Service Dog Act** also protects against discrimination based on the use of a service dog.

The **Building Code Act** regulates the design, construction, and alteration of buildings in Nova Scotia, and sets out requirements for barrier-free building designs.

The **Accessibility Act** requires the prevention and removal of barriers that people with disabilities may experience in the built environment, among other factors.

## **Current situation**

New buildings are generally required to be built according to universal design principles. The goal of universal design is to make the built environment accessible to everyone. In Nova Scotia, many universal design principles have been adopted by building code regulations. Unfortunately, most buildings are not new. This means the built environment changes slowly. As a result, many places remain inaccessible to people with sight loss.

However, Nova Scotia is taking measures to improve access to the built environment and to prevent and remove barriers over time. The **Accessibility Directorate** is responsible for administering the **Accessibility Act**. It aims to make public buildings more accessible by 2030. They have a Built Environment Standards Development Committee, whose work deals with signage, wayfinding, and site selection. While this is a positive step, there is no enforcement element at this point in time.

While there is still work to be done in promoting accessibility, in the meantime, there are ways to address barriers you may face.

## How can I enforce my rights?

The first step in advocating for yourself is to ask for accommodation. You may do this in person, by phone or in writing. In many cases, starting a conversation may be enough to resolve the issue you are experiencing.

In some cases, sending a letter or asking for an accommodation does not solve the problem. In such circumstances, you should consider consulting with a lawyer about the options that may be available to you, including the following:

- **Contacting the Nova Scotia Human Rights Commission.** You can visit the **complaint self-assessment** page to see if your situation falls under the Nova Scotia **Human Rights Act**. If your issue falls within the purview of the *Human Rights Act*, commission staff can help you file a complaint. Generally, you must make a complaint within twelve months of the incident. See the **Human Rights Guide** for more information.
- You may also contact the **Nova Scotia Office of the Ombudsman**. They are responsible for promoting fairness and accountability in public sector administration. You can contact the ombudsman for the Province of Nova Scotia on its **website** or by phone at: 1-800-670-1111
- If you are denied entry to a space because you are accompanied by a guide dog, you can call the non-emergency police line. Police have the authority to investigate and lay charges under the **Blind Persons' Rights Act** and the **Service Dog Act**.

## Common scenarios

This section includes some practical tips for common scenarios you may encounter.

As a first step, consider contacting whoever is responsible for the issue you are facing, whether that is government or a private organization. If that does not address the issue, you may wish to pursue other avenues such as contacting the [Nova Scotia Human Rights Commission](#) or contacting a human rights lawyer to discuss your [options](#).

### **An accessible pedestrian signal (APS) at a crosswalk isn't working.**

If you find an accessible pedestrian signal (APS) that's not working, you may report the problem to your municipality. Municipalities are responsible for making repairs to traffic lights and APS systems. Many cities and towns have a person responsible for accessibility who can assist you. When you speak with a customer service representative, explain that you want to speak with someone about a potentially hazardous accessibility issue in a public space.

In the Halifax Regional Municipality (HRM), call 3-1-1.

### **An outdoor public space (e.g. park, playground, trail, or parking lot) has features that are hazardous and inaccessible.**

First, try to find out what organization/governmental department owns or manages the outdoor space. For example, if you are concerned about areas inside of a local park that are inaccessible, try to find out whether the park is owned by your municipality, the province or some other organization.

Once you have determined which organization owns or manages the outdoor space, contact the organization directly to discuss a resolution and ongoing accommodations. Be sure to let them know what type of accommodation would allow you to use the facility. If this doesn't help, you can gradually escalate your complaint – for example, through an official complaint process or to higher levels of management.

For additional options, review the section of this handbook, titled [How can I enforce my rights?](#)

## **Due to my sight loss, I sometimes have difficulty orienting myself in buildings.**

There are now many **technological tools** that can help people navigate and orient themselves within buildings. If these kinds of technological tools don't meet your needs, you should approach an employee or manager of the building for assistance.

When you speak with an employee or manager, explain that you are having trouble with navigation or orientation because of your sight loss. Explain what assistance you require in as much detail as possible. When you disclose your disability to an employee, you trigger that organization's legal duty to accommodate you up to the point of undue hardship.

If the employee or manager is reluctant or refuses to accommodate you, you can politely remind them that they have a legal duty to provide you with reasonable accommodations so that you're able to experience an equal level of access to the building as anyone else.

If this does not help, you can gradually escalate your complaint – for example, through an official complaint process or to the organization's management team.

For additional options, please review the section of this handbook, titled **How can I enforce my rights?**

## **An elevator that I use does not have accessible buttons.**

Generally, elevators have emergency call buttons. You could use that button to get assistance in getting to your destination.

If this does not meet your needs, your next steps will likely depend on how often you use this particular elevator. If you use the elevator only rarely, consider asking for help from those around you to locate building staff, like a security guard, employee, or building manager. When you speak with building staff, explain that you are having trouble with the elevator because of your sight loss. Explain what assistance you require in as much detail as possible.

When you disclose your disability to an employee, you trigger that organization's legal duty to accommodate you to the point of undue hardship.

If you use the elevator more frequently, consider contacting building management directly to explore options for ongoing accommodation. If



this does not help, you can escalate your complaint; for example, through an official complaint process or to an organization's management team. Many governmental organizations and large private companies have a designated person responsible for site accessibility.

For additional options, please review the section of this handbook, titled [How can I enforce my rights?](#)

**Temporary construction barriers are obstructing a sidewalk or entrance that I commonly use. I do not feel safe navigating through the construction site.**

In many municipalities, there are project coordinators who are responsible for these issues. Call the municipality and ask for a solution to your problem. In the Halifax Regional Municipality, you can call 3-1-1. Ask them to reach out to whoever is doing the construction to find a solution.

When contacting the Municipality, explain the difficulties that you are having in as much detail as possible.

If this does not resolve your concern, review the section of this handbook, titled [How can I enforce my rights?](#) for additional options.

**I am unable to use a sidewalk because it is blocked by a hazard.**

When immediate response is needed to fix a hazard (i.e. snow removal, sidewalk damage, or tree removal), many cities have emergency lines that you can contact for assistance. For example, if you are in the Halifax Regional Municipality, you can call 3-1-1 to report the issue.

If your municipality doesn't have an emergency repair line, contact your municipal office or your local city or town hall. Many cities and towns have a person responsible for accessibility who can assist you.

If this is a systemic problem, community organizations, like CNIB, may have advocacy experience with the issue you're facing and may be able to support you in developing an advocacy plan or helping you work towards a solution with the organization.

For additional options, please review the section of this handbook, titled [How can I enforce my rights?](#)

## Wayfinding

Wayfinding refers to technological tools that assist partially sighted, blind and Deafblind persons with navigation and orientation. Such tools include:

- **BlindSquare**: a GPS app developed for people with sight loss that describes the environment and announces points of interest and street intersections.
- **Key 2 Access**: a pedestrian mobility app that allows users to wirelessly request crossing at intersections without having to locate the button on the pole. It also allows users to wirelessly open doors and obtain information about indoor spaces.
- **Access Now**: a map application that shares accessibility information for locations based on users' feedback.
- **Be My Eyes**: a volunteer-based app that connects people with sight loss to sighted volunteers, who can assist with tasks such as checking expiry dates, distinguishing colors, reading instructions or navigating new surroundings.
- The **American Foundation for the Blind** provides an overview of some of the apps that are available to assist consumers with reading items such as product labels and menus.