



**Management Response and Action Plan**  
**Evaluation of the Aboriginal Affairs Portfolio**

**Department of Justice Canada**

## Management Response and Action Plan

**Project Title:** Evaluation of the Aboriginal Affairs Portfolio  
**Responsibility Centre:** Aboriginal Affairs Portfolio

<u>Conclusions</u>	<u>Recommendations</u>	<u>Management Response</u>	<u>Action Plan</u>	<u>Responsible Manager (Title)</u>	<u>Planned Implementation Date</u>
<p><b>Roles and Responsibilities</b></p> <p>During the evaluation period the Aboriginal Affairs Portfolio (AAP) change management plan was implemented, including a Modernization Strategy that involved a major reorganization of HQ functions and significant reductions in the cost structure of these functions. Multiple lines of evidence suggest that the AAP mandate continued to be supported; still, some duplication of roles and responsibilities in the delivery of high-quality legal services was observed during the evaluation period. This duplication indicates an opportunity for greater efficiency in connection with the role of the Aboriginal Law Centre (ALC) in the provision of</p>	<p>It is recommended that roles and responsibilities be clarified for the ALC, the LSU and regional counsel involved in litigation support and management.</p>	<p>Agreed.</p> <p>Near the end of the evaluation cycle, the Portfolio underwent a significant reorganization, including the creation of the ALC in order to manage and deliver legal services with greater efficiency, and clarifying the new roles and responsibilities within the AAP has been a priority.</p> <p>More recently, with the implementation of the Legal Services Review measure entitled a “Unified Approach to Aboriginal Law Services Delivery”, AAP has taken a number of actions, which helps clarify roles and responsibilities including the following:</p> <ol style="list-style-type: none"> <li>1. The practice of Aboriginal law in Justice is now consolidated through the designation of the ALC as Justice’s Centre of Expertise for Aboriginal law and legal policy. The ALC works together with a virtual community of counsels and paralegals from</li> </ol>	<p>AAP will update its new integrated service delivery model in light of Justice’s reorganization. The model will then be communicated and implemented. This will further clarify the roles and responsibilities of the ALC, the LSU and regional litigation offices.</p>	<p>Senior General Counsel and Head of INAC Legal Services Unit and Senior General Counsel and DG of ALC</p>	<p>March 2017</p>

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<p>litigation support and advice to litigation counsel, and in relation to litigation management. An opportunity also exists for drawing a clearer distinction between the role of HQ and regional counsel when working on similar files.</p>		<p>across Justice with significant expertise and practice in Aboriginal law. This is supported by the Protocol for the Consolidation of Aboriginal Law Advisory Services in Justice (including advisory legal services to support litigation), which outlines the roles and responsibilities of the Centre and the Community of Practice to better manage our dynamic area of practice.</p> <p>2. AAP has also signed a Protocol of Engagement with INAC addressing key Justice-client points of intersect in the litigation process clarifying roles and responsibilities, and reducing redundancies and duplication.</p> <p>3. To support items 1 and 2 above, AAP has developed a new Integrated Service Delivery Model, which aims to:</p> <p>a) Clarify the roles and responsibilities within Justice;</p>			

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		<ul style="list-style-type: none"> <li>b) Improve litigation and advisory coordination;</li> <li>c) Enhance communication between ALC, LSU, Regional Operations, litigators and the client; and</li> <li>d) Streamline and improve overall governance and decision-making processes to allow Justice to properly fulfill its AG role and strengthen the ADAG, AAP's functional authority over Aboriginal law.</li> </ul>			
<p><b>Tools and Information</b></p> <p>In general, the evaluation found that counsel have the appropriate resources to conduct their work, although a few areas for improvement were noted in connection with existing AAP tools, resources and processes. Future considerations include enhanced and timely access to critical tools and resources in both official languages that are current.</p>	<p>It is recommended that the tools and resources available to AAP counsel be examined to determine current gaps and to explore cost-effective ways of bridging those gaps.</p>	<p>Agreed.</p> <p>The AAP recognizes the need for a continuously updated, integrated, and comprehensive set of information tools and resources in a wide variety of formats to aid in improving the quality, efficiency and completeness of legal services. Since the end of the evaluation cycle, AAP has implemented a number of tools and resources to assist counsels in the conduct of their work. These include (not exhaustive list):</p> <ol style="list-style-type: none"> <li>1) Aboriginal Legal Issue</li> </ol>	<p>Given actions already taken by AAP between the period that was subject to this evaluation and the finalization of the report (as described in the previous column), AAP considers that this recommendation</p>	<p>General Counsel, Associate Assistant Deputy Attorney General's Office</p>	<p>Already completed</p>

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<p>For example these comprise, up-to-date legal opinions and risk assessments, case theories, draft pleadings, Deskbooks and access to specialized libraries for research purposes.</p>		<p>Backgrounders on at least 17 different topics – concise summaries of the law and current federal legal positions on a broad range of aboriginal legal issues. Development and updating of these resources are ongoing.</p> <p>2) Legal Issue Federal Position Guides on at least six topics– in-depth discussion papers and guides on the federal approach to key and current aboriginal legal issues. Development and updating of these resources are ongoing.</p> <p>3) Templates for Legal Counsel – standardized and recommended language and structure for frequently drafted documents. Completed templates include:</p> <ul style="list-style-type: none"> <li>• Settlement Agreements</li> <li>• Legal Risk Assessments</li> <li>• Duty to Consult Legal Opinions</li> </ul> <p>4) Litigation Settlement Process Desk Book – a reference work for counsel which contains practice</p>	<p>has already been addressed and implemented. That being said, the development of tools, resources and processes in support of counsel work will continue to be a priority for the Portfolio.</p>		

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		<p>directives, best practices information, templates and other tools for facilitating the settlement process.</p> <p>5) Legal Risk Assessment Best Practices Guide - a reference work for counsel which contains practice directives, best practices information, templates and other tools for preparing legal risk assessments.</p> <p>6) Consultation Newsletter - a bi-monthly report on contextual developments and litigation related to Crown consultations obligations.</p> <p>7) Consultation Practice Group - a forum for learning, information sharing, and innovation. The Practice Group includes approximately 150 members and it meets regularly, alternating agendas between information sharing and addressing specific issues/topics.</p> <p>8) Protocol of engagement with</p>			

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		<p>INAC, which streamlines and clarifies eight components of our litigation practice:</p> <ul style="list-style-type: none"> <li>• Case intake;</li> <li>• Case plans;</li> <li>• Research plans;</li> <li>• Document production process – streamlines through a best practices tool designed to reduce the effort spent on document production activities;</li> <li>• Instructions – to reduce effort spent on various aspects of obtaining instructions, a protocol for Streamlined Instructions for Procedural Matters was developed;</li> <li>• Risk assessment – streamlining of the development, review and approval process;</li> <li>• Settlement mandates; and</li> <li>• Contracting for experts.</li> </ul> <p>9) Specific Claims Tribunal (SCT) Efficiencies Report - a practice directive on roles and responsibilities, governance, and issues of settlement to improve</p>			

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		efficiencies and effectiveness in the coordination and conduct of the SCT practice area.			
<p><b>Training</b></p> <p>The AAP has several working groups, training and professional development activities and products to assist with information dissemination and knowledge exchange. Particularly useful mechanisms include access to supervisors/mentors, the AANDC LSU, Practice Working Groups and regional offices/Aboriginal Law Sections. Moving forward, more job shadowing/training opportunities in specialized legal areas are required to promote further development of legal practice skills, support enhanced awareness and understanding of issues, options, approaches to</p>	<p>It is recommended that the training needs of AAP legal counsel be examined to determine current gaps and to explore innovative and cost-effective ways of offering access to training.</p>	<p>Agreed.</p> <p>Professional Development and Training is a high priority for the AAP and, as such, the Portfolio introduced in 2012-13 a professional development and training program (that compliments the Department's Professional Development Division) identifying and addressing common learning needs across the AAP that are consistent with the Portfolio's business goals and strategic objectives, avoiding duplication of effort, and sharing best practices. The program is project managed with a Learning Framework that is client focused, innovative, with a view to building a flexible and successful workforce. The AAP is committed to supporting the ongoing training and development of its employees to ensure our workforce is highly skilled in areas of law most relevant and of highest priority, and to position us to deliver</p>	<p>Phase 1: Gap analysis</p> <p>Given the feedback from legal counsel during the evaluation, AAP will conduct a focused gap analysis of the training needs of legal counsel by making best use of a variety of tools including 2015-16 training session surveys, Individual Learning Plans, talent management materials, mentorship programs,</p>	<p>General Counsel, Associate Assistant Deputy Attorney General's Office</p>	<p>Phase 1: May 2016</p> <p>Phase 2: March 2017</p>



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<p>Aboriginal law, legal policy, and northern development legal issues.</p>		<p>high-quality legal services consistent with the Department’s vision for Canada’s Legal Team.</p> <p>Surveys are conducted at the end of each session and at the end of the fiscal year, to ensure that any gaps are being addressed either through the integrated professional development program, or otherwise.</p> <p>In addition, in 2015-16, the Portfolio made significant investments in training and held/will hold by the end of the fiscal year 10 short training sessions (normally 1.5 hours long), as well as two 2-days training workshop on the following key areas of our practice:</p> <ul style="list-style-type: none"> <li>• Modernizing our advisory practice; and</li> <li>• Towards a New Section 35 Reconciliation Framework - Legal issues for Negotiations, Policy and our Practice.</li> </ul> <p>When feasible, short training sessions are offered online through WebEx.</p>	<p>feedback from one-on-one discussions, etc. The results of this analysis will inform the development of the Portfolio integrated professional development program and help identify the need for other learning opportunities.</p> <p>Phase 2: Delivery of Innovative Methods of Training and Tools</p> <p>Input gathered from the above analysis will be used to design</p>		

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		<p>We also inform our legal staff of free relevant podcasts through our SharePoint site</p>	<p>and implement innovative ways to support and deliver training, job shadowing, succession planning and mentorship opportunities tailored to the needs of the legal counsel.</p> <p>The Portfolio will continue to explore ways to deliver training and make training materials available on-line to reduce costs and increase their accessibility.</p>		