



**BUSINESS AND REGULATORY LAW PORTFOLIO
EVALUATION
Final Report**

March 2016

**Evaluation Division
Corporate Services Branch**



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ACRONYMS

| | |
|------|---------------------------------------|
| AAP | Aboriginal Affairs Portfolio |
| ADMO | Assistant Deputy Minister's Office |
| BRLP | Business and Regulatory Law Portfolio |
| CLS | Commercial Law Section |
| DLSU | Departmental Legal Services Unit |
| DMO | Deputy Minister's Office |
| FTE | Full-time Equivalent |
| IP | Intellectual Property |
| IT | Information Technology |
| LP | Law Practitioner |
| LPM | Law Practice Model |
| MO | Minister's Office |
| MOU | Memorandum of Understanding |
| NCR | National Capital Region |
| PPSC | Public Prosecution Service of Canada |
| PSES | Public Service Employee Survey |
| RDG | Regional Director General |

EXECUTIVE SUMMARY

1. Introduction

The Business and Regulatory Law Portfolio (BRLP) is one of six portfolios within the Department of Justice Canada. At the time of the evaluation, the BRLP provided legal advisory and litigation services to 38 client departments, agencies, and federal entities through 14 Departmental Legal Services Units (DLSUs).

This is the first evaluation of the BRLP. The Department of Justice Evaluation Division conducted the evaluation, which focused on the Portfolio's activities from 2009-10 to 2013-14. An Evaluation Advisory Committee consisting of representatives from Portfolio headquarters and the regional offices provided ongoing input into the evaluation. In accordance with the 2009 Treasury Board *Policy on Evaluation*, the primary purpose of the evaluation was to assess the core issues of relevance and performance (i.e. effectiveness, efficiency and economy).

2. Evaluation Findings

Relevance

The evaluation found that the BRLP is highly relevant in that it responds to an ongoing need for legal services by government departments and agencies to ensure that they are operating within the law, and in such a manner as to ensure that decisions are well-informed taking into consideration, minimizing or preventing legal risks that could lead to legal liability. Similarly, legal claims and legal proceedings being taken against the Crown, or by the Crown, are part of the reality of operations among government departments and agencies, and as such, litigation services also respond to an ongoing need. Both the case studies and client interviews indicate that the advice provided by BRLP counsel is considered in the legal strategies pursued and decisions made by client departments and agencies. Although the advice provided by counsel may not necessarily be followed, it increases the clients' awareness of the risks entailed, which ultimately informs their decision making and contributes to overall risk management. iCase data indicates that there has

been a high demand for the services provided by the Portfolio, which managed an average of 30,000 active legal files and recorded an average of 1,080,841 hours against these files during each of the fiscal years covered by the evaluation.

The Portfolio's activities are inherently aligned with federal government priorities, in that the BRLP responds to legal services requests related to the existing and emerging priorities of client departments and agencies, which in turn respond to the priorities and policy directions of the federal government.

The Portfolio's legal advisory, litigation and legislative services are also well aligned with federal roles and responsibilities. Under the *Department of Justice Act*, the Minister of Justice and Attorney General are responsible for providing legal services to federal government departments and agencies. Additionally, the centralized model whereby the Department of Justice, with few exceptions, provides legal services to government departments and agencies has been integrated in the Treasury Board of Canada's *Common Services Policy*, which identifies Justice Canada as the mandatory provider of legal services for federal departments and agencies.

Performance

With regard to performance, the evaluation considered both effectiveness (i.e. the extent to which the Portfolio has achieved its intended outcomes) and efficiency and economy (i.e. the degree to which appropriate and efficient means are being employed to achieve the desired outcomes).

Effectiveness

Overall, the evaluation found that the Portfolio delivers high-quality legal services that are timely, responsive and useful. Additionally, counsel are generally very conscious of the need to 'speak with one voice' and consult widely in order to provide consistent legal advice. However, the provision of regular and informative progress reports was identified as an area for improvement, as clients who are not in regular contact with counsel (e.g. through recurrent meetings) generally mentioned having to seek updates on their requests for legal services. Notwithstanding this limitation, the evaluation findings indicate that clients are generally very satisfied with the legal services they have received from the BRLP.

Although counsel perceive themselves as delivering high-quality legal services that meet departmental standards, they identified several factors that constrain their ability to do so, including: an increased volume of administrative related work (e.g. opening and closing files, legal

risk management requirements in iCase, timekeeping, reporting and filing), a lack of administrative and paralegal support, and less staff to do the work. Counsel indicated that other tools or support would assist them in their work including: more administrative support for non-legal tasks and support from paralegals, an improved Justipedia and better information technology. Although survey respondents indicated that they would like to see improvements to Justipedia, it was also frequently cited as one of the most useful tools in managing their work along with practice groups and peer review. Most BRLP counsel are satisfied with the departmental training offered to them, though some expressed a desire for more advanced courses. However, they were less satisfied with the availability of external training, citing difficulties in accessing training due to budgetary constraints and burdensome approval processes.

Being the largest and most decentralized of the Department's portfolios, information exchange and communication across the BRLP is a vital aspect of operations. The sharing of secret information between different areas of the Portfolio and the lack of a fluid information technology (IT) interface between Justice Headquarters and the DLSUs were frequently identified as challenges in terms of information sharing within the Portfolio, though these are larger departmental issues that are not limited to the BRLP.

The Portfolio's capacity to provide high quality legal services is partly a function of the level and effectiveness of collaboration among counsel. The evaluation found that collaboration with the specialized sections of Justice generally seems to be occurring successfully, whereas collaboration with the Aboriginal Affairs Portfolio (AAP) does not appear to be quite as effective. Respondents attributed this to the lack of structure around how BRLP and AAP counsel are to work together (e.g. when BRLP counsel must seek advice from AAP, who to consult within AAP and how to engage AAP). There also appears to be a lack of clarity around the respective roles of DLSU and regional counsel when they work together on a litigation file and, although they tend to proactively delineate their respective roles and responsibilities, opportunities exist for this delineation to take place in more situations.

Half of regional and DLSU counsel who were surveyed as part of the evaluation were unable to rate the effectiveness of their collaboration with the Commercial Law Section (CLS). Despite the low number of survey respondents who appear to have collaborated with the Section, internal documentation indicates that the level of demand for the Section's services has been growing since it was re-established in 2009. Three-quarters of the survey respondents who provided an assessment indicated that the collaboration between their work unit and the CLS is effective. Respondents who rated their collaboration with the CLS less favorably generally indicated that it had been difficult obtaining assistance from the Section, which they attributed to a lack of staff.

An equal number of respondents also expressed a desire for more concise, practical and easy to understand advice and products from the Section to inform the advice they provide to the client.

The DLSUs and the regional offices are expected to coordinate and manage significant legal issues (e.g. high impact files, files involving multiple clients) with assistance from the Assistant Deputy Minister's Office (ADMO), as needed. Although there are no formal structures in place for managing files of this kind, BRLP managers provided positive feedback regarding the ADMO's involvement in this regard.

Case study findings indicate that legal working groups consisting of various counsel involved in multi-departmental files are nimble and flexible. Roles and responsibilities shift as files evolve, and change with the implications to various client departments and the workload of counsel. Counsel are able to obtain information on varying facets of the file through their participation on the legal working group, thereby enabling them to better advise their clients based on a larger context. However, the evaluation also found some redundancies with this approach (e.g. multiple counsel review written advice and products).

Efficiency and Economy

The Department's change management initiatives, such as Legal Services Review and Process Optimization, are contributing greatly to a culture of economy and efficiency within the Portfolio. Through these initiatives, the BRLP has been actively engaged in implementing measures such as 'Managing Demand' that are aimed at maximizing the achievement of results, while minimizing the use of resources. In order to manage demand, the Portfolio's DLSUs have been actively involved in screening and prioritizing client requests for legal services, most notably by: developing templates for standard legal documents, meeting with the client to establish priorities and raising awareness of Process Optimization. Although there was documented evidence of counsel declining their involvement in non-legal work (e.g. participating in meetings and on committees and reviewing documents where legal issues were not involved) on some of the case study files reviewed, there were others where clients were relying on counsel to do non-legal work for which they would otherwise be responsible such as front-end information gathering, policy development, and project coordination on the program side of a legal file. Through Process Optimization, efforts are being made to ensure that counsel are not doing tasks that can and should be done by clients.

The BRLP has also streamlined its organizational structure by merging DLSUs serving the same Minister, decreased the number of FTEs in the Portfolio, and contained its salary and operations

and management expenditures over the evaluation period. Additionally, the proportion of hours spent by junior counsel on advisory and litigation files increased over the evaluation period, while time spent by senior counsel decreased.

1. INTRODUCTION

1.1. Context

The Business and Regulatory Law Portfolio (BRLP) is one of six portfolios within the Department of Justice Canada dedicated to providing government departments and agencies with legal services. At the time of the evaluation, the BRLP provided legal advisory and litigation services to 38 client departments, agencies, and federal entities through 14 Departmental Legal Services Units (DLSUs). Additionally, the Portfolio is responsible for the functional coordination of commercial law across Canada, through the Commercial Law Section (CLS).

1.2. Purpose and Scope of the Evaluation

The evaluation focused on the Portfolio's activities from 2009-10 to 2013-14. The Department of Justice Evaluation Division conducted the evaluation. An Evaluation Advisory Committee consisting of representatives from Portfolio headquarters and the regional offices provided ongoing input into the evaluation.

In accordance with the 2009 Treasury Board *Policy on Evaluation*, the primary purpose of the evaluation was to assess the relevance and performance of the Portfolio. In terms of relevance, the evaluation considered the continued need for the Portfolio and the alignment of its priorities and activities with Government of Canada priorities, departmental strategic outcomes, and federal roles and responsibilities. With regard to performance, the evaluation considered both effectiveness (i.e. the extent to which the Portfolio has achieved its intended outcomes) and efficiency and economy (i.e. the degree to which appropriate and efficient means are being employed to achieve the desired outcomes). The evaluation assessed the Portfolio's performance as a whole, as opposed to focusing on any single DLSU or region.

The evaluation of the BRLP was conducted between June 2014 and July 2015. This was the first evaluation of the Portfolio.

1.3. Structure of the Report

This report contains five sections, including the introduction. Section 2 provides the background on the BRLP, describing its structure, resources, and services. Section 3 describes the methodology used in the evaluation. Section 4 summarizes the key findings, and Section 5 presents the conclusions, recommendations and management response.

2. PROFILE OF THE BUSINESS AND REGULATORY LAW PORTFOLIO

The Department of Justice uses a portfolio structure that organizes its legal work around strategic business lines¹ and provides integrated legal advisory, litigation, and support for legislative drafting services to its client departments and agencies.

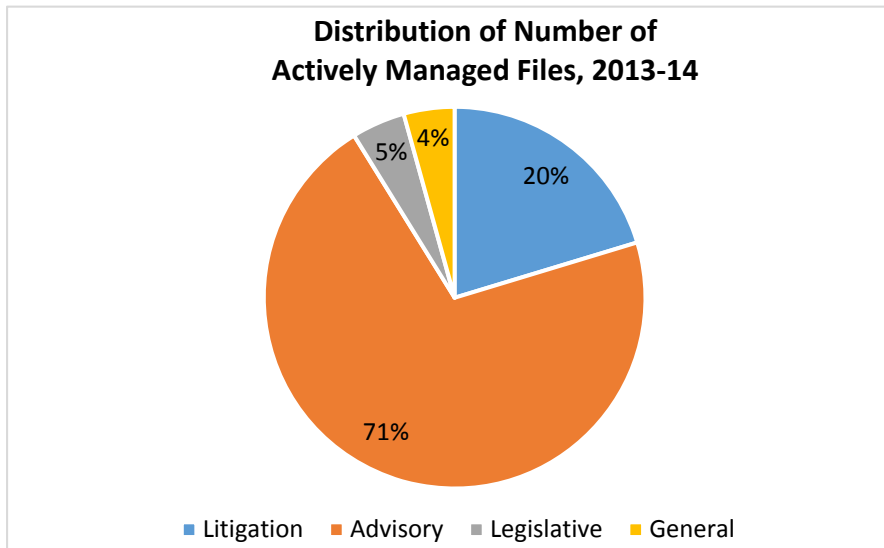
The mandate of the BRLP covers several areas of the law, including those traditionally considered part of business law (e.g., commercial law, intellectual property law, procurement law, contract law, real property law, bankruptcy), as well as the legal areas that support the business lines of its client departments and agencies (e.g., environmental, administrative, aboriginal, transportation, health).

As shown in Figure 1 (below), approximately 90% of the files managed by BRLP legal counsel are associated with advisory or litigation files, with advisory files representing the majority (71%) of the Portfolio's files. The remaining 10% is essentially split equally between legislative files and general files. The latter category includes activities that are not associated with a specific client. It should be noted that the Portfolio's advisory and litigation files include litigation support².

¹ In addition to the BRLP, the portfolios include Government-at-large and the Justice Portfolio; Aboriginal Affairs Portfolio; Central Agencies Portfolio; Public Safety, Defence and Immigration Portfolio; and the Tax Law Services Portfolio.

² The national timekeeping protocol now specifies that all litigation support should be recorded to a litigation file.

Figure 1: Distribution of Number of Actively Managed Files, 2013-14

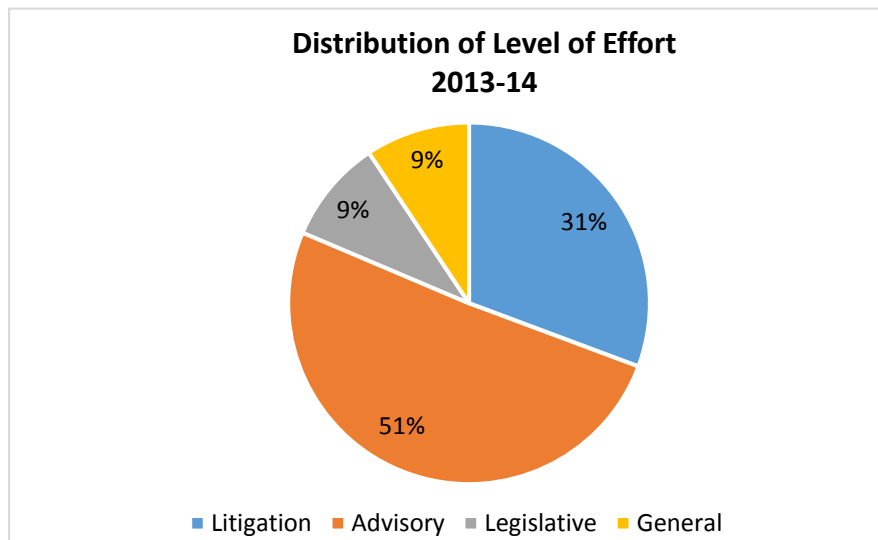


Source: *iCase*

As shown in Figure 2 (below), 71% of the Portfolio’s actively managed files³ involve advisory work, which accounts for only half of the hours recorded by counsel. Litigation work represents 31% of the hours while the remaining 20% is split equally between legislative and general files. Although litigation work represents one fifth of the number of files, it accounts for nearly one third of counsel hours.

³ “Actively managed files” are files that have a minimum of five minutes recorded to them within a given reporting period (such as a month, a quarter or a fiscal year).

Figure 2: Distribution of Level of Effort 2013-14



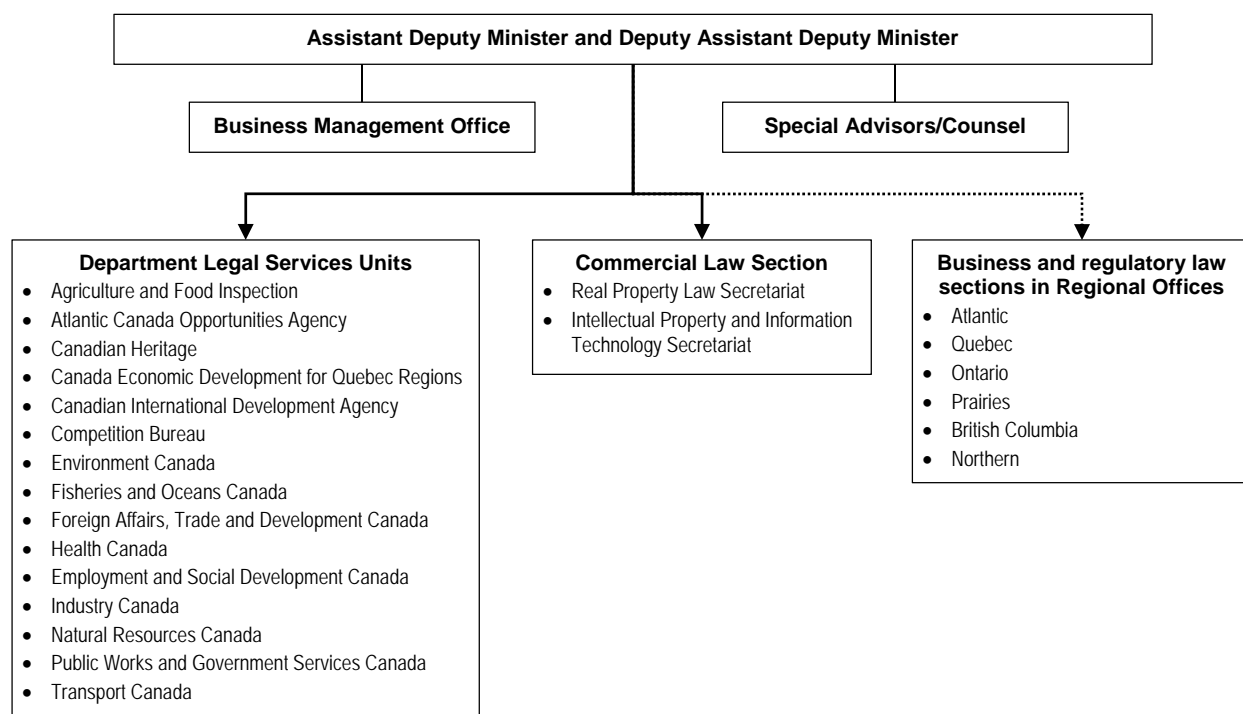
Source: *iCase*

2.1 Structure

As shown in Figure 3 (below), the Portfolio is headed by the Assistant Deputy Minister (ADM), BRLP and a Deputy ADM who are supported by three special advisors/counsel and the Business Management Office (referred to collectively as the Assistant Deputy Minister's Office or ADMO). The BRLP provides legal services through 14 DLSUs and the business law and regulatory law sections in the Department's six regional offices.⁴ The Directors of the business law and regulatory law sections in the regions report directly to their Regional Directors General (RDGs) and, functionally, to the ADM, BRLP. The Portfolio is also responsible for the functional coordination of commercial law in the federal context across Canada through the CLS, which includes the Real Property Law Secretariat and the Intellectual Property and Information Technology (IP/IT) Law Secretariat.

⁴ In addition to the legal services provided by the DLSUs and regional offices, specialized advisory, litigation, and legislative and regulatory drafting services are provided to BRLP client departments and agencies by the Public Law Sector, Litigation Branch, and Legislative Services Branch. Although these areas of the Department are covered by separate evaluations, this evaluation examined the Portfolio's use of these specialized services.

Figure 3: Business and Regulatory Law Portfolio – Organizational Chart



2.1.1. The Assistant Deputy Minister’s Office

The ADMO provides leadership and strategic and functional direction to the DLSUs, the regions, and the CLS on the law and the management of resources and services to client departments and agencies. In particular, the ADMO provides guidance and support to the DLSUs, regional offices and the CLS on legal matters, common administrative challenges, and other horizontal management issues.

2.1.2. Departmental Legal Services Units

During the evaluation period, 14 DLSUs provided legal services to the Portfolio’s client departments and agencies, as listed in Table 1 below. Each DLSU is co-located with its respective clients principally in the National Capital Region (NCR), although some DLSU counsel are co-located with their client headquarters outside the NCR. DLSU services include the provision of legal advice and opinions; direction and legal advice on policy development; assistance to clients with their development of legislative and regulatory initiatives by working with the Legislative

Services Branch (LSB); litigation advice and support; and assistance and advice to Ministers, Deputy Ministers, Agency Heads, senior executives, managers and analysts. Some of the largest federal departments receive their legal services from the BRLP, including Health Canada, Public Works and Government Services Canada and Employment and Social Development Canada.

The DLSUs are also the conduit through which the legal services from the regional offices and the specialized services of Justice (e.g., Civil Litigation, Public Law Sector, and Legislative Services Branch) are made available to federal departments and agencies. The requirement for these specialized legal services is determined on a case-by-case basis.

Table 1: Business and Regulatory Law Portfolio DLSUs

| Departmental Legal Service Units | Departments/Agencies/Federal Entities Served |
|--|---|
| Agriculture and Food Inspection | <ul style="list-style-type: none"> • Agriculture and Agri-Food Canada • Canadian Food Inspection Agency • Canadian Dairy Commission • Farm Products Council of Canada |
| Atlantic Canada Opportunities Agency (located in Moncton, New Brunswick) | <ul style="list-style-type: none"> • Atlantic Canada Opportunities Agency |
| Canada Economic Development for Quebec Regions (located in Montréal, Quebec) | <ul style="list-style-type: none"> • Canada Economic Development for Quebec Regions |
| Canadian Heritage | <ul style="list-style-type: none"> • Canadian Heritage • Library and Archives Canada • National Battlefield Commission |
| Competition Bureau | <ul style="list-style-type: none"> • Competition Bureau |
| Environment Canada | <ul style="list-style-type: none"> • Environment Canada • Canadian Environment Assessment Agency • Parks Canada |
| Fisheries and Oceans Canada | <ul style="list-style-type: none"> • Fisheries and Oceans Canada |
| Foreign Affairs, Trade and Development Canada | <ul style="list-style-type: none"> • Foreign Affairs, Trade and Development Canada |
| Health Canada | <ul style="list-style-type: none"> • Health Canada • Public Health Agency |
| Employment and Social Development Canada | <ul style="list-style-type: none"> • Employment and Social Development Canada • Status of Women |
| Industry Canada | <ul style="list-style-type: none"> • Industry Canada • Canadian Institutes of Health Research • Canadian Intellectual Property Office • Canadian Intergovernmental Conference Secretariat • Corporations Canada • Federal Economic Development Agency for Southern Ontario • Natural Sciences and Engineering Research Council |

| Departmental Legal Service Units | Departments/Agencies/Federal Entities Served |
|---|---|
| | <ul style="list-style-type: none"> • Office of the Superintendent of Bankruptcy • Social Sciences and Humanities Research Council • Statistics Canada • Canadian Space Agency • National Research Council Canada |
| Natural Resources Canada | <ul style="list-style-type: none"> • Natural Resources Canada • Northern Pipeline Agency |
| Public Works and Government Services Canada | <ul style="list-style-type: none"> • Public Works and Government Services Canada • Shared Services Canada • Defence Construction Canada |
| Transport Canada | <ul style="list-style-type: none"> • Transport Canada • Infrastructure Canada |

Each DLSU is structured differently based on its size and the needs of its client. When large enough to support a team structure, the DLSUs base the structures in a variety of ways, including the organization, core business lines or initiatives of the client, on substantive legal areas, or on types of legal services (e.g., litigation). For example, the DLSU for Health Canada is based, in part, on the Department’s organizational structure, with a separate litigation coordination section, while the DLSU for Employment and Social Development Canada uses a team structure based on key issue areas for the client (e.g., Skills and Employment Group, Labor Group, Pensions, Social Benefits and Compliance Group, Learning and Enterprise Programs Group, Temporary Foreign Worker and Human Resources Group, Litigation and Appeals Group). Others, like the DLSU for Natural Resources Canada, are organized around areas of substantive legal work (e.g., Corporate, Commercial, and Intellectual Property Team, and the Energy and Regulatory Team). The DLSUs receive administrative and paralegal staff support from their respective client department or agency; the level of administrative and paralegal support provided differs from client to client and is discussed during the development of the Memorandum of Understanding with the Department of Justice.

2.1.3. Regional Offices

The Department has six regional offices — Atlantic, Quebec, Ontario, Prairies, British Columbia and Northern. Each office has a business and regulatory law section that provides litigation and legal advisory services to the BRLP’s client departments and agencies in that region. The BRLP provides funding to the six regional offices for their legal services.

2.1.4. Commercial Law Section

In 2009, the BRLP re-established the CLS to assist the Portfolio ADM, who is responsible for the functional coordination of the practice of commercial law across the Department. The CLS is a specialized headquarters unit serving the Department and is the focal point for functional coordination, advice and strategic direction in commercial law. On a limited number of files, the CLS renders its services on a cost recovery basis. For the purposes of the Section, commercial law is broadly defined to include bankruptcy, commercial, communications, competition, contract, corporate, procurement, intellectual property, technology and real property laws, and business law in general.

The CLS has three main objectives:

- to support the ADM BRLP in the functional coordination of commercial law issues across the Department;
- to provide guidance and assistance to legal counsel within the Department on commercial law matters and their practice of commercial law; and
- to facilitate the preparation of tools, courses and material to assist commercial law practitioners.

The Section includes the following two secretariats:

2.1.5. Real Property Law Secretariat

The Real Property Law Secretariat provides legal assistance on property issues to all Department of Justice counsel within headquarters, the DLSUs and regional offices, in addition to dealing with real property transactions and handling the Letters Patent process for all of Canada (with the exception of Quebec). The Secretariat also operates as the federal Document Depository for the deposit of copies of instruments and acts relating to federal real property and immovable property.

2.1.6. Intellectual Property and Information Technology (IP/IT) Law Secretariat

The IP/IT Law Secretariat is a specialized advisory service on matters of intellectual property and information technology law. It provides expertise and leadership to all Department of Justice counsel on legal issues related to the protection and exploitation of government intellectual property assets, the intellectual property dimensions of the federal government's presence on the

Internet (including on social media), electronic commerce, technology transfer, domain name issues, and information technology law matters. The Secretariat also advises on the allocation of intellectual property rights in government procurement contracts.

2.2. Resources

Table 2 presents the BRLP's expenditures over the fiscal years 2010-11 to 2013-14. During this period, the Portfolio's expenditures decreased 2%. This change was due to a 44% decrease in operations and maintenance expenditures.

Table 2: Year-over-year Expenditures (\$)

| | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
|------------------------------------|--------------------|--------------------|--------------------|--------------------|
| Salary | 98,754,208 | 95,200,783 | 94,816,965 | 98,860,413 |
| O&M | 6,645,027 | 6,387,368 | 4,714,832 | 3,702,862 |
| Total annual expenditures | 105,399,235 | 101,588,151 | 99,531,797 | 103,104,900 |
| Employee Benefit Plan (EBP) | 16,788,215 | 17,136,141 | 16,687,786 | 17,201,712 |
| Total, including EBP | 122,187,450 | 118,724,292 | 116,219,583 | 119,764,986 |

Source: Year-end Financial Situation Reports

Note: Excludes Legislative Services Branch

As of 2013-14 fiscal year end, the BRLP had a total of 785.4 full-time equivalents (FTEs) in the categories shown in Table 3. This includes staff (counsel, paralegals and other) with a reporting relationship to the ADM, BRLP (ADMO, CLS and secretariats, and DLSUs), and staff who provide BRLP legal services in the regional offices.

The sizes of the DLSUs range from 5.1 FTEs (Atlantic Canada Opportunities Agency) to 63.9 FTEs (Health Canada), as indicated in Table 3. Although not noted in the table, the Portfolio also funded 39.3 FTE positions in the Civil Litigation group.

Table 3: BRLP Human Resources (FTEs)

| Work Units | FTEs |
|--|--------------|
| ADMO | 12.8 |
| Commercial Law Section and Secretariats | 10.1 |
| ADMO, Commercial Law Section and Secretariats sub-total | 22.9 |
| Regions: | |
| Atlantic | 32 |
| Quebec | 91.3 |
| Ontario | 65.5 |
| Prairies | 51.3 |
| British Columbia | 77.6 |
| North | 1.3 |
| Regional Offices sub-total | 319 |
| DLSUs: | |
| Agriculture and Food Inspection | 37.7 |
| Atlantic Canada Opportunities Agency (located in Moncton, New Brunswick) | 5.1 |
| Canada Economic Development for Quebec Regions (located in Montréal, Quebec) | 6.9 |
| Canadian Heritage | 14 |
| Canadian International Development Agency | 7.7 |
| Competition Bureau | 15.8 |
| Employment and Social Development Canada | 57 |
| Environment | 43.5 |
| Fisheries and Oceans Canada | 31.1 |
| Foreign Affairs, Trade and Development Canada | 23.5 |
| Health Canada | 60.1 |
| Industry Canada | 32.9 |
| Natural Resources Canada | 12.2 |
| Public Works and Government Services Canada | 61.8 |
| Transport Canada | 34.2 |
| DLSUs sub-total | 443.5 |
| TOTAL | 785.4 |

Source: BRLP FTE Report, March 31, 2014

3. METHODOLOGY

The evaluation draws on four lines of evidence: a document and data review; key informant interviews with departmental officials and other stakeholders; a Legal Counsel Survey; and case studies. The methodology was developed in consultation with the BRLP Evaluation Advisory Committee, which also reviewed all data collection instruments.

The evaluation matrix, which identifies the evaluation questions, indicators and lines of evidence and which was used to guide the evaluation, is included in Appendix A. The data collection instruments developed to respond to the evaluation matrix are included in Appendix C.

3.1. Document and Data Review

The document and data review was conducted both to inform the development of data collection instruments and to address the evaluation questions. Internal Portfolio documents were reviewed (e.g. business plans, newsletters), as well as publicly available information, such as Budget speeches, Speeches from the Throne, Departmental Performance Reports and Reports on Plans and Priorities.

In addition to documents, the evaluation also included a review of iCase data from fiscal years 2009-10 to 2013-14. iCase is the Department's integrated case management, timekeeping and billing, document management and reporting system.

3.2. Key Informant Interviews

Key informant interviews were a key line of evidence in gathering information on the effectiveness of the Portfolio's activities. A list of potential key informants was prepared, and interview guides tailored to each key informant group were developed in consultation with the Evaluation Advisory Committee. Interviews were conducted with a total of 90 key informants, most of whom were in managerial-level positions. Table 4 below provides a breakdown of the number of key informants interviewed by respondent group and includes those interviewed as part of the case studies.

Table 4: Key informants

| Category | | Number |
|--|--------------------------------------|-----------|
| BRLP | ADMO | 5 |
| | DLSUs | 34 |
| | Regional Offices | 10 |
| | CLS | 2 |
| <i>Sub total</i> | | <i>51</i> |
| Justice – other areas | | 9 |
| <i>Sub total</i> | | <i>9</i> |
| Other federal departments and agencies | Client departments and agencies | 27 |
| | Public Prosecution Service of Canada | 3 |
| <i>Sub total</i> | | <i>30</i> |
| TOTAL | | 90 |

Potential interviewees received an invitation to participate in an interview. Those who agreed to participate were provided with a copy of the interview guide (in the official language of their choice) prior to the interview and each interview was conducted in the respondents' preferred official language. The evaluation included a mix of telephone and in-person interviews. Interview notes were sent to each respondent for their review upon completion of the interview. This helped ensure that notes taken during the interview were accurate and complete and served to enhance the overall validity of the interview data. Additionally, multiple evaluators were tasked with conducting the interviews. Using several interviewers helped reduce the potential bias that could come from a single person doing all the data collection and provided another means of more directly assessing the consistency of the data obtained.

3.3. Survey of Business and Regulatory Law Portfolio Counsel

To gather the input of counsel more generally, the evaluation included a web-based survey. The survey was online for a total of three weeks – from May 8 to May 29, 2015. Invitations were sent to all counsel in the DLSUs and in the CLS and to all counsel in the regions who work on BRLP files (n=622). To increase the response rate, a message was sent to counsel from the ADM and Deputy ADM, BRLP encouraging their participation. Additionally, the Evaluation Division sent a reminder one week prior to closing the survey. In total, 262 counsel completed the survey for a

response rate of 44%⁵. Overall, survey respondents were well distributed among the various Portfolio categories (e.g. work unit, classification) including within DLSUs and regional offices and were largely reflective of the general population.

3.4. Case Studies

Fifteen case studies were conducted as part of the evaluation: one for each of the fourteen DLSUs in the Portfolio and one for the CLS. Four of the case studies included a litigation component which involved regional counsel. The purpose of the case studies was two-fold. First, it allowed for a more in-depth understanding of the life of a file and how the Portfolio conducts its work. Secondly, it allowed the evaluation to explore whether the information obtained from key informants on how the Portfolio conducts its work was supported by a review of selected case files. The case study files were selected in consultation with each of the DLSU heads and the Director, CLS. They included not only day-to-day files typically handled by the Portfolio, but also more complex files involving multiple departments and requiring a Portfolio-wide approach and coordination. The case study files were largely reflective of the proportion of each file type (e.g. advisory, litigation, legislative) managed by the Portfolio. The Evaluation Division provided BRLP officials with guidelines for selecting the case study files. For example, the file had to have been opened and completed during the evaluation period and, if not, discrete work had to have been conducted and completed during that time. The availability and willingness of both the counsel assigned to the file and the client to participate in an interview, as well as the completeness of the information on the file were also considered. The case studies included a review of the file and an examination of the iCase data on the file, followed by key informant interviews with the legal counsel (from DLSUs and regional offices as applicable) and clients involved in the file.

To ensure that comparable information was collected from each file, the evaluators completed a standard file review template that was developed for the evaluation (see Appendix C). The template collected information to respond to the evaluation matrix and focused on factual information available in the files and in iCase.

⁵ The response rate is defined as Total completions/Net usable invitations (invitations where extended out of office replies were not received). Twenty counsel were on extended leave while the survey was online. Their invitations were not considered useable.

3.5. Methodological Limitations and Mitigation Strategy

Interviews and Case Studies

The interviews with key informants have the possibility of self-reported response bias, which occurs when individuals are reporting on their own activities and may therefore want to portray themselves in a positive light; and strategic outcomes response bias, whereby the participants answer questions with the desire to affect outcomes. Additionally, the sample of files for the case studies was not chosen by random selection and the sample is not large, nor representative. However, the files chosen were considered to provide a good representation of the diversity of the Portfolio's work and were intended only to be illustrative of the Portfolio's approach to its different types of work. Both the interviews and case studies also have the possibility of selection bias in that client key informants and files were identified by BRLP counsel.

In order to mitigate these limitations, triangulation was used to check findings against other sources and perspectives. The evaluators compared and cross-checked the consistency of information derived by different means by comparing the perspectives of people from different points of view. By seeking information from the full circle of Portfolio stakeholders, the evaluators were able to triangulate the views of Portfolio staff, clients and partners and check interview findings against written documentation on file, internal documents and reports, and secondary data (e.g. results from the Public Service Employee Survey [PSES] and the Client Feedback Survey) to corroborate what interview respondents reported. The evaluators found consistency in overall patterns of data from different sources.

iCase data

Although advisory files represented the majority (71%) of files managed by the Portfolio and half of the hours recorded by BRLP counsel during the time period covered by the evaluation, an average of 78% of actively managed advisory files did not have a risk rating recorded in iCase as it was not mandatory to enter risk rating information for advisory files until September 2013. The quality of the iCase data on risk and complexity ratings for litigation files was not reliable either, as an average of 33% of litigation files did not have a risk rating⁶ and an average of 50% of litigation files did not have a complexity rating. Due to the lack of risk information, it was not possible to undertake analyses to determine whether appropriate counsel were assigned to legal files based on their classification and the risk level and complexity of the file (e.g. whether more

⁶ It is possible that some of these files are unidentified 'shadow files', that is, files that are linked to a lead file and therefore do not require a risk assessment.

senior counsel worked on higher risk and complexity files and conversely, whether junior counsel worked on lower risk and complexity files). Instead, the evaluation examined the level of effort (hours) by classification more generally, without accounting for risk level or file complexity and relied on the results of the Legal Counsel Survey to assess whether files were assigned to the appropriate level and number of counsel given their legal risk and complexity level. It is expected that with the implementation of the National Timekeeping Protocol in 2015, that sufficient risk and complexity data will be available for the next evaluation.

2009 Client Feedback Survey

The evaluation report relied in part on the findings from the most recent BRLP Client Feedback Survey conducted in 2009. The survey provided valuable insight into the Portfolio's performance against the department's service standards due to the large number of clients (n=3,032) who provided feedback. Since the survey results were somewhat dated, the evaluation also relied on other sources of data regarding client perceptions of the quality of BRLP's legal services through both case study and general client interviews. In total, 27 clients were interviewed as part of the evaluation. As part of the analysis, the evaluators compared the results of the Client Feedback Survey with the results of the evaluation interviews, which were found to be consistent.

4. KEY FINDINGS

4.1. Relevance

The evaluation considered the relevance of the BRLP with respect to the continued need for its services given the level of client demand, as well as the Portfolio's alignment with federal government priorities, departmental strategic outcomes and federal roles and responsibilities.

4.1.1. Continued Need for BRLP legal services

The BRLP provides integrated legal advisory, litigation and legislative drafting services. The legal services provided by the BRLP help departments and agencies meet their policy and programming priorities and advance the overall objectives of the government in accordance with relevant legislative and regulatory schemes. There is also a continued need for litigation services as long as there are legal claims and legal proceedings being taken against the Crown, or by the Crown. Similarly, the BRLP's legal services function is an integral element of the legislative process with departmental legal advisors (DLSU counsel) being one of the main participants in the preparation of government bills. For example, counsel provide clients with legal advice regarding various aspects of proposed legislative measures, prepare and/or review drafting instructions, and continue to play an advisory function as a member of the drafting team working on the legislative initiative. Additionally, there is an ongoing need for BRLP legal advisory services to assist government departments and agencies in ensuring that they are operating within the law, and in such a manner that they take into consideration, minimize or prevent legal risks that could lead to legal liability. In so doing, government departments and agencies are better able to address the needs of Canadians within the rule of law.

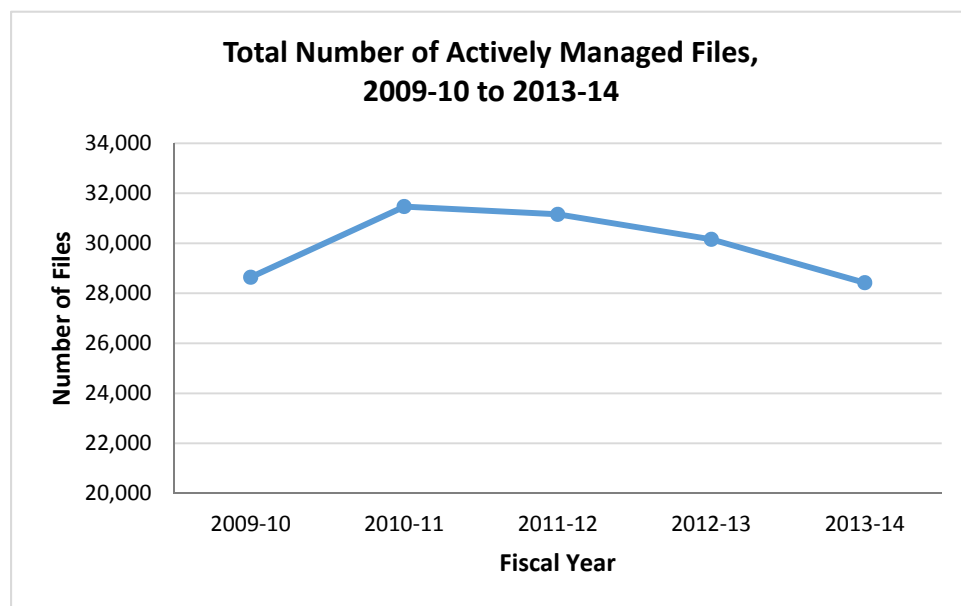
As previously mentioned, some of the largest and most complex federal government departments receive their legal services from the BRLP. The potential risks to federal departments and agencies with regard to operating without the support of BRLP legal services cited by counsel and clients interviewed as part of the evaluation are significant. They include, but are not limited to: reputational harm to the client department or agency and to the Government of Canada as a whole; litigation and potential claims for damages; Charter violations; non-compliance with the legislative

framework; and policy and programs that are not appropriately grounded in law or that are inconsistent with the legislative framework.

Demand for BRLP Legal Services – Number of Actively Managed Files

The demand for the BRLP’s legal services provides further evidence of continued need. iCase data indicates that the BRLP managed an average of 30,000 active legal files⁷ during each of the fiscal years covered by the evaluation. As shown in Figure 4 (below), there was a sharp increase in the total number of actively managed files (10%) in 2010-11. In fact, an increase was seen in all four types of legal files managed by the Portfolio (i.e. advisory, litigation, legislative and general files) that year and was most predominant for legislative files, which increased by 30% (from 1,481 files in 2009-10 to 1,931 files in 2010-11). It is worth noting that there was an equivalent decrease in the number of legislative files the year after. During each of the subsequent three years (2011-12 to 2013-14), the total number of actively managed files steadily decreased, except for the volume of advisory files, which remained more or less constant from 2011-12 to 2012-13.

Figure 4: Total Number of Actively Managed Files, 2009-10 to 2013-14

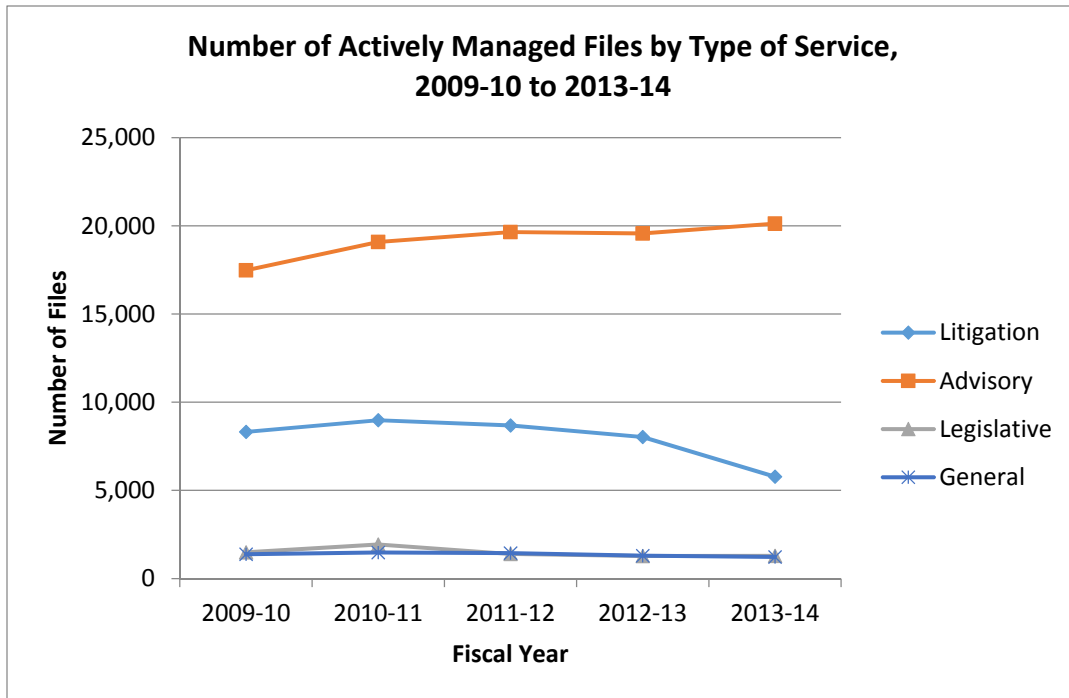


The downward trend in actively managed files from 2010-11 to 2013-14 is largely attributable to the declining number of litigation files during this time period. From 2009-10 to 2013-14, the

⁷ This includes advisory, litigation, legislative, and general files.

volume of litigation files declined by 31%. As illustrated in Figure 5, this trend was particularly notable in 2013-14, when the total volume of litigation files dropped 28% from the year before. This decline was a result of changes to the reporting process in iCase whereby counsel stopped the practice of opening a new file for a different aspect of the same litigation case.

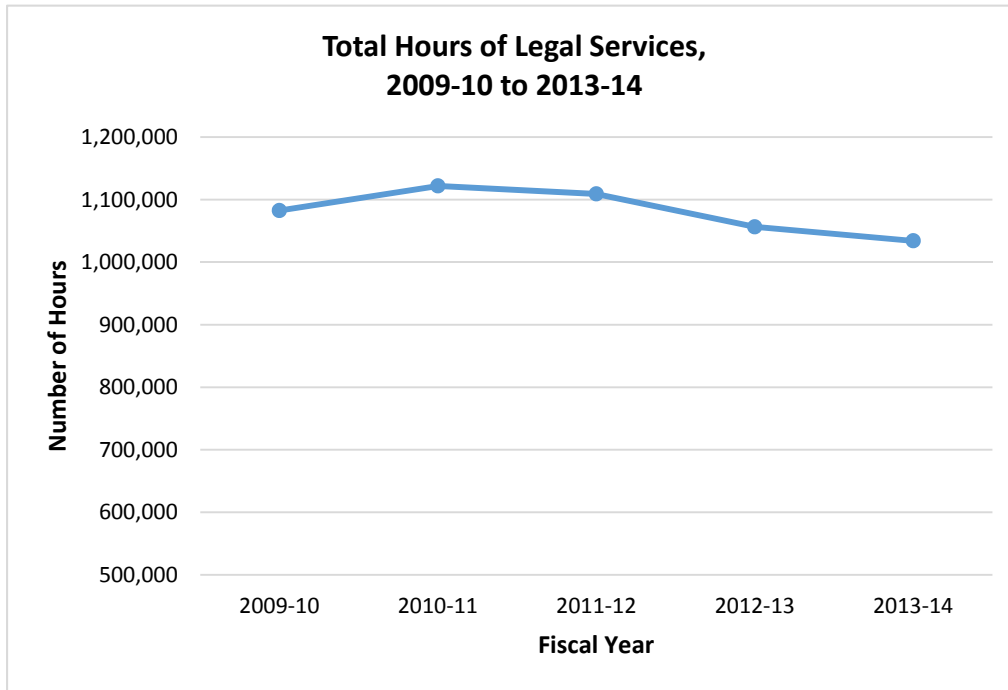
Figure 5: Number of Actively Managed Files by Type of Service, 2009-10 to 2013-14



Demand for BRLP Legal Services – Hours Spent on Legal Work

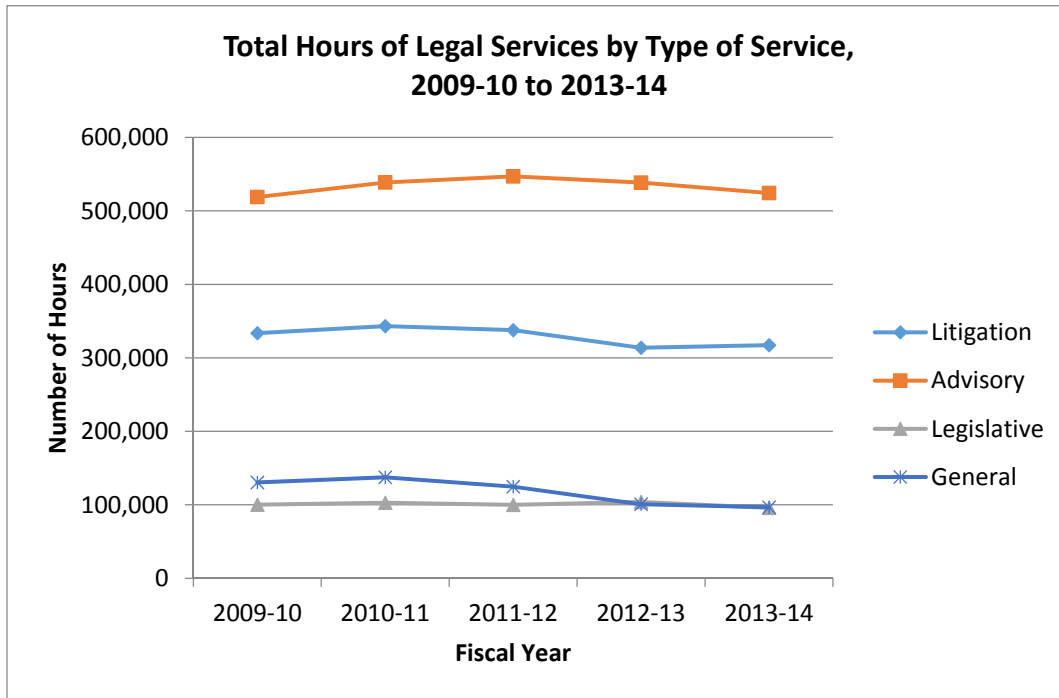
Although the number of actively managed files is one indicator of the demand for legal services, so too is the level of effort or hours spent by counsel on legal work. iCase data indicates that the BRLP recorded an annual average of 1,080,841 hours against its actively managed legal files between 2009-10 and 2013-2014. Figure 6 (below) shows the hours spent on legal services over the evaluation period.

Figure 6: Total Hours of Legal Services, 2009-10 to 2013-14



The time spent on legal services followed the same trend as the number of actively managed files in that there was an increase in hours spent by counsel on legal work in 2010-11. Like the volume of legal files, this was followed by a steady decrease in hours over the three subsequent fiscal years. However, the percentage difference in hours year-over-year was not as remarkable as compared to the number of actively managed files. For example, although the number of files managed by the Portfolio increased by 10% in 2010-11 (from 28,642 files to 31,464 files), hours spent on legal work only increased by 4% (from 1,082,634 hours to 1,121,877 hours) that year. Similarly, even though the volume of actively managed litigation files declined by 31% from 2009-10 to 2013-14 (from 8,312 files to 5,775 files), the hours spent on them only declined by 5% (from 333,410 hours in 2009-10 to 317,247 hours in 2013-14). And, in 2013-14, when the number of litigation files dropped by 28% from the year before (from 8,023 files in 2012-13 to 5,775 files in 2013-14), the time spent on them remained relatively unchanged (from 313,666 hours in 2012-13 to 317,247 hours in 2013-14). In fact, over the evaluation period, the hours spent on each type of legal file (i.e. litigation, advisory and legislative) remained relatively constant as shown in Figure 7 (below).

Figure 7: Total Hours of Legal Services by Type of Service, 2009-10 to 2013-14



These findings provide evidence of the ongoing need for BRLP services as the level of effort recorded against actively managed files has remained relatively constant despite the downward trend in actively managed files. Findings from the interviews with BRLP managers confirmed this trend in that respondents (with a few exceptions) were generally of the opinion that the volume of legal work had remained consistently high over the timeframe covered by the evaluation. The level of effort may have remained more or less constant from 2010-11 to 2013-14 even though the volume of files decreased during this time period due to increased file complexity. When asked about changes in the demand for legal services over the past five years, some BRLP managers interviewed indicated that there had been an increase in the number of horizontal files in which cross-cutting issues increase complexity. This was corroborated by the findings from the general client interviews⁸ in which half of the clients interviewed indicated that the complexity of the files in which they had engaged the services of BRLP had increased over the evaluation period.

⁸ Clients who were interviewed as part of the case studies were not asked about changes in their department's demand for and use of legal services during the evaluation period.

However, it was not possible to confirm whether the number of higher complexity files had in fact increased due to the limited iCase data available on file complexity⁹.

4.1.2. Alignment with Government of Canada Priorities

The BRLP responds to legal services requests related to the existing and emerging priorities of client departments, which in turn respond to the priorities and policy directions of the federal government. For this reason, the activities of the Portfolio are inherently linked to the priorities of the government.

The Portfolio supports the Government of Canada in some of the most important and high-profile issues and initiatives facing the country. It provides legal support on a broad range of policies, programs and initiatives including, but not limited to, environmental protection, transportation regulatory matters, fisheries management and health protection, international bridges, national food recalls, intellectual property, energy projects, responsible resources development, cultural protection, and international development. Counsel in the Portfolio provide legal advice to clients, help manage legal risk, conduct and support cases in court brought by, or against, the Crown, and assist in the development of regulations and legislation.

The alignment of legal services with government priorities is achieved in particular through annual joint Department of Justice and client departments planning and prioritizing of the provision of legal services and a shared understanding of the impacts on legal risks. In addition, senior departmental officials regularly interact with their colleagues in their client departments and in central agencies. As a result, adjustments are made from time to time to maintain focus on government priorities.

The BRLP's alignment with federal priorities is demonstrated by comparing Speeches from the Throne with the Portfolio's activities listed in departmental annual reports and annual business plans. The performance highlights below identify some key files and activities in which the Portfolio was actively engaged in supporting its clients in implementing key government priorities over the evaluation period (2009-10 to 2013-14). For example, BRLP counsel:

- advised on all legal issues associated with H1N1 (from vaccine contract issues, FPT information sharing agreements, to occupational health and safety advisories);

⁹ An average of 50% of litigation files did not have a complexity rating over the five-year timeframe covered by the evaluation (from 2009-10 to 2013-14).

- provided ongoing legal support to Transport Canada and Infrastructure Canada in implementing the Economic Action Plan investments, including roads, bridges, community centres and green infrastructure projects;
- provided advice and guidance on environmental assessments and processes done or overseen by the Canadian Environmental Assessment Agency and the Major Project Management Office;
- provided legal services in support of major resource projects such as the Northern Gateway Pipeline;
- supported its client departments and agencies in restraining federal program spending via the Deficit Reductions Action Plan by providing legal services in support of the government's divestures of surplus real property; and,
- advised on the development of consolidated legislation supporting the government's efforts to improve food safety in Canada.

4.1.3. Alignment with Federal Roles and Responsibilities

Justice's legal service activities, including those of the BRLP, are integral to the departmental mandate. Under the *Department of Justice Act*, the Minister of Justice and Attorney General is responsible for providing legal services to the federal government's departments and agencies. These services include the provision of legal advice, preparing legal documents, drafting legislation, regulating or conducting litigation, and overseeing all legal mechanisms used to achieve the overall objectives of the government.

In particular, under Section 4 of the Act, the Minister is identified as the legal member of the Queen's Privy Council responsible for seeing that the administration of public affairs is in accordance with the law. Under Section 5 of the Act, the Attorney General is responsible for advising the heads of government departments on all matters of law and for conducting all litigation for or against any federal department or agency of the Crown in respect of any subject within the authority or jurisdiction of Canada.

Furthermore, the centralized model whereby the Department of Justice, with few exceptions, provides legal services to government departments and agencies has been integrated in the Treasury Board of Canada's *Common Services Policy*, which identifies Justice Canada as the mandatory provider of legal services for federal departments and agencies. The Policy states that

certain services are designated as mandatory “when a government-wide interest or consideration prevails over, or coincides with, the interest of individual departments and agencies.”¹⁰ In the specific case of the Department of Justice Canada, the Policy notes that in the discharging of duties, “the Minister of Justice weighs considerations of both law and government policy”, and that legal services provided by the Department “are centrally controlled in order to assure overall consistency and integrity of approach”.¹¹

4.1.4. Alignment with Departmental Strategic Outcomes

Under the Department’s Program Alignment Architecture, the BRLP supports the program activity of “legal services to government” and the second strategic outcome of “a federal government that is supported by high-quality legal services”. The Portfolio’s business priorities reflect this strategic outcome and include:

- comprehensive delivery on the government’s legislative agenda;
- legal advisory services to support the government in attaining its priorities; and
- representation of the Crown’s interest to enable the government to attain its priorities.

Evaluation results indicate that the BRLP supports the Department of Justice in meeting its strategic outcome of a federal government that is supported by high-quality legal services. The Portfolio provides legal advisory, litigation and legislative services to federal departments and agencies, and, as will be discussed in detail in the following section of this report, the BRLP’s positive client feedback is indicative of its commitment to delivering high-quality legal services. A detailed description of the Portfolio’s logic model is included in Appendix B.

4.2. Performance – Achievement of Expected Outcomes (Effectiveness)

This subsection explores several dimensions of the actual work performed by the Portfolio over the period covered by the evaluation. It also assesses the quality of the legal services provided by BRLP counsel and the extent to which legal counsel have access to the tools and training they require to effectively deliver their services.

¹⁰ Treasury Board Secretariat of Canada, *Horizontal Audit of the Compliance of with the Common Services Policy*, September 9, 2011, <http://www.tbs-sct.gc.ca/report/orp/2011/hiaccsp-vihcpse02-eng.asp>

¹¹ Treasury Board of Canada. *Common Services Policy*, s. 5.1.

4.2.1. Timely, Responsive and Useful Advisory and Litigation Services

In April 2009, the Department of Justice established a series of service standards¹², which are grouped along the broad lines of timeliness, responsiveness and usefulness. Shortly thereafter, the Department launched a series of surveys to gauge the level of client satisfaction against these service standards. The Client Feedback Survey for BRLP occurred in November 2009 and included more than 20 BRLP client departments and agencies. A total of 3,032 clients who had used BRLP legal services in the preceding 12 months completed the survey. Client feedback on the overall quality of advisory, non-criminal litigation, legislative drafting and regulatory drafting services provided by the Portfolio ranged from “positive” (meeting the Department’s performance target of 8.0 on a 10-point scale) to “strong” (surpassing the Department’s performance target of 8.0 on a 10-point scale).

While the results of the Client Feedback Survey demonstrate that the Portfolio delivers high-quality legal services to its clients, the provision of regular and informative progress reports was identified as an area for improvement, particularly in terms of advisory services. This is significant in that half of the hours recorded by BRLP legal counsel is advisory work and client ratings for the provision of regular and informative progress reports for advisory services declined from 2007 when it was rated 7.3 out of 10 to 7.0 out of 10 (opportunity for improvement) in 2009. According to the Department’s Memorandum of Understanding (MOU) template, this aspect of the client service standards means that clients are regularly kept apprised of the status of their requests for legal advisory, litigation and legislative services and files. Clients who are not in regular contact with counsel (e.g. through recurrent meetings) generally mentioned having to seek updates on their requests for legal services. Taken together, the feedback provided by clients who were interviewed for the evaluation and findings from the Client Feedback Survey suggest that there are opportunities to improve the proactive provision of regular and informative progress reports for advisory services.

To provide effective legal services and help officials achieve their objectives within the framework of the law, counsel must have a thorough understanding of the operations, policies and processes of the client department or agency. Many of the BRLP managers in the DLSUs who were

¹² The provision of legal services is guided by the service standards of the Department, which include: responding in a timely manner to requests for legal services; meeting mutually agreed-upon deadlines; providing clear and practical guidance on resolving legal issues; providing regular updates/progress reports; involving the client department or agency in the development of legal strategies and positions; developing legislative and regulatory drafting options appropriate to policy or program objectives; identifying means to prevent or resolve legal disputes at the earliest opportunity; offering legal services in both official languages; and treating the client with courtesy and respect.

interviewed indicated that being co-located with the client department or agency facilitates close interaction with their clients, which in turn contributes a better understanding among counsel of their clients' business, needs, priorities, desired outcomes and challenges. This finding is supported by the results of the Client Feedback Survey in which client ratings of BRLP counsel's understanding of the nature of the issue for which assistance was sought surpassed departmental targets for advisory and litigation services. BRLP managers further noted that this is a significant contributing factor to the high-quality legal services to BRLP clients, in that counsel possess in-depth knowledge of the area of law particular to the client department and its programs and policies, which in turn facilitates the identification of legal issues and risks and results in higher quality legal advice.

Through the Legal Counsel Survey administered as part of the evaluation, counsel were also provided with an opportunity to assess the extent to which they are in a position to deliver legal services that are timely, responsive and useful. The survey findings generally indicate that counsel perceive themselves as delivering high-quality legal services that meet departmental standards although they identified several factors that constrain their ability to do so. These included: an increased volume of administrative related work (e.g. opening and closing files in iCase, legal risk management requirements in iCase, timekeeping, reporting, and filing) that detracts from time that could be spent on strategic legal risk management; a lack of administrative and paralegal support; and less staff.

With regard to the volume of administrative work, the Department has recently introduced changes in timekeeping practices to support the identification of legal services and non-legal services activities performed. These changes are expected to identify opportunities for further dialogue on activities that could be discontinued. Additionally, departmental and Portfolio-specific initiatives are being implemented to help alleviate the lack of paralegal support and mitigate the impact of staff reductions on workload, which are discussed later in the report. Since it is too soon to assess the impact of these changes as part of this evaluation, these will be considered in the next evaluation.

4.2.2. Legal Risk Management

The BRLP is expected to communicate potential legal risks, their implications, and available legal options to its client departments and agencies, which is intended to provide them with the information, advice and support they need to make informed decisions about how to manage legal risk and to achieve their objectives. Although the Portfolio provides legal advice and, for legal

issues before the courts, suggests litigation strategies, the ultimate decision on how to proceed rests with client departments and agencies, subject to the *Department of Justice Act*. Irrespective of whether or not the client follows the advice, it nonetheless allows client departments and agencies to make informed choices on how to manage and mitigate their legal risks. Legal risk is combined and factored in with other risks such as financial, policy and other corporate risks during the client's decision-making process. Results from the BRLP Client Feedback Survey on performance in relation to legal risk was "positive" overall, meeting the Department's performance target of 8.0 on a 10-point scale.

Legal risk management is an essential aspect of the work of BRLP counsel who identify the principal sources of legal risk, assess the likelihood of an adverse outcome, and work with the client department or agency to estimate the potential impact of the adverse outcome. Counsel also work with officials in departments and agencies to prevent, mitigate or manage the risks. DLSU managers interviewed as part of the evaluation indicated that being integrated (co-located) with the client department or agency helps counsel play a proactive role in the identification of legal issues and facilitates the early identification of legal risks. For instance, BRLP DLSU Executive Directors sit on senior management committees within the client department or agency. This is not necessarily a formal mechanism for identifying legal risk specifically, though some client departments and agencies have established legal issues or risk management committees with mandates to improve the management of legal risks specifically. However, counsel's participation on these committees helps them adopt a preventive approach, in that they are better positioned to offer advice in advance about a proposed activity that may pose a significant risk in terms of the client's exposure to liability.

Interviewees indicated that legal risk management is implicit in the day-to-day work of counsel in that counsel constantly assess legal risks through their advisory work. DLSU counsel indicated that an assessment of legal risks is inherent to the advice they provide to the client and integral to the practice of law. On litigation matters, once litigation has commenced, counsel focus on identifying and assessing the legal risks in the litigation, and proposing options to the client department on how to manage or mitigate the legal risks. Legal risks and options for mitigating them are communicated through written legal opinions and oral briefings to the client. Clients and counsel work as a team to identify risks, and discuss and debate options presented by counsel. Data obtained through the case studies show that counsel consult the client with regard to identifying and assessing legal risk and options to manage it. The evaluation did not find any indication that client departments have expressed concern related to a lack of consultation. Furthermore, client feedback obtained through the BRLP Client Feedback Survey on the extent to which BRLP

counsel involve clients in the review and development of legal options to mitigate identified legal risks was positive (or meeting the Department's performance target) for legal advisory and litigation services.

The Department's legal risk matrix, the tool used by BRLP counsel to assess legal risks (i.e. the likelihood of an adverse outcome and its potential impact on the federal government) to ensure that the level of risk is accurately determined and communicated to the client in a consistent manner, was not rated favourably by Legal Counsel Survey respondents, 41% of whom indicated that they do not find it useful to their work. This finding is equally reflective of the view of both DLSU and regional counsel. Similarly, respondents to the Legal Counsel Survey cited the legal risk assessment process in iCase as a factor that constrains the BRLP's ability to provide high-quality legal services, in that they find it to be an added administrative burden that is time-consuming and unnecessary.

4.2.3. Access to appropriate expertise, tools, structures, and resources

The ADMO, DLSUs and regional offices are expected to provide legal counsel with the tools, structures and resources needed to provide high-quality legal services¹³. Results from the 2014 PSES indicate that 69%¹⁴ of BRLP staff feel they have the materials and equipment needed to do their job, which is lower than the Departmental average of 76% and lower than the Public Service average of 78%. Similarly, almost half of the respondents in the BRLP Legal Counsel Survey (48%) indicated that there are other tools or support that would assist them in their work. More administrative support (for non-legal tasks such as filing and formatting documents) and support from paralegals¹⁵, an improved Justipedia¹⁶ that is more reliable, complete and easily searchable, and better information technology (i.e. improved connectivity/more reliable access to the Department of Justice electronic network, ability to share secret documentation electronically with other areas of Justice, improved document and file management) were among the other tools and support commonly cited by respondents that would assist them in their work. Being co-located with the client, the DLSUs use their client department's IT infrastructure. DLSU counsel reported

¹³ Client departments and agencies also provide some of this support to the DLSUs such as office space and equipment, research tools and administrative and paralegal support.

¹⁴ In contrast, 81% of BRLP respondents to the 2011 PSES indicated that they had the materials and equipment needed to do their job.

¹⁵ Typically, administrative and paralegal support is provided by the client department.

¹⁶ Justipedia is the central legal knowledge management repository for the Department of Justice.

that the only common IT platform available to them (JusAccess) is slow and connectivity is unreliable.

Although Legal Counsel Survey respondents indicated that they would like to see improvements to Justipedia, it was also frequently cited as one of the most useful tools in their work (77%), along with practice groups (74%), which provide an opportunity for legal counsel across the Department to meet on a regular basis to exchange and share knowledge on areas of interest for their practice, and peer review (69%). The Justice library, informal consultation with colleagues, searchable case law databases such as Westlaw, and the shared drive (used to locate relevant past opinions) were also commonly cited by counsel as other tools they have found useful in managing their work.

4.2.4. Training for counsel

The training offered to legal counsel is intended to assist them in doing their job, keep them current on legal issues and trends and address any identified gaps in knowledge or skills, thereby better equipping them to provide high-quality legal services. Results from the 2014 PSES indicate that 70% of BRLP staff felt they get the training they need to do their job, which is higher than the departmental average of 68% and higher than the Public Service average of 63%. A number of professional development activities are available to BRLP counsel. For instance, the Professional Development Directorate provides a wide range of learning activities to all legal counsel working in the Department of Justice and courses are regularly offered by the CLS to legal counsel practicing in commercial law. At the Portfolio level, there is an annual training day, and a portion of the BRLP's training budget is allocated to full-time language training. As well, DLSUs and regional offices generally hold their own ad hoc learning activities throughout the year.

BRLP Training Day

The BRLP Training Day is a one-day event held every year in the National Capital Region that brings together counsel from across the Portfolio. The agenda for the Training Day varies from year to year. Documentation reviewed as part of the evaluation indicates that past events included updates on the work that had occurred in different DLSUs, discussions of larger departmental initiatives, and presentations by senior clients regarding their perspective on the delivery of legal services by the Portfolio. When asked about their satisfaction with the professional development opportunities available to them, 60% of counsel who responded to the BRLP Legal Counsel Survey indicated that they were satisfied with the BRLP Annual Training Day while 40% indicated that

they were either dissatisfied or neutral¹⁷. Though limited qualitative feedback was provided, respondents expressed a preference for more sessions on substantive legal issues and making the Annual Training Day more accessible to all counsel working on BRLP files, including in the regions (e.g. through webcast). It is worth noting that, in order to increase accessibility, a recording of the last BRLP Training Day in June 2015 was posted on both Justipedia and the Portfolio's SharePoint site, as were the presentations and materials that were used.

Department of Justice Training

A strong majority (81%) of counsel who completed the Legal Counsel Survey indicated that they are satisfied with the other training offered within the Department of Justice, although interview and survey findings did indicate that more advanced courses should be offered and training should be available to a larger audience, for instance through webcast, videoconference, or recording so counsel can view it at a later date.

External training opportunities

Sixty-one percent of survey respondents were satisfied with the external training available to them. Respondents noted that current budgetary constraints limit the ability of the Portfolio to expand the access to these types of learning activities, and approval processes for external training are seen as burdensome and a disincentive to seeking out these opportunities. They further indicated that it would be beneficial to provide greater access to external learning activities, particularly with regard to legal topics and issues particular to their DLSU, that do not necessarily apply to other DLSUs or Justice sections.

Commercial Law Section training

One of the objectives of the CLS is to ensure that legal counsel practicing in commercial law have access to high-quality and relevant training opportunities. In this respect, the Section organizes an Annual Commercial Law Conference and offers an IP-IT Training Day and a Real Property Law Forum which alternate year to year. Each of these are one-day events that counsel across the Department can attend. Although BRLP counsel were not asked specifically about the training events organized by the CLS as part of the Legal Counsel Survey, internal documentation points

¹⁷ The feedback provided by participants on BRLP Training Day through post-event surveys was more favorable, with more than 80% of participants providing positive responses.

to the fact that these sessions are well-attended¹⁸ and feedback obtained through post-event questionnaires indicate these sessions are well received by participants whose overall assessments of these training activities are generally very positive¹⁹.

4.2.5. Training for client departments and agencies

BRLP counsel offer training on legal issues and risks to client departments and agencies to help increase client awareness of when to consult legal counsel and how to reduce the likelihood of potential litigation. More than half (54%) of respondents to the Legal Counsel Survey indicated that they had provided training to client department/agency staff over the time period covered by the evaluation, with the bulk of the training (78%) dealing with substantive law issues, followed by legal process (35%) and legal risks (22%). During the interviews, BRLP managers and clients provided some examples of the training that legal counsel have provided, which included but were not limited to: the role of the DLSU in supporting the client and when to consult legal services; how to exercise statutory authorities (for example, where the law influences the operations of the client such as training for inspectors on laws that govern their actions); basic training on grants and contributions and contract law; training on new statutes and regulations; legal risk; lessons learned on a particular type of case; training on the *Access to Information and Privacy Act*; law of evidence; privilege-disclosure; training on Aboriginal law issues for fisheries management; application of the law to regulatory enforcement; intellectual property; trade law, restructuring and insolvency training.

Clients who were interviewed for the evaluation expressed their satisfaction with the training/information sessions provided by their DLSU and further indicated that these have been very useful, relevant, and tailored to their needs. Interviews with both BRLP managers and clients indicate that although the training may not necessarily deal with legal risk management specifically, it helps clients better manage and mitigate legal risks by providing them with a more sophisticated understanding of where legal risk is triggered.

¹⁸ Data provided by the Professional Development Directorate indicates that from 2011 to 2015, an average of 130 counsel participated in the Annual Commercial Law Conference. This number was 90 for the IP-IT Training Day and 86 for the Real Property Law Forum.

¹⁹ From 2011 to 2015, on average, more than 80% counsel provided a positive overall assessment of the Annual Commercial Law Conference, IP-IT Training Day and the Real Property Law Forum.

4.2.6. Consistency of legal advice

Canada's legal team must "speak with one voice" whereby legal opinions provided by counsel must be consistent and in accordance with the role attributed to the Minister of Justice to act as the official legal advisor of the Government of Canada as a whole. Counsel must work out any differences of legal interpretation to ensure that they provide a consistent legal position on any one point of law to all the departments and agencies they serve and in all their litigation. Although it is appropriate and necessary to have some diversity of opinion, there should be one departmental position with regard to the provision of legal advice.

Interview and case study findings indicate that counsel are generally very conscious of the need to speak with one voice and to reconcile different views on legal advice in order to provide a consistent legal interpretation on a point of law. The evaluation found that differences of opinion on a legal issue are typically resolved through further discussions so that consensus can be achieved, and when consensus cannot be achieved, the issue is brought to senior management.

Files may raise similar legal issues, yet be managed by legal counsel located in different DLSUs or regional offices. When another department is involved, counsel will find out who their counterpart is in the other LSU and they will work together. Similarly, when another counsel is involved in the region, DLSU and regional counsel will work together to ensure consistency in the advice/communication provided to the client department or agency. To ensure consistency in the provision of advice, BRLP counsel also consult with other counsel experienced in issues similar to what is being advised on whether it be with colleagues in the Portfolio or in the Department more generally (e.g. with other Portfolios and specialized sections); participate on practice groups where counsel across the Department share their expertise in a specific area of law; review pertinent directives issued by specialized groups such as the CLS; share legal work products with one another; and review precedential opinions on Justipedia (the departmental legal knowledge-management database) to ensure consistency with any past advice.

Case study findings also indicate that BRLP managers monitor the consistency of advice provided by counsel in their DLSUs through the approval process. Furthermore, in the smaller regional offices, counsel tend to work across Portfolios (for example, the same counsel may work on both AAP and BRLP files) which enables them to identify legal issues that may impact other files in other Portfolios. The regions also have in place regional law and litigation committees that identify and coordinate horizontal legal issues and resolve inconsistencies.

Active monitoring and coordination activities at the Portfolio-wide level also help ensure that legal positions put forward are consistent among files raising similar legal issues that are being managed by different DLSUs or regions. The evaluation found that written and verbal briefings by BRLP regional representatives and DLSU Executive Directors aid the ADMO in identifying larger files raising similar legal issues. The case study and interview findings indicate that the ADMO will occasionally review advice to ensure it is consistent with past advice on the same issue in another major file and/or will put relevant counsel in contact with one another to facilitate the coordination of the advice to ensure that it is consistent.

Case study findings indicate that for more complex horizontal files (for example on major natural resource projects involving multiple clients and areas of law), legal working groups have been established on which counsel from the various departments (DLSUs) involved in the file have participated. The evaluation found that these groups are helpful in terms of providing counsel from the various departments involved on the file with a forum for collaboration and information exchange and as such, aid in the consistency and coordination of advice/communication out to the various clients involved on a file. However, as will be discussed later in the report, case study findings and internal documentation reviewed as part of the evaluation also indicate that these groups can result in redundancies on the file.

In the BRLP Client Feedback Survey, clients were asked to rate their level of satisfaction with the consistency of legal advice provided by counsel. Respondent feedback on the consistency of legal advice was “positive” to “strong”, surpassing departmental targets. Similarly, clients who were interviewed as part of the evaluation also indicated that their department/agency receives consistent legal advice.

4.2.7. Information Exchange and Communication across the Portfolio

With over 800 employees working in the six regions of the Department of Justice and in 14 DLSUs co-located with client departments and agencies, the BRLP is not only the biggest portfolio within the Department, it is also the most decentralized. This makes information exchange and communication between the DLSUs, regional offices and ADMO a vital aspect of operations.

The evaluation found that the Portfolio has a number of mechanisms in place to facilitate information exchange and collaboration among managers. There is regular, ongoing contact with BRLP managers through monthly (at a minimum) bilateral meetings between the Executive Directors of the DLSUs and the ADM or Deputy ADM (as the case may be) on high impact

advisory and litigation files. There are also monthly management meetings where the ADM and Deputy ADM share information obtained through the executive meetings they have attended, and an annual retreat, both of which include management within the ADMO, CLS, DLSUs and regional offices. Additionally, there is a Friday weekly call between ADMO and the BRLP DLSU Executive Directors and regional managers where information is exchanged. The BRLP managers interviewed as part of the evaluation spoke highly of the various communication mechanisms in place within the Portfolio and indicated that there is an environment of openness within the Portfolio that begins with the senior leadership, which is seen as very accessible and responsive. They further indicated that these various communication mechanisms not only play a critical role in facilitating the exchange of information, but also provide a forum for fostering strong working relationships with their counterparts in other areas of the Portfolio, increasing their comfort level in reaching out to colleagues when needed because those working relationships have already been established. None of the managers interviewed suggested that these communication mechanisms need to be improved in any way.

The Portfolio also reaches out to all staff through its publication titled “Connexions”, an e-newsletter distributed to all BRLP staff three times a year that is intended to create a sense of identity within the Portfolio. The Portfolio’s newsletter includes articles on recognition awards presented to BRLP counsel in the DLSUs and regional offices, and goings-on within the Portfolio and the Department more generally. Additionally, the Portfolio shares pertinent information with BRLP staff through a SharePoint site and either the ADM or Deputy ADM (as the case may be) visits each of the regional offices annually. BRLP managers interviewed indicated that there is a strong sense of collegiality within the Portfolio, which facilitates communication and collaboration among colleagues.

Although the governance structures and processes in place within the Portfolio are effective in facilitating the exchange of information among managers, interviewees and survey respondents identified the sharing of secret information between different areas of the Portfolio (e.g. between DLSUs and between DLSUs and ADMO) and the lack of a fluid IT interface between Justice Headquarters and the DLSUs as challenges in terms of efficient information sharing within the Portfolio.

4.2.8. Coordination and management of significant legal issues

The DLSUs and the regional offices are expected to coordinate and manage significant legal issues (e.g. high-impact files, files involving multiple clients) with assistance from the ADMO, as

needed. The ADMO's involvement in high-impact files is not standardized. Rather it is dependent on the profile of each file (e.g. the level of DMO or MO interest in a file, the client's desire for ADMO involvement). Although there are no formal structures in place for managing files of this kind, BRLP managers provided positive feedback regarding the ADMO's involvement in significant legal issues. Interviewees indicated that the ADMO proactively takes a leadership role in coordinating horizontal issues when needed by facilitating inter- and intra-Portfolio collaboration and providing a broader perspective to the work of legal counsel on the file. On files where the ADMO does not take on the coordination role itself, it delegates this function to one of the DLSU Executive Directors whose client is implicated in the file. In this situation, a special advisor from the ADMO assists the lead DLSU with coordination.

There are a number of mechanisms in place within the Portfolio to identify, monitor and report on significant legal issues/files including the DLSU Executive Directors' bilateral meetings with the ADM or Deputy ADM (as the case may be) and bi-weekly reporting to the ADM and Deputy ADM. These briefings help ensure that significant issues benefit from the additional insight, experience and Portfolio-wide knowledge of the ADMO and help identify horizontal issues and possible implications for other BRLP DLSUs. Additionally, the Portfolio has a regular monthly written reporting process in place for DLSUs to identify and provide updates on high-impact advisory and litigation files for the ADMO, which are also discussed during the bilateral meeting that occurs on a monthly basis (at a minimum) between each DLSU Executive Director and the ADM or Deputy ADM, as the case may be.

Case study findings indicate that legal working groups consisting of the various counsel involved in multi-departmental files had been put in place during the evaluation period. These working groups are nimble and flexible. The distribution of roles and responsibilities shift as files evolve, and depend on the implication of the various client departments and the workload of counsel. Counsel are able to obtain information on varying facets of the file through their participation on the legal working group, thereby enabling them to better advise their clients based on a larger context. However, the evaluation also found some redundancies with this approach in that multiple DLSU counsel review the same written advice and products and provide equivalent advice to their clients. The Department's new Major Project Management Office initiative should serve to remedy these inefficiencies insofar as they relate to major energy projects, by centralizing and consolidating the provision of legal advice for these types of files so that a smaller number of counsel in the new unit advise all client departments.

4.2.9. Government decision making and supporting the implementation of government decisions

Both the case studies and client interviews indicate that the advice provided by BRLP counsel is considered in the legal strategies pursued and decisions made by their department or agency. In fact, client key informants generally indicated that there is a heavy reliance on the advice provided by BRLP counsel among decision-makers in their department/agency. For example, senior level officials in the client department have their DLSU review decision-making documents such as cabinet documents where potential legal implications are involved, all of the Executive Directors in the DLSUs sit on at least one of their client's executive committees, and some regularly attend briefings of the Minister in the client department/agency. Additionally, documented evidence on the case study files indicated that clients consider the legal advice provided by BRLP counsel to prevent, mitigate and manage legal risk (e.g. incorporating counsel's comments in documentation with potential legal implications), and to inform the legal strategies they pursue.

Although the advice provided by counsel may not necessarily be followed, it increases the client's awareness of the risks entailed, which ultimately informs their decision making. Once clients have made their decisions, the role of the BRLP is to support the implementation of those decisions. The support provided by counsel in this regard includes legal opinions and advice on issues related to implementation such as the development of regulations or legislation.

4.2.10. Level of collaboration within the Portfolio

The BRLP's capacity to provide high-quality legal services is partly a function of how well counsel work together, particularly since many tend to rely on being able to "pick up the phone" and reach out to a colleague when needed (e.g. to coordinate advice when two or more departmental clients are working on the same matter). As an example, the CLS has created an inventory of legal counsel who are experienced in the various areas of commercial law, including commercial transactions, procurement, intellectual property, real property and competition law. Counsel are encouraged to use the inventory in the event that they would like to identify a colleague who can help with a specific question.

Results of the 2014 PSES indicate that the work environment in the BRLP is conducive to this approach in that 94% of BRLP respondents stated that they have positive working relationships

with their co-workers²⁰. Similarly, the results of the Legal Counsel Survey conducted as part of the evaluation indicate that the culture of collaboration and collegiality among counsel is a key factor contributing to the Portfolio's ability to provide high-quality legal services.

DLSUs and Regional Offices

The litigation services of the BRLP are provided by Justice litigators who generally work in the regional offices and in the Litigation Branch at Justice Headquarters. While some DLSUs conduct litigation before administrative tribunals and courts, they more often provide support to litigation counsel by assisting the litigator and the client with a litigation case. As DLSU counsel have a depth of understanding and specialized knowledge of their clients' business, their priorities, desired outcomes, goals and challenges, they bring an important and necessary perspective to a litigation case. The DLSUs are also the conduit through which the legal services from the regions are made available to government departments and agencies. It is in this context that the DLSUs and regional offices often work together. Some regional key informants indicated that the way DLSU counsel see their role in a litigation case tends to vary, with some taking a more active role (e.g. wanting to be involved in the development of legal positions to be taken on matters for court and matters to be submitted to court) than others.

The results of the Legal Counsel Survey seem to indicate that there is room for improvement with regard to clarifying the respective roles and responsibilities of BRLP and regional counsel on shared files. More specifically, 20% of regional counsel indicated that the roles and responsibilities between their regional office and the Portfolio's DLSUs are not clear, and a further 36% indicated that roles and responsibilities are somewhat clear. DLSU counsel were of a similar view with 7% indicating that roles and responsibilities between their DLSU and the regional offices are not clear and a further 42% indicating that roles and responsibilities between DLSU and regional counsel are somewhat clear.

Although there appears to be some opportunities for clarifying the respective roles and responsibilities of DLSU and regional counsel, it is worth noting that only 10% of regional counsel indicated that the collaboration between the two is ineffective or very ineffective. This number was even smaller among DLSU respondents (2%). This suggests that despite a lack of clarity regarding respective roles and responsibilities, DLSU and regional counsel generally have an effective working relationship, which is consistent with the case study findings. Documentation

²⁰ Similarly, 96% of BRLP respondents to the 2011 PSES indicated that they had positive working relationships with their co-workers.

reviewed as part of the case studies where both regional and DLSU counsel were involved indicates that both parties generally work together on a file-specific basis to clarify their roles and responsibilities and to determine how they will coordinate the services that each provides to the client department. This is particularly the case when there are multiple client contacts who are located in both the NCR and in a region. For instance, counsel on one file produced a document setting out the principles for the working relationship and specified the division of tasks and responsibilities. In other instances, regional and DLSU counsel had put in place a less formalized process whereby they maintained an open line of communication through frequent and regular phone calls and email to discuss the file's progress and the division of tasks. Although the approach appears to vary somewhat from file to file, taken together, the survey and case study findings suggest that counsel generally seem to proactively delineate their respective roles and responsibilities through the development of a work plan, thereby leading to an effective and efficient working relationship. However, opportunities exist for this delineation to take place more consistently.

Commercial Law Section

The CLS was re-established in 2011 following the approval of proposals contained in the *Commercial Law Report* submitted to the Deputy Minister. The *Commercial Law Report* is the product of a series of consultations that were held in Ottawa and across all regions on the practice of commercial law within the Department. It identified the challenges faced by the Department in the practice of commercial law, including lack of leadership and fragmentation in the practice of commercial law, and counsel not knowing whom to consult to get support, information and Justice's position on commercial law issues. The Section is intended to address these shortcomings by: supporting the ADM BRLP in the functional coordination of commercial law issues across the Department (commercial, real property and IP/IT); providing guidance and assistance to legal counsel within the Department on commercial law questions and issues (commercial, real property and IP/IT); and building capacity by preparing tools, offering courses, circulating material and monitoring trends to assist commercial law practitioners. The CLS did not bill for its services during the five-year timeframe covered by the evaluation.

Requests from clients, that is, counsel practicing commercial law across the Department, are made by telephone and/or email directly to counsel or managers within the CLS. The opinions provided by the CLS take various forms, including oral advice or written advice (i.e. through e-mails or formal opinions). Opinions are written for DLSU counsel or reviewed for the DLSU, which normally maintains the carriage of the files being advised on by the Section. CLS legal opinions are accessible on Justipedia and, at the time of writing, 70 of these were posted on the Department's

precedent database. Internal documentation reviewed as part of the evaluation indicates that the Section's products are widely consulted by Justice employees²¹.

When asked about the effectiveness of their collaboration with the CLS, half of regional office and DLSU respondents did not know (20%) or indicated that this was not applicable to their work (31%). Given that commercial law is broad including contract, corporate, procurement, real property, and business law and is widely practiced across the Department, the low number of respondents who had collaborated with the Section is possibly indicative of a lack of understanding within the Portfolio with regard to what the Section does and/or how it can be used. It is worth noting however, that consulting with the Section is not mandatory, which likely limits counsel's knowledge of and experience with the CLS.

Despite the low number of survey respondents who appear to have collaborated with the Section, the level of demand for the Section's services does appear to be growing. Internal documentation indicates that requests to CLS have increased significantly over the evaluation period, from 45 in 2011 to 191 in 2014. Of the survey respondents who provided an assessment, three-quarters indicated that the collaboration between their work unit and the CLS is effective and 71% indicated that they find the assistance provided by the CLS' Real Property Law Secretariat and IP/IT Secretariat useful to their work²². Respondents who rated their collaboration with the CLS less favorably generally indicated that it had been difficult obtaining assistance from the Section, which they attributed to a lack of staff. An equal number of respondents also expressed a desire for more concise, practical and easy to understand advice and products to inform the advice they provide to the client.

The provision of guidance and assistance to legal counsel in the Department on commercial law issues and questions is but one aspect of the Section's mandate; it also produces tools, templates, case summaries and position papers that are widely accessible to all Justice counsel on Justipedia, JUSnet (the Department's intranet site) and Sharepoint. Each year, the Section pilots a new resource and, over the evaluation period, these have included an Update of Real Property Law Deskbook, a Guidance Document on Legal Issues Related to Transfer Payment Programs, and a Social Media Guide. The CLS has also developed, in Justipedia, a website resource for Justice practitioners seeking information about IP/IT and internet law called IP Net, which is a database

²¹ From 2011 to 2014, the Section's commercial law products had been consulted 1,308 times, its intellectual property products had been consulted 668 times and its real property products had been consulted 837 times.

²² 43% of survey respondents were not able to provide an assessment of the secretariat assistance provided by the Real Property Law and IP/IT Secretariats because either they didn't know or these are not applicable to their work.

of Justice opinions, precedents and links related to IP/IT and internet law. Additionally, CLS counsel co-chair (with DLSU counsel) a number of the Department's practice groups, including those on Commercial Law, Real Property Law, IP/IT and E-commerce, and maintain an inventory of specialists in commercial law across the Department to ensure that experienced counsel can easily be identified to assist colleagues. As mentioned previously, the CLS organizes commercial law training activities in collaboration with the Department's Professional Development Division, which have been well attended and well received by participants.

4.2.11. Level of collaboration with other areas of Justice

Specialized Sections

The BRLP's ability to provide high-quality legal services to its client departments and agencies depends on close cooperation not only between counsel within the Portfolio, but with other areas of the Department. Counsel coordinate and consult with specialized sections (e.g. Public Law Sector) within the Department in order to ensure consistency and accuracy in the advice provided across the federal government. Key informants reported that the key change that has improved access to and therefore collaboration with Justice's specialized sections on BRLP files is the elimination of fees charged by those sections. They further indicated that clients no longer refuse to seek guidance from those sections with developed expertise solely on budgetary grounds where the risk level and potential impact otherwise warrant engaging those services. The vast majority of interviewees who had worked with the Department's specialized sections reported being very satisfied with the support provided to them. Similarly, a strong majority (85% to 91%²³) of respondents to the Legal Counsel Survey indicated that collaboration with the specialized sections (i.e. Public Law Sector, Litigation Branch and Legislative Services Branch) of the Department are effective and that the roles and responsibilities are clear between their work unit and the specialized area. Key informants from the specialized sections who were interviewed also reported that the collaboration between their work unit and the BRLP is generally effective.

Aboriginal Affairs Portfolio

BRLP counsel also consult with other portfolios in the Department, including the Aboriginal Affairs Portfolio. The AAP provides expert legal services and legal policy advice to BRLP counsel in the DLSUs and the regional offices on a wide range of Aboriginal law issues, including Aboriginal rights and title, the Crown's duty to consult, and treaty rights. BRLP counsel obtain

²³ Results varied slightly for each specialized section.

expert advice from the AAP on a file-specific basis. These files tend to be more complex as they not only involve an Aboriginal component but also other legal issues in which the DLSU has expertise.

The evaluation found that counsel in the BRLP's DLSUs, in the Aboriginal Affairs and Northern Development Canada DLSU and in the Aboriginal Law Centre all provide Aboriginal law-related services, which contributes to a lack of clarity regarding the governance of Aboriginal law in the Department. Taken together, counsel reported that it can be difficult to see who is driving the file in light of these circumstances.

The results of the Legal Counsel Survey appear to indicate that there are opportunities to improve the collaboration and delineation of roles and responsibilities between BRLP and AAP counsel. Survey respondents rated the effectiveness of their collaboration with the AAP less favourably than for the specialized sections, with 67% indicating that the collaboration between their work unit and AAP is effective, and 63% indicating that the delineation of roles and responsibilities is clear or somewhat clear between their work unit and the AAP. The interview and survey findings suggest that there is a lack of structure and clearly defined processes regarding how AAP and BRLP counsel are to work together. Respondents expressed a desire for more clarity with respect to when they must seek advice from AAP, who to consult within AAP and how to engage AAP in order to ensure the successful and efficient involvement of the Portfolio on BRLP files. Internal documentation reviewed as part of the evaluation indicates that the Department is developing a unified approach to Aboriginal law services that will presumably serve to clarify relative accountabilities by consolidating such services for all government departments in the AAP.

4.2.12. BRLP's Work with the Public Prosecution Service of Canada

Regulatory prosecutorial services are provided to client departments and agencies by the Public Prosecution Service of Canada (PPSC). In terms of the PPSC's work with the BRLP, many of the prosecutions are of drug offences under the *Controlled Drugs and Substances Act* and the *Food and Drugs Act*. However, PPSC also prosecutes offences under non-drug legislation pertinent to the BRLP, including but not limited to: water pollution and over-fishing offences under the *Fisheries Act*, wildlife offences under statutes such as the *Migratory Birds Convention Act*, and copyright, labor code and bankruptcy offences.

Communication between BRLP and PPSC counsel generally occurs informally. PPSC counsel rely on BRLP counsel to provide expertise on their client department's legislation as they have a level

of familiarity with the statutes and regulations specific to their client department that prosecutors may not generally have. DLSU support in this regard is important for successful prosecutions. Likewise, PPSC counsel provide advice to BRLP DLSU counsel on criminal substantive law and procedure as they relate to investigations and prosecutions (e.g. evidentiary privileges and disclosure). Some PPSC key informants indicated that because client departments generally want to keep legal costs down and PPSC counsel bill government departments for their services to them, DLSU lawyers are at times reluctant to contact PPSC to ask for its advice. This means that potentially helpful legal advice may not be sought due to concerns about costs.

4.3. Performance – Demonstration of Efficiency and Economy

The Treasury Board's 2009 *Policy on Evaluation* defines efficiency as the production of "a greater level of output...with the same level of input or, a lower level of input with the same level of output", and economy as the achievement of expected outcomes using the minimum amount of resources required (Treasury Board of Canada Secretariat, 2009). Applying these definitions to the work of the BRLP, an analysis of its efficiency and economy considers the actions of the Portfolio to manage costs and demand for legal services.

In order to strengthen expenditure management, the government began a cycle of ongoing reviews of existing spending. In 2013-14, the focus of the review was on legal services. This review, hereafter referred to as 'Legal Services Review', was aimed at managing the demand for legal services in order to control the growth of spending in this area and ensure these services are fiscally sustainable. As part of Legal Services Review, the Portfolio has been actively engaged in identifying and implementing efficiency measures in the management and delivery of legal services to the government through the Department's Process Optimization²⁴ initiative. It is within this context that the Portfolio's economy and efficiency measures are discussed below.

4.3.1. Streamlining the Portfolio's Structure

During the evaluation period and as part of various expenditure management exercises (i.e. Strategic and Operating Review, Deficit Reduction Action Plan, Legal Services Review), the BRLP streamlined its organizational structure by merging DLSUs serving the same Minister in

²⁴ There are 14 Process Optimization measures for advisory and litigation files, including applying a project management approach to major files, increasing reliance on paralegals and monitoring files with more than two counsel.

order to increase efficiencies and achieve cost savings. As a result, the Portfolio now has 14 DLSUs, down from 19 in 2012-13²⁵. These mergers resulted in a reduction of six FTE positions and a savings of \$565,200.

4.3.2. Reduction in Full-time Equivalents

As indicated earlier in subsection 4.1 (Relevance) of this report, the overall volume of legal services provided by the Portfolio remained relatively constant over the period covered by the evaluation. However, the number of FTEs assigned to the Portfolio decreased during this time. As shown in Table 5 (below), the total number of FTEs assigned to the Portfolio decreased by 7%, from 846.8 FTEs at the end of 2010-11 to 785.4 FTEs in 2013-14. While all sub-components of the Portfolio have seen a reduction in their level of FTEs (except for the CLS which was re-established in 2011 and actively engaged in staffing processes over the evaluation period), the areas most affected have been the ADMO (reduction of 40% in FTEs), followed by the regional offices (reduction of 11%) and the DLSUs (reduction of 7%).

Table 5: Number of FTEs, 2010-11 to 2013-14

| | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
|--------------------|--------------|--------------|--------------|--------------|
| ADMO | 21.3 | 15.9 | 15 | 12.8 |
| CLS | 0.6 | 8.8 | 10.1 | 10.1 |
| DLSUs | 465 | 461.2 | 454.7 | 443.5 |
| <i>Subtotal HQ</i> | <i>486.9</i> | <i>485.9</i> | <i>479.8</i> | <i>466.4</i> |
| Regions | 359.9 | 356.6 | 326.3 | 319 |
| Total | 846.8 | 842.5 | 781 | 785.4 |

Source: BRLP FTE Reports

It is worth noting that just over half (52%) of BRLP respondents to the PSES indicated that the quality of work suffers because of having to do the same or more work with fewer resources. Similarly, less staff was frequently cited by respondents to the Legal Counsel Survey as a factor constraining their ability to provide high-quality legal services. Nevertheless, interview findings and internal documentation reviewed as part of the evaluation indicate that ongoing priority-setting

²⁵ As part of the Deficit Reduction Action Plan, the LSUs from Parks Canada, the Canadian Environmental Assessment Agency and Environment Canada were merged into one. Additionally, the Canadian Space Agency LSU was merged with Industry Canada, the National Research Council LSU merged with Industry Canada Legal Services, and Canadian Food Inspection Agency Legal Services merged with the Agriculture and Agri-Food Canada Legal Services. The Departmental legal services units at the former Canadian International Development Agency and the Department of Foreign Affairs and International Trade merged into one DLSU for the new amalgamated DFATD as part of Legal Services Review.

exercises are occurring, with DLSUs regularly prioritizing their files, in consultation with the client, in order to target their resources to areas of highest priority. It is anticipated that this prioritization process, along with reductions in service in lower priority areas where legal issues are not involved or legal expertise is not needed, will help mitigate the resource reductions.

4.3.3. Containment of Expenditures

The evaluation found that the Portfolio contained its costs over the evaluation period. From 2010-11 to 2013-14, the BRLP's expenditures decreased by 2% (from \$122,187,450 in 2009-10 to \$119,764,986 in 2013-14). This decrease was due to operations and maintenance (down 44%). As shown in Table 6 (below), salary expenditures rose slightly in 2013-14 as compared to 2010-11 even though the number of FTEs decreased during this time period. The increase in salary costs in 2013-14 was due to a new collective agreement which resulted in a series of pay increases for law practitioners. These were paid in 2013-14 and were retroactive to 2011.

Table 6: Year-over-Year Expenditures 2010-11 to 2013-14

| | 2010-2011 | 2011-2012 | 2012-2013 | 2013-2014 |
|-----------------------------|--------------------|--------------------|--------------------|--------------------|
| Salary | 98,754,208 | 95,200,783 | 94,816,965 | 98,860,413 |
| O&M | 6,645,027 | 6,387,368 | 4,714,832 | 3,702,862 |
| Total annual expenditures | 105,399,235 | 101,588,151 | 99,531,797 | 103,104,900 |
| Employee Benefit Plan (EBP) | 16,788,215 | 17,136,141 | 16,687,786 | 17,201,712 |
| Total, including EBP | 122,187,450 | 118,724,292 | 116,219,583 | 119,764,986 |

Source: *Year-end Financial Situation Reports*

4.3.4. Managing Demand

Legal Services Review comprises a number of measures, including 'managing demand', which has been a focus within the Portfolio²⁶. Internal documentation indicates that, in order to manage demand, the Portfolio's DLSUs have been actively involved in screening and prioritizing client requests for legal services, most notably by: developing templates and self-service tools for standard low-risk, low-complexity legal documents (e.g. standard MOUs, grants and contribution agreements) so that clients can assume responsibility for these; establishing one point of contact for new incoming legal requests whereby managers assign counsel for all requests for legal

²⁶ The other Legal Services Review measures include: a unified approach to Aboriginal law services delivery; e-discovery; organizational consolidation; establishing workforce ratios; reducing footprint; increasing time spent on the delivery of legal services; and going further with Process Optimization.

advisory or litigation services, and low complexity matters are screened out by referring the client to an existing template or legal opinion; and meeting with the client to establish priorities. The evaluation also found that counsel make use of relevant past opinions; consult with specialized sections that have an existing network of legal experts and a foundation of legal opinions that can be drawn upon to support their litigation and advisory work; and requests for legal services are triaged in order to assign the right resource mix and ensure efficient and effective use of available resources. This finding is supported by the results of the Legal Counsel Survey in which a strong majority of respondents indicated that most files are assigned to the appropriate level (86%) and number (82%) of counsel given their legal risk and complexity level.

Internal documentation and interview findings indicate that the Portfolio is also taking other measures to maximize results while minimizing the use of resources, such as reducing the number of lawyers on files involving more than two clients, monitoring files exceeding 75 hours, and applying a project management approach to advisory files. However, these initiatives appeared to be at an earlier stage of implementation.

Due to an emphasis on federal fiscal restraint over the evaluation period (e.g. Deficit Reduction Action Plan) and because cost containment with regard to the provision of legal services is a shared responsibility with client departments and agencies, many clients have also taken steps to reduce their demand for legal services. These include: prioritizing their requests for legal services and formalizing the process for making these (e.g. by having senior-level managers review the nature of requests to ensure they are a priority), as well as assuming responsibility for low-risk, low-priority work that does require legal advisory support. Although seemingly more rare, the evaluation also found documented evidence on file during one of the case studies that a client department involved in a significant amount of litigation activity had put in place a ‘Litigation Case Manager’: one of its own employees whose general responsibility was to coordinate large litigation files by maintaining a centralized task list, distributing pertinent updates and information, tracking the file’s progress, organizing weekly meetings between the client, the litigator and DLSU counsel, and coordinating the document production for trial.

On some of the case study files, there was documented evidence of counsel encouraging their clients to have a well-organized file with complete information before sending it to Justice. There were also examples of counsel declining participation in meetings or on committees where no legal issues were involved. However, there was an equivalent amount of documented evidence on file of counsel doing non-legal work for which the client would have otherwise been responsible due to urgency, lack of staff or counsel’s depth of corporate knowledge. Such tasks included front-end information gathering, policy development, project coordination on the program side of a legal file

and routine property administrative work. Internal documentation reviewed indicates that with Process Optimization, BRLP managers are meeting with clients to discuss the role of counsel and are making efforts to ensure that counsel are not undertaking tasks that could or should otherwise be done by clients.

4.3.5. Use of Paralegals

The delegation of suitable tasks to non-lawyers allows counsel to focus on work that requires their skills and reduces the cost of legal services. The evaluation found that there is a lack of paralegal support in the Portfolio. More than half of survey respondents (54%) indicated that needed paralegal support was available on less than 50% of their files. It is worth noting that the lack of paralegal support is more pronounced in the DLSUs²⁷. Similarly, lack of paralegal support was one of the factors frequently cited by respondents to the Legal Counsel Survey as constraining the Portfolio's ability to provide high-quality legal services. Together, these findings suggest that there are opportunities to increase the level of paralegal support that is available to counsel in the Portfolio.

Counsel who had used paralegals during the two years preceding the survey indicated that the support they had provided most often was in the area of document production, followed by legal research and redaction of documents for privileges. Internal documentation reviewed as part of the evaluation indicates that the Portfolio is making an effort to increase its reliance on paralegals by assigning tasks to them such as drafting memoranda, pleadings, motions as well as research and opinion work, which were previously assigned to counsel. Additionally, the Department more generally is taking steps to increase the level of paralegal support available to counsel by creating a central pool of paralegals, which will primarily serve those DLSUs (including those in the BRLP) that currently do not have sufficient access to paralegals. However, it is too early to say what effect the latter will have on the level of paralegal support available to the Portfolio.

As not all paralegals were required to time keep in iCase during the period covered by the evaluation, accurate quantitative data on the level of effort of paralegals on advisory and litigation files was not available for the evaluation.

²⁷ 61% of DLSU counsel indicated that needed paralegal support was available on less than 50% of their files, while only 33% of regional counsel indicated the same.

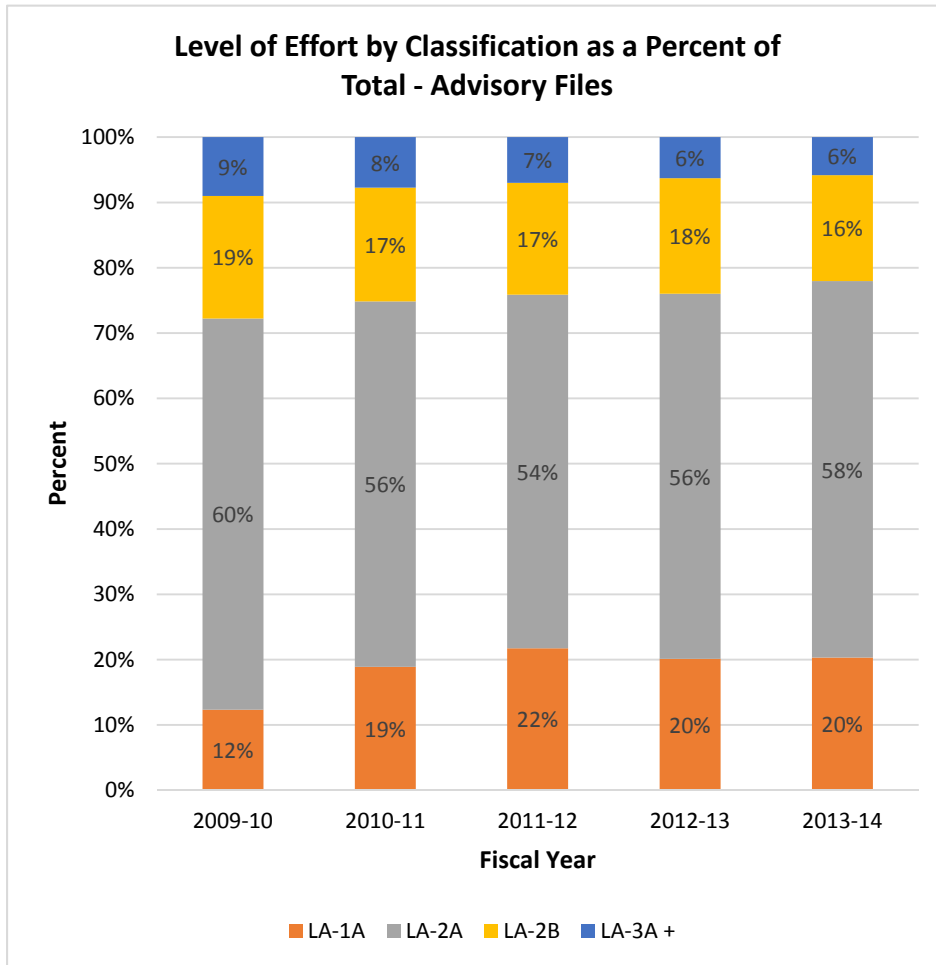
4.3.6. Law Practice Model

During the evaluation period, the Department instituted the Law Practice Model (LPM), whereby low-risk, low-complexity work is to be assigned to more junior counsel as a method to achieve cost savings. The LPM was adopted in 2009 and was to be fully implemented by 2012. Under this initiative, the Department increased its recruitment of junior counsel as more senior counsel retired.

Due to the LPM, the mix of legal counsel assigned to advisory files evolved over the period covered by the evaluation. As shown in Figure 8 (below), there was a reduction in the proportion of hours of work recorded by counsel at the LA-3A²⁸ level on advisory files and a corresponding increase in the proportion of work recorded by junior counsel at the LA-1A level. The proportion of work recorded by junior counsel at the LA-1A level was not as significant in 2012-13 and 2013-14, after the LPM was fully implemented and LA-1s were being promoted.

²⁸ Treasury Board approved a new classification for legal counsel (Law Practitioner or LP), which became effective January 6, 2014. As a result, the classification applicable to the period covered by the evaluation was LA and is therefore used in this report.

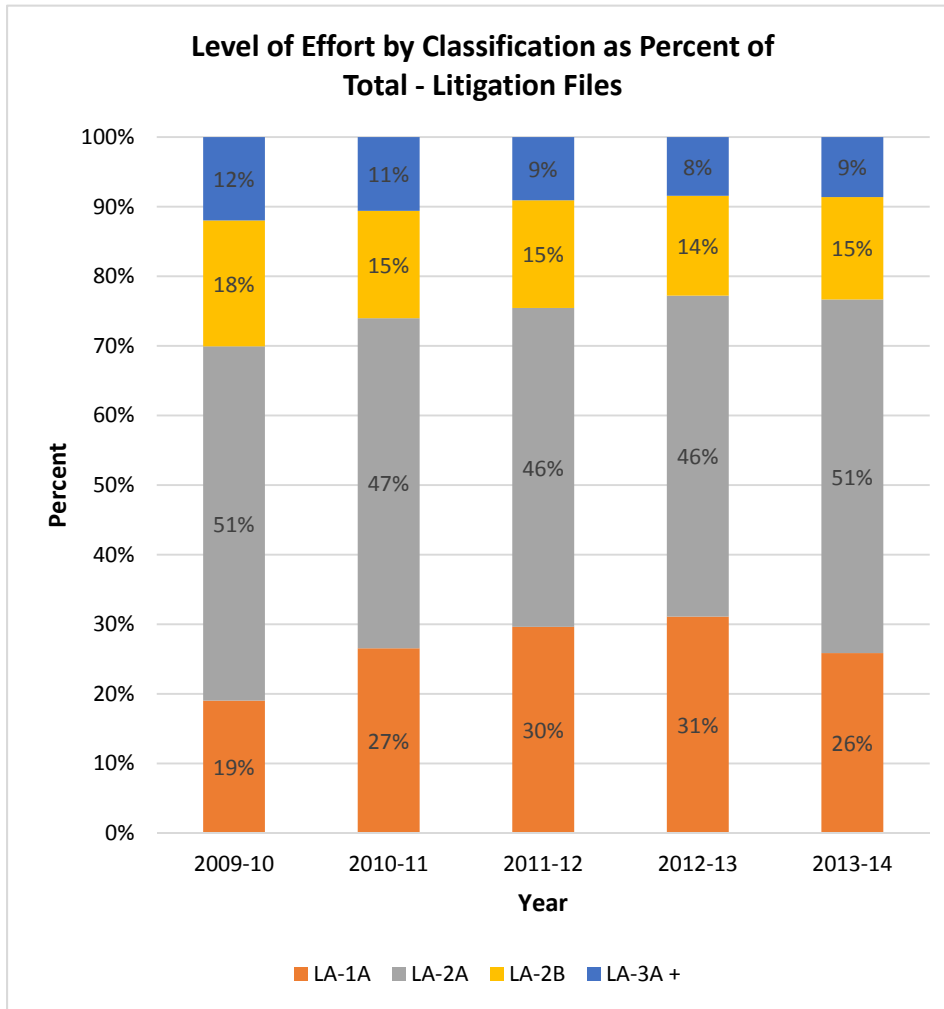
Figure 8: Level of Effort by Classification as a Percent of Total - Advisory Files



As for the proportion of work assigned to junior versus more senior legal counsel, the trend observed for advisory files also applies to litigation files. As shown in Figure 9 (below), the level of effort of junior counsel at the LA-1A level increased while the level of effort of senior counsel at the LA-3A level decreased.

It is worth noting that, although the LPM has resulted in more work being assigned to junior counsel, some respondents to the Legal Counsel Survey indicated that it has also led to a lack of promotional opportunities for junior lawyers, thereby negatively impacting morale among this group.

Figure 9: Level of Effort by Classification as Percent of Total - Litigation Files



The hours spent on legal work by junior counsel have not only increased over the evaluation period, but so too have the hours spent on legal work per FTE, according to iCase data. Although perhaps partly a function of more accurate timekeeping practices (i.e. counsel recording more of their time), iCase data indicates that 1,360 hours were spent on legal work per FTE in 2010-11, which increased to 1,400 hours in 2013-14.

5. CONCLUSIONS, RECOMMENDATIONS AND MANAGEMENT RESPONSE

This section of the report presents conclusions based on the findings outlined in the previous sections. The information is structured along the main evaluation issues.

5.1. Relevance

There continues to be a need for the BRLP's legal services which are aligned with federal government priorities and roles and responsibilities, and the strategic outcomes of the Department of Justice.

The Portfolio's activities are inherently aligned with federal government priorities in that BRLP counsel respond to legal services requests related to the existing and emerging priorities of client departments and agencies, which in turn respond to the priorities and policy directions of the federal government. Under the *Department of Justice Act*, the Minister of Justice and Attorney General is responsible for providing legal services to federal government's departments and agencies, and the Treasury Board of Canada's *Common Services Policy* identifies Justice Canada as the mandatory provider of legal services for federal departments and agencies. The BRLP supports the Department of Justice in meeting its strategic outcome of 'a federal government that is supported by high-quality legal services' by providing legal advisory, litigation and legislative services to federal departments and agencies. The Portfolio's positive client feedback suggests that its services are of high quality.

5.2. Performance

Overall, the evaluation found that the Portfolio delivers high-quality legal services that are timely, responsive and useful. Additionally, counsel are generally very conscious of the need to 'speak with one voice' and consult widely in order to provide consistent legal advice. However, the provision of regular and informative progress reports was identified as an area for improvement as clients who are not in regular contact with counsel (e.g. through recurrent meetings) generally

mentioned having to seek updates on their requests for legal services. Notwithstanding this limitation, the evaluation findings indicate that clients are generally very satisfied with the legal services they have received from the BRLP.

Recommendation 1:

That the Business and Regulatory Law Portfolio determine if there are ways of improving the provision of regular and informative progress reports in order to better meet the needs of its clients in this regard.

Management Response:

Agreed.

BRLP is committed to delivering high quality legal services to its clients and will ensure adherence of service standards as stated in the Annex A of the Memorandum of Understanding (MOU) with client departments and agencies.

Although counsel perceive themselves as delivering high-quality legal services that meet departmental standards, they identified several factors that constrain their ability to do so, including: an increased volume of administrative related work (e.g. opening and closing files, legal risk management requirements in iCase, timekeeping, reporting and filing), a lack of administrative and paralegal support, and less staff to do the work.

As the largest and most decentralized of the Department's portfolios, information exchange and communication across the BRLP is a vital aspect of operations. The sharing of secret information between different areas of the Portfolio and the lack of a fluid IT interface between Justice Headquarters and the DLSUs were frequently identified as challenges in terms of information sharing within the Portfolio, though these are larger departmental issues that are not limited to the BRLP.

Whereas the evaluation found that collaboration with the specialized sections of Justice generally seems to be occurring successfully, collaboration with the AAP does not appear to be quite as effective, which respondents attributed to the lack of standardized practices with respect to how BRLP and AAP counsel are to work together (e.g. when BRLP counsel must seek advice from AAP, who to consult within AAP and how to engage AAP). There also appears to be a lack of clarity around the respective roles of DLSU and regional counsel when they work together on a

litigation file and, although they tend to proactively delineate their respective roles and responsibilities, opportunities exist for this delineation to take place more systematically.

Recommendation 2:

That the Business and Regulatory Law Portfolio apply project management principles to clarify, at the outset of all litigation files, the roles and responsibilities of each team member.

Management Response:

Agreed.

It is important that respective roles and responsibilities are clearly delineated to ensure that legal service delivery is effective and efficient.

Half of regional and DLSU counsel who were surveyed as part of the evaluation were unable to rate the effectiveness of their collaboration with the CLS. Despite the low number of survey respondents who appear to have collaborated with the Section, internal documentation indicates that the level of demand for the Section's services has been growing since it was re-established in 2009. Three-quarters of the survey respondents who provided an assessment indicated that the collaboration between their work unit and the CLS is effective. Respondents who rated their collaboration with the CLS less favorably generally indicated that it had been difficult obtaining assistance from the Section, which they attributed to a lack of staff. An equal number of respondents also expressed a desire for more concise, practical and easy to understand advice and products from the Section to inform the advice they provide to the client.

The DLSUs and the regional offices are expected to coordinate and manage significant legal issues (e.g. high impact files, files involving multiple clients) with assistance from the ADMO, as needed. Although there are no formal structures in place for managing files of this kind, BRLP managers provided positive feedback regarding the ADMO's involvement in this regard.

Case study findings also indicate that legal working groups consisting of the various counsel involved in multi-departmental files have been put in place. These working groups are nimble and flexible in that the distribution of roles and responsibilities that occurs in them shift as files evolve. The delineation of roles and responsibilities tends to depend on the implication of the various client departments and the workload of counsel. Counsel are able to obtain information on varying facets of the file through their participation on the legal working group, thereby enabling them to better

advise their clients based on a larger context. However, the evaluation also found some redundancies with this approach (e.g. multiple counsel review written advice and products).

Economy and Efficiency

The Department's change management initiatives such as Legal Services Review and Process Optimization are contributing greatly to a culture of economy and efficiency within the Portfolio. Through these initiatives, the BRLP has been actively engaged in implementing measures such as 'Managing Demand' that are aimed at maximizing the achievement of results, while minimizing the use of resources. In order to manage demand, the Portfolio's DLSUs have been actively involved in screening and prioritizing client requests for legal services, most notably by developing templates for standard legal documents, meeting with the client to establish priorities, and raising awareness of Process Optimization. There was documented evidence of counsel declining their involvement in non-legal work (e.g. participating in meetings and on committees and reviewing documents where legal issues were not involved). However, on some of the case study files reviewed, there were instances where clients were relying on counsel to do non-legal work for which they would otherwise be responsible, such as front-end information gathering, policy development, and project coordination on the program side of a legal file.

Through Legal Services Review, the Portfolio has streamlined its organizational structure, decreased the number of FTEs in the Portfolio, and contained its salary and operations and management expenditures over the evaluation period. However, the evaluation found that there are opportunities for improvement regarding the level of paralegal support available to BRLP counsel, particularly in the DLSUs. Although the Department more generally is taking steps to increase the level of paralegal support available to counsel by creating a central pool of paralegals, it is too early to say what effect this initiative will have on the level of paralegal support available within the Portfolio.

Recommendation 3:

That the Business and Regulatory Law Portfolio monitor the impact of the new paralegal pool with a view to ensuring that DLSU counsel have sufficient access to needed paralegal support.

Agreed.

We agree that there is a need to monitor the use of and need for paralegal services in DLSUs. This includes but is not restricted to the reliance on the paralegal pool whose mandate is to provide services when there is a temporary surge of work.

Appendix A
Evaluation Matrix

| Issues/Questions | Indicators | Data Sources | Timing of Data Collection | Responsibility for Data Collection |
|---|---|--|---------------------------|------------------------------------|
| Relevance: TB core issues 1-3 | | | | |
| 1. Is there a continued need for BRLP legal services? TB core issue 1 | <ul style="list-style-type: none"> • Trends in demand for BRLP services <ul style="list-style-type: none"> ○ Number of active files by fiscal year and type of service (litigation, advisory, other) ○ Total hours of legal services by fiscal year and type of service (litigation, advisory, other) • Legal practice trends (type of legal issues by fiscal year) • Trends in file complexity and risk level by fiscal year and type of service (litigation, advisory, other) | <ul style="list-style-type: none"> • Document review (e.g., iCase, environmental scan of practice trends) | Ongoing | BRLP |
| | <ul style="list-style-type: none"> • Legislative and policy requirements • Evolving legal needs in the area of commercial and regulatory law | <ul style="list-style-type: none"> • Document review (e.g., legislation and policy documents) | Evaluation | Evaluation Division |
| | <ul style="list-style-type: none"> • Assessment of continued need for BRLP services in all current areas of practice | <ul style="list-style-type: none"> • Key informant interviews | Evaluation | Evaluation Division |
| 2. Does the delivery of legal services by the BRLP continue to respond to federal government priorities? TB core issue 2 | <ul style="list-style-type: none"> • Alignment of the BRLP mandate and activities with federal priorities/policy commitments • Assessment of how the BRLP contributes to the priorities and objectives of the federal government | <ul style="list-style-type: none"> • Document review (documentation describing the BRLP mandate/activities at the Portfolio, DLSU and regional office level, and federal priorities in the area of commercial and regulatory law) • Key informant interviews | Evaluation | Evaluation Division |
| 3. Is the provision of legal services by the Portfolio consistent with the <i>Department of Justice Act</i> and the departmental mandate? TB core issues 2 and 3 | <ul style="list-style-type: none"> • Assessment of extent to which BRLP legal services are consistent with the <i>Department of Justice Act</i> and the departmental mandate | <ul style="list-style-type: none"> • Document review (legislation and policy documents) | Evaluation | Evaluation Division |

| Issues/Questions | Indicators | Data Sources | Timing of Data Collection | Responsibility for Data Collection |
|---|--|--|---------------------------|------------------------------------|
| Performance of the BRLP (effectiveness): TB core issue 4 | | | | |
| Immediate Outcomes | | | | |
| 4. Does the Portfolio provide timely, responsive and useful litigation and advisory services? | <ul style="list-style-type: none"> • Compliance with service standards • Assessments by the BRLP and client departments and agencies of litigation and advisory services in terms of: <ul style="list-style-type: none"> ○ clarity ○ timeliness ○ meeting deadlines ○ understanding nature of problem ○ providing updates/progress reports ○ involving the client in development of legal strategies and positions ○ developing legal strategies appropriate to client policy and/or program objectives ○ overall quality | <ul style="list-style-type: none"> • Document review (Client Feedback Survey) • Key informant interviews (including clients) • Legal Counsel Survey • File review • Case studies • Focus groups | Ongoing | BRLP |
| 5. Are legal risks identified and assessed in a timely and consistent manner? | <ul style="list-style-type: none"> • Use of processes, tools and standards for assessing legal risk, including protocols for reviewing legal risk assessments • Assessment by the BRLP and client departments and agencies of litigation and advisory services in terms of: <ul style="list-style-type: none"> ○ effectively working with the client to identify and manage legal risks • Number and percentage of files “unable to assess” and length of time before assessment entered • Average number of risk assessments/reassessments per file • Consistency of language used in assessing and communicating legal risk • Consistency of risk ratings • Timeliness of assessments/reviews/reassessments of legal risk • Use of consultations to discuss and assess legal risks | <ul style="list-style-type: none"> • Document review (Client Feedback Survey) • Key informant interviews • Legal Counsel Survey • File review • Case studies • Document review (iCase reports) • File review • Case studies (through file review) • Key informant interviews • Legal Counsel Survey • File review • Case studies • Focus groups | Ongoing | BRLP |

| Issues/Questions | Indicators | Data Sources | Timing of Data Collection | Responsibility for Data Collection |
|---|---|--|---------------------------|------------------------------------|
| 6. Has the Portfolio contributed to the enhanced understanding of legal issues, their implications, and potential risks by client departments and agencies? | <ul style="list-style-type: none"> • Level of BRLP involvement in training of appropriate client officials on legal issues and risks • MOUs outline roles and responsibilities related to legal risk • Communication of legal risk management strategies and mitigation measures to client departments and agencies • Nature and extent of BRLP involvement on client risk committees • Assessment of the BRLP contribution to improved understanding of legal issues and legal risks by client departments and agencies | <ul style="list-style-type: none"> • Document review • Key informant interviews • Legal Counsel Survey • File review • Case studies • Focus groups | Evaluation | Evaluation Division |
| 7. Do counsel and client departments and agencies have the appropriate training? | <ul style="list-style-type: none"> • Nature and frequency of training for counsel • Number of counsel and support staff trained • Nature and frequency of training for client departments and agencies • Number of client staff trained • Satisfaction with training (feedback forms on training sessions offered by BRLP) | <ul style="list-style-type: none"> • Document review (reports on training activities) | Ongoing | BRLP |
| 8. Do counsel have access to the appropriate expertise, tools, structures, and resources to support delivery of legal services to BRLP client departments and agencies? | <ul style="list-style-type: none"> • Nature and type of tools and structures <ul style="list-style-type: none"> ○ Best practices ○ Practice directives ○ Practice groups/working groups ○ Commercial law directives ○ Teams ○ Mentoring ○ File assignment processes ○ Orientation binders ○ Quality control frameworks | <ul style="list-style-type: none"> • Document review • Key informant interviews • Legal Counsel Survey • File review • Case studies | Evaluation | Evaluation Division |

| Issues/Questions | Indicators | Data Sources | Timing of Data Collection | Responsibility for Data Collection |
|--|--|---|---------------------------|------------------------------------|
| | <ul style="list-style-type: none"> ○ Committees (including the Commercial Law Coordinating Committee, as well as committees at DLSUs, regional offices) ○ Secretariat assistance (Real Property Law Secretariat and IP/IT Law Secretariat) ○ Inventory of legal counsel ○ Justipedia ● Use of tools and structures ● Satisfaction with tools, structures and resources | | | |
| | <ul style="list-style-type: none"> ● Level and sufficiency of resources (human, financial, information, technological) to support BRLP work | <ul style="list-style-type: none"> ● Document review | Ongoing | BRLP |
| | | <ul style="list-style-type: none"> ● Key informant interviews ● Legal Counsel Survey | Evaluation | Evaluation Division |
| 9. Does the BRLP coordinate and manage significant legal issues? | <ul style="list-style-type: none"> ● Analysis of trends (legal issues, legal risks) ● Level and effectiveness of intra-Portfolio coordination ● Structures at DLSUs and regional offices to coordinate and manage significant legal issues ● Assessment of the Portfolio’s ability to make strategic decisions regarding legal issues and strategies | <ul style="list-style-type: none"> ● Document review | Ongoing | BRLP |
| | | <ul style="list-style-type: none"> ● Key informant interviews ● Legal Counsel Survey ● Case studies ● Focus groups | Evaluation | Evaluation Division |
| 10. Do BRLP legal services support a whole-of-government approach? | <ul style="list-style-type: none"> ● Existence of structures to ensure consistency (e.g., litigation committees, meetings with senior managers, practice groups, knowledge management system, templates, protocols) ● Counsel consultation with specialized sections within Justice, where appropriate ● Level and effectiveness of inter-portfolio coordination ● Privy Council Office involvement in files, when appropriate ● Assessment that an integrated, whole-of-government approach is used in the provision of legal services | <ul style="list-style-type: none"> ● Document review ● Key informant interviews ● Legal Counsel Survey ● Case studies ● Focus groups | Evaluation | Evaluation Division |

| Issues/Questions | Indicators | Data Sources | Timing of Data Collection | Responsibility for Data Collection |
|--|---|--|---------------------------|------------------------------------|
| Intermediate Outcomes | | | | |
| 11. Is government decision making informed by advisory services? | <ul style="list-style-type: none"> • Active participation of the Portfolio in client committees and management structures • Consideration of BRLP legal advice by decision makers in program and policy development (e.g., Department’s perspective in Memorandum to Cabinet development) • BRLP and client assessment of legal advice in terms of involving the client in development of legal strategy and positions | <ul style="list-style-type: none"> • Document review (Client Feedback Survey, TOR, and membership on committees) • Key informant interviews • Legal Counsel Survey • File review • Case studies • Focus groups | Ongoing | BRLP |
| 12. Do BRLP advisory services support the implementation of government decisions? | <ul style="list-style-type: none"> • BRLP role in developing legal strategies appropriate to implementing client policy and/or program objectives • Assessment of the effectiveness of advisory services in supporting the implementation of government decisions | <ul style="list-style-type: none"> • Legal Counsel Survey • File review • Case studies • Focus groups | | Evaluation Division |
| 13. Are legal risks managed and mitigated effectively in partnership with the client departments and agencies? | <ul style="list-style-type: none"> • Consideration of legal risks in the development and implementation of client policies, programs and litigation strategies • High risk files are resourced and communicated appropriately (e.g., early warning reports, level of senior involvement) • Assessment of the effectiveness of management and mitigation strategies | <ul style="list-style-type: none"> • Document review (Client Feedback Survey, iCase) • Key informant interviews • Legal Counsel Survey • File review • Case studies • Focus groups | Evaluation | Evaluation Division |
| 14. Does the BRLP effectively advocate the government’s position? | <ul style="list-style-type: none"> • Successful outcome of files | <ul style="list-style-type: none"> • Document review (iCase) | Ongoing | BRLP |
| | <ul style="list-style-type: none"> • Assessment of the effectiveness in advocating the government’s position (settling when appropriate, taking cases to court to advance the state of the law) | <ul style="list-style-type: none"> • Key informant interviews • Legal Counsel Survey • File review • Case studies • Focus groups | Evaluation | Evaluation Division |

| Issues/Questions | Indicators | Data Sources | Timing of Data Collection | Responsibility for Data Collection |
|--|---|--|---------------------------|------------------------------------|
| Ultimate Outcome | | | | |
| 15. To what extent does the BRLP contribute to a federal government that is supported by high-quality legal services? | <ul style="list-style-type: none"> • Contribution of the BRLP to provision of effective, responsive legal services | Not through direct questions but by answers to all above questions. <ul style="list-style-type: none"> • Document review • Key informant interviews • Legal Counsel Survey • File review • Case studies • Focus groups | Evaluation | Evaluation Division |
| Performance of the BRLP (efficiency, economy): TB core issue 5 | | | | |
| 16. Is the BRLP facing any challenges in terms of available funding, organizational structure/staffing, or internal support (training, technological, research) that are affecting its ability to achieve its expected outcomes? | <ul style="list-style-type: none"> • Forecasted resource needs compared to available resources • Identified resource challenges • Assessment of the effectiveness of the BRLP organizational structure | <ul style="list-style-type: none"> • Document review • Key informant interviews • Legal Counsel Survey • Case studies • Focus groups | Ongoing Evaluation | BRLP Evaluation Division |
| 17. Could the work of the BRLP be undertaken/ conducted more efficiently and economically? | <ul style="list-style-type: none"> • Resources allocated in line with Portfolio Business Plan and Service Agreement with the client departments and agencies • Measures in place to manage efficiency and cost of legal services and their effectiveness (e.g., Law Practice Model; practice groups; use of standardized processes, practices, and templates; approach to assigning work and determining when to outsource; information management tools such as iCase, Justipedia) | <ul style="list-style-type: none"> • Document review | Ongoing | BRLP |

| Issues/Questions | Indicators | Data Sources | Timing of Data Collection | Responsibility for Data Collection |
|--|---|--|---------------------------|------------------------------------|
| | <ul style="list-style-type: none"> • Assessment of the Portfolio’s ability to meet demand for legal services in terms of: <ul style="list-style-type: none"> ○ Human resources ○ Financial resources | | | |
| | <p>Advisory and litigation:</p> <ul style="list-style-type: none"> • Assignment of counsel to files based on complexity and level of risk • Use of paralegals • Use of agents • Assessment of whether BRLP legal services are conducted in a cost-effective manner • Suggestions for improvements in efficiency, including alternative delivery approaches <p>Litigation:</p> <ul style="list-style-type: none"> • Number and percentage of files settled/closed without going to court • Use and effectiveness of strategies to promote timely, cost-effective resolution <ul style="list-style-type: none"> ○ Early resolution strategies ○ Alternative dispute resolution practices, where appropriate | <ul style="list-style-type: none"> • Document review (including iCase) • Literature review • Key informant interviews • Legal Counsel Survey • Case studies • Focus groups | Evaluation | Evaluation Division |
| 18. What is the role of the client departments and agencies in the efficiency and economy of legal services? | <ul style="list-style-type: none"> • Role and responsibility of the client departments and agencies in managing demand for legal services • Involvement of representatives of the client departments and agencies in BRLP practice groups and committees • Assessment of the clients’ effectiveness in managing their demand for legal services • Timely involvement of the BRLP by the client departments and agencies • Clarity of the legal requests made by client departments and agencies | <ul style="list-style-type: none"> • Document review • Key informant interviews • Legal Counsel Survey • Case studies • Focus groups | Evaluation | Evaluation Division |

Appendix B
Logic Model

BRLP Logic Model

1. Activities and Outputs

The BRLP conducts numerous activities that can be grouped into three main areas:

- advisory services, which include legal advice, direction and legal advice on policy development, and legislative and regulatory drafting support;
- litigation and litigation support services, which involve legal representation for disputes that are before the courts;
- management and support of law practice, which provides functional guidance and direction to the Portfolio, as well as guidance to the Department on commercial law to ensure consistency of approach across the country and across government.

Each of these areas of activity is described below.

Advisory services

Advisory services include the provision of legal opinions and advice on legal issues, litigation matters, potentially litigious issues, and possible policy or legislative solutions. Besides providing legal opinions and advice on various legal issues related to the programs of the client, Portfolio counsel provide advice in areas related to corporate matters. BRLP counsel also provide direction and legal advice on policy development, as well as assistance with drafting instructions for legislation and regulations. In addition, counsel offer advisory services that are typical of a commercial practice, such as drafting contracts. In providing legal advisory services, BRLP works closely with client departments and agencies to ensure strong functional ties and a good understanding of the client's business lines and operational environment. This is accomplished, in part, through serving on various client committees and in being incorporated into their management structures.

Litigation and litigation support services

The litigation services of the BRLP are provided by Justice litigators, who generally work in the regional offices or at the Litigation Branch at headquarters. While some DLSUs conduct litigation before administrative tribunals and courts, they more often provide support to litigation counsel

by assisting the litigator and the client with a litigation case. Litigation support services range from participating in the litigation team to providing legal advice.

In providing litigation services, counsel develop strategies that include recommending appropriate dispute resolution opportunities to try to settle a matter prior to a final court decision, as well as proceeding to litigate the matter before a court. Strategies are formulated with input from the litigators, DLSU counsel and client departments and agencies. The BRLP works with its client departments and agencies to manage the volume of litigation through early settlement, national issue coordination, and legal risk management.

Management and support of law practice

This activity is intended to capture the decentralized structure of the Portfolio, where the ADMO, the DLSUs and regional offices play a role in the management and support of law practice. The ADMO provides a coordinating function by managing the financial and human resources of the Portfolio; sharing best practices/lessons learned; supporting training opportunities, including language training, for counsel and other staff; and facilitating inter- and intra-portfolio coordination. The CLS in the ADMO provides functional coordination across the Department by offering guidance and assistance to legal counsel within Justice on commercial and regulatory law.

The DLSUs and the business law and regulatory law sections in the regional offices provide strategic advice and coordination of the practice of business and regulatory law, and conduct the strategic monitoring of high impact files. While the ADMO supports or facilitates inter- and intra-portfolio coordination, the DLSUs and the business law and regulatory law sections in the regional offices are the units directly involved in coordinating the legal services. They coordinate and consult with specialized sections within the Department, other portfolios within Justice and other federal departments and agencies, as appropriate, in order to ensure consistency and accuracy in the advice provided across the federal government. They are responsible for any briefing and reports on high profile files or their legal services more generally. In addition to this management and coordination role, the DLSUs and the business law and regulatory law sections in the regional offices provide tools, courses and material to assist law practitioners and client departments and agencies. They share lessons learned, best practices and work products (e.g., legal opinions) to help improve the law practice of the Portfolio.

The activity area of management and support of law practice has its own outcomes, in addition to supporting the achievement of outcomes in the other two activity areas of advisory services and litigation and litigation support services.

2. Immediate Outcomes

Timely, responsive and useful advisory services

The BRLP will ensure timely, clear and responsive legal services by complying with Justice service standards in the MOU with each of its client departments and agencies. These service standards will include responding in a timely manner to client requests for legal services; meeting mutually agreed-upon deadlines; providing regular progress reports; and providing clear and practical guidance, including the provision of legal options for the prevention, containment or early resolution of contentious issues. Although the client's priorities and objectives will be considered, the litigation strategies and legal advice are also expected to be guided by the rule of law and the Department's responsibilities under the *Department of Justice Act*.

Legal risks are identified and assessed in a timely and consistent manner

The Portfolio is expected to consider legal risks in the course of providing forward-looking legal advice and assisting the client department and agency to respond proactively and to prevent, mitigate or manage the legal risk. Counsel will assess the legal risk for all litigation and advisory files, as appropriate. The processes for assessing legal risks ensure that the level of risk is accurately determined and communicated to the client in a consistent and timely manner.

Enhanced understanding of legal issues, their implications, and potential risks by client departments and agencies

The BRLP is expected to communicate potential legal risks, their implications, and available legal options to its client departments and agencies, which will provide them with the information, advice and support they need to make informed decisions about how to manage legal risk and to achieve their client departments' or agencies' objectives.

Counsel and client departments/agencies have appropriate training

As part of management and support of law practice, the BRLP will ensure that counsel have appropriate training. This training may be internal training offered by other BRLP counsel or external training opportunities. Training is intended to assist counsel in doing their job, keep them current in legal issues and trends, and address any identified gaps in knowledge or skills.

The BRLP is also expected to offer training on legal issues and risks to client departments and agencies. This training should help increase client awareness of when to consult legal counsel, as well as how to reduce the likelihood of potential litigation.

In addition, the BRLP is committed to the development of employees' second language proficiency in order to fulfill their career aspirations and help them further their advancement within Justice, and to meet the Department's future operational needs. For this reason, the ADMO of the BRLP has set aside an annual training budget to be used only for full time language training for the employees of the Portfolio.

Counsel have access to appropriate expertise, tools, structures, and resources to support the delivery of legal services to BRLP client departments and agencies

The ADMO, DLSUs and regional offices are expected to provide counsel with tools, structures and resources needed to provide high-quality legal services. This includes activities related to knowledge transfer and management, including information sharing on best practices, practice directives and mechanisms to alert counsel to important developments in the law. In addition, counsel are encouraged to use departmental tools, such as Justipedia and the legal risk management grid, as well as structures such as teams, committees, protocols, peer review and other management and/or quality control mechanisms that DLSUs or regional offices may have.

Legal services support a whole-of-government approach

The BRLP will adhere to the "whole-of-government" approach by providing consistent legal and legal policy advice and taking consistent legal positions. As in all areas of Justice, the BRLP is responsible for taking an integrated "whole-of-government" approach, where its advice and litigation positions consider the overall impact on the federal government, beyond particular client interests. This will be accomplished by consulting within the Department, and where appropriate, with other federal departments and agencies. When conflicting positions arise, the BRLP must provide appropriate briefing within Justice to ensure that senior management is aware of the issue. For issues that extend beyond the mandate of the BRLP, there are other departmental mechanisms to ensure a "whole-of-government" approach (e.g., the National Litigation Committee and the National Legal Advisory Committee).

By eliminating inconsistent or contradictory legal positions, the BRLP will ensure that government positions and priorities are maintained and legal risks that could arise from inconsistent legal

positions and advice are minimized. The work of the ADMO and the CLS is central to enhancing coordination on commercial law issues within the Department.

Coordination and management of significant legal issues

The DLSUs and the business and regulatory law sections of the regional offices are expected to coordinate and manage significant legal issues with assistance from the ADMO, as needed. This includes the strategic monitoring of high impact files and legal trends, providing briefing and reporting within the Department as necessary, as well as strategic advice and coordination of the practice of business and regulatory law. Portfolio managers in the DLSUs and regional offices are expected to respond to significant legal issues so that the Portfolio has the expertise and resources available to address any emerging legal trends or significant files. The BRLP should also ensure that senior Justice and client officials are aware of these significant legal issues so they can make any necessary management or policy response.

3. Intermediate Outcomes

Government decision making is informed by advisory services

By providing timely, responsive, consistent and useful legal advice to client departments and agencies, counsel will ensure that government officials are aware of the legal risks and legal implications of certain proposed decisions, in addition to other relevant factors (operational, political, financial, etc.). As a result, government decision making should be informed by the legal advice received from the BRLP. The legal advice should provide government officials with options to reach their objectives, while considering the legal implications associated with their decisions.

Advisory services support the implementation of government decisions

Although the advice of the BRLP is expected to inform the decisions of client departments and agencies, that advice can be followed in whole, in part, or not at all. Once client departments and agencies have made their decisions, the role of the BRLP is to support the implementation of those decisions. The support will include legal opinions and advice on issues related to implementation, as opposed to development of programs and policies. In addition, it will include the commercial transactional work required to implement the decisions.

In partnership with the client, legal risks are managed and mitigated effectively

The BRLP will provide client departments and agencies with legal advice/information on the legal issues and risks that have been identified, including their assessment of the legal risk. Counsel will consult and communicate with client officials, and, together, they may review the strategies used to prevent, mitigate or manage legal risk. Although the BRLP will provide legal advice and, for legal issues before the courts, suggest litigation strategies, the ultimate decision on how to proceed rests with the client departments and agencies, subject to the *Department of Justice Act*. However, the BRLP advice will support the ability of the client departments and agencies to make an informed choice on how to handle legal risks.

Effective advocacy of government's position

The BRLP must act to ensure that the interests of the Crown in the proper administration of justice are protected through its conduct of litigation. Effective advocacy means that, on a principled basis, the BRLP settles cases that should be settled and takes cases to court where there is the desire to advance the state of the law by obtaining legal clarity. Appropriate results can include early settlement of litigation cases and court decisions that support the federal government's position.

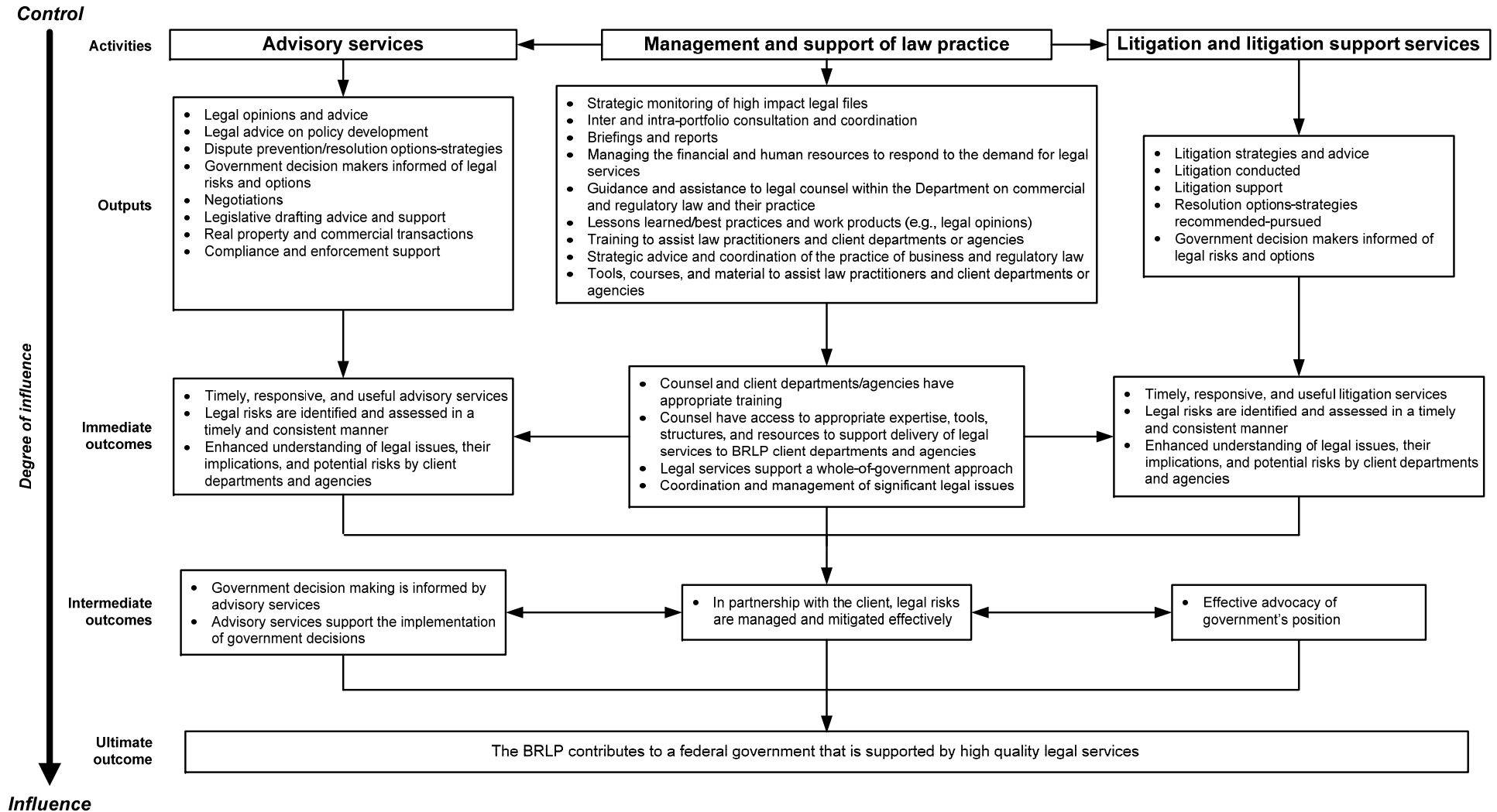
4. Ultimate Outcome

Through the achievement of the immediate and intermediate outcomes, the BRLP will support the Department's strategic objective:

- a federal government that is supported by high-quality legal services.

Logic Model: Business and Regulatory Law Portfolio (BRLP)

Overall objective of the BRLP: Support the ministerial and attorney general responsibilities found in the *Department of Justice Act* and other relevant legislation



Appendix C
Data Collection Tools

**Evaluation of the Business and Regulatory Law Portfolio
Key Informant Interview Guide for
Business and Regulatory Law Portfolio Senior Management**

The Department of Justice Evaluation Division is conducting an evaluation of the Business and Regulatory Law Portfolio (BRLP). This evaluation comes in response to the Treasury Board *Policy on Evaluation*, which requires government departments to evaluate all direct expenditures (including legal services) every five years. The purpose of the evaluation is to assess the extent to which the BRLP provides effective and responsive legal services to its client departments and agencies. In addition to these interviews, the evaluation will also rely on other lines of evidence, including a review of documents and data, key informant interviews with representatives of the Department of Justice and clients, a file review, case studies, a survey of legal counsel, and focus groups.

The information gathered through this interview will be summarized in aggregate form and individual respondents will not be identified in the evaluation report. You will have an opportunity to review the written summary of the interview and make any corrections or additions.

Some questions may not be applicable to the work you do. Please let us know and we will skip those questions.

The evaluation focuses on the five year period from 2009-10 to 2013-14, so please consider your experiences during those years in your responses. Unless otherwise stated, any reference in this interview guide to the work of the BRLP is meant to include the work of the Office of the Assistant Deputy Minister (ADMO), all Departmental Legal Services Units (DLSUs) within the Portfolio, the Commercial Law Section, and BRLP sections in the regional offices.

Relevance

1. How have the demands placed on the BRLP evolved over the past five years? What have been the most significant changes, if any? How has the *BRLP responded to these changes*?

Performance — Effectiveness

2. Considering the current structure and composition of the Portfolio, how would you describe its key strengths? What are its key challenges? What changes, if any, could be considered to enhance the efficiency and/or the effectiveness of the Portfolio's structure and composition?

3. What structures and mechanisms are in place within the BRLP to coordinate and manage significant legal issues (for e.g. high impact files, files involving multiple departments or agencies)? How well do these structures work?
4. How would you describe the nature, level and scope of integration and cooperation within the BRLP (e.g. between DLSUs and regional offices and amongst DLSUs)?
5. What practices and/or mechanisms are in place to ensure that the advice provided by the BRLP is consistent with other advice provided or positions taken by Justice on the same legal question? What, if anything, could be improved, and how might the BRLP support any improvements?
6. What have been some of the greatest accomplishments of the BRLP over the last five years?
7. What have been the greatest challenges faced by the BRLP over the last five years?

Performance — Efficiency and Economy

8. Is the BRLP facing any challenges in terms of available funding, staffing, or internal support (e.g. training, technological, research) that affect its ability to deliver timely, high-quality legal services? How does it manage these challenges?
9. Please describe the types of professional development activities available to BRLP counsel to support their work. Are there any gaps? Should changes to the type and range of issues addressed by professional development be considered?
10. What measures are in place to ensure that the Portfolio's activities are carried out efficiently? Cost-effectively? Are there improvements that could be made?
11. What mechanisms and structures are in place within the BRLP to facilitate information exchange/communication between DLSUs, regional offices and ADMO? Are there improvements that could be made? To what extent are best practices, lessons learned, and work products (e.g. legal opinions) shared within the Portfolio?
12. Are there any aspects of legal management practices or models in other portfolios of Justice Canada or in other jurisdictions that could be considered for implementation within the BRLP to enhance efficiency and/or effectiveness? If so, please describe them.

Conclusion

13. Do you have any other comments?

Thank you. We greatly appreciate your participation.

Evaluation of the Business and Regulatory Law Portfolio

Key Informant Interview Guide for Business and Regulatory Law Portfolio Management

The Department of Justice Evaluation Division is conducting an evaluation of the Business and Regulatory Law Portfolio (BRLP). This evaluation comes in response to the Treasury Board Policy on Evaluation, which requires government departments to evaluate all direct expenditures (including legal services) every five years. The purpose of the evaluation is to assess the extent to which the BRLP provides effective and responsive legal services to its client departments and agencies. In addition to these interviews, the evaluation will also rely on other lines of evidence, including a review of documents and data, key informant interviews with representatives of the Department of Justice and clients, a file review, case studies, a survey of legal counsel, and focus groups.

The information gathered through this interview will be summarized in aggregate form and individual respondents will not be identified in the evaluation report. You will have an opportunity to review the written summary of the interview and make any corrections or additions.

Some questions may not be applicable to the work you do. Please let us know and we will skip those questions.

The evaluation focuses on the five year period from 2009-10 to 2013-14, so please consider your experiences during those years in your responses. Unless otherwise stated, any reference in this interview guide to the work of the BRLP is meant to include the work of the Office of the Assistant Deputy Minister (ADMO), all Departmental Legal Services Units (DLSUs) within the Portfolio, the Commercial Law Section, and BRLP sections in the regional offices.

Introduction

1. Please briefly describe your current roles and responsibilities within the BRLP.

Relevance

2. How have the demands placed on your DLSU evolved over the past five years? What have been the most significant changes, if any? How has your DLSU responded to these changes?
3. In the context of your work in the BRLP, how do the Portfolio's services support Government of Canada priorities?

Performance — Effectiveness

4. Considering the current structure and composition of the Portfolio, how would you describe its key strengths? What are its key challenges? What changes, if any, could be considered to enhance the efficiency and/or the effectiveness of the Portfolio's structure and composition?
5. Based on your experience, is your DLSU generally consulted by client departments when needed? In your response, please consider whether client requests for assistance are timely and appropriate.
6. What factors affect clients' willingness or ability to consult with the DLSU (e.g., cost, awareness/understanding of when it would be advisable to consult, perception of usefulness/desirability of obtaining advice)? What are the potential risks to client departments, the Department of Justice, and the Government of Canada when the DLSU is not consulted when needed?
7. Please describe the level and the nature of collaboration between your DLSU and a) the specialized sections within Justice Canada (e.g. Public Law Sector, Litigation Branch and Legislative Services Branch) and b) other portfolios? How effective has this collaboration been? What changes, if any, could improve this collaboration?
8. What structures and mechanisms are in place within the BRLP to coordinate and manage significant legal issues (for e.g. high impact files, files involving multiple departments or agencies)? How well do these structures work?
9. How would you describe the nature, level and scope of integration and cooperation within the BRLP (e.g. between DLSUs and regional offices and amongst DLSUs)?
10. What practices and/or mechanisms are in place to ensure that the advice provided by the BRLP is consistent with other advice provided or positions taken by Justice on the same legal question? What, if anything, could be improved, and how might the BRLP support any improvements?
11. One of the outcomes identified for the BRLP is that client departments/agencies have access to timely, responsive, and useful advisory and litigation services. To what extent is your DLSU able to achieve this outcome? What, if any factors, affect your DLSU's ability to provide timely, responsive, and useful legal services?

12. Please describe how your DLSU works with its clients to identify and assess legal risks and provide legal options for mitigating them. In particular, what are the key processes, tools, committees or structures currently used to assist in identifying and mitigating legal risks? In your opinion, how efficient and/or effective have they been?
13. In your opinion, has your client's level of awareness and understanding of legal risks improved over the last five years? If so, what do you consider to be the key contribution of your DLSU towards this outcome? If not, please explain. What more needs to be done? Has any formal training of the client been undertaken by your DLSU with respect to legal risk management or other legal issues?
14. To what extent does your DLSU's advice appear to inform decisions made by Ministers and client departments/agencies? What is the basis for your opinion?
15. How do your DLSU's advisory services support the implementation of government decisions?

Performance — Efficiency and Economy

16. Is your DLSU facing any challenges in terms of available funding, staffing, or internal support (e.g. training, technological, research) that affect its ability to deliver timely, high-quality legal services? How does it manage these challenges?
17. Please describe the types of professional development activities available to BRLP counsel to support their work. Are there any gaps? Should changes to the type and range of issues addressed by professional development be considered?
18. What measures are in place to ensure that the Portfolio's activities are carried out efficiently? Cost-effectively? Are there improvements that could be made?
19. In your opinion, what role do client departments/agencies play in improving the effectiveness, efficiency, and economy of BRLP legal services? To what extent are they fulfilling this role?
20. What mechanisms and structures are in place within the BRLP to facilitate information exchange/communication between DLSUs, regional offices and ADMO? Are there improvements that could be made? To what extent are best practices, lessons learned, and work products (e.g. legal opinions) shared within the Portfolio?

21. Are there any aspects of legal management practices or models in other portfolios of Justice Canada or in other jurisdictions that could be considered for implementation within the BRLP to enhance efficiency and/or effectiveness? If so, please describe them.

Conclusion

22. Do you have any other comments?

Thank you. We greatly appreciate your participation.

Evaluation of the Business and Regulatory Law Portfolio Key Informant Interview Guide for Managers in Regional Offices

The Department of Justice Evaluation Division is conducting an evaluation of the Business and Regulatory Law Portfolio. This evaluation comes in response to the Treasury Board Policy on Evaluation, which requires government departments to evaluate all direct expenditures (including legal services) every five years. The purpose of the evaluation is to assess the extent to which the BRLP provides effective and responsive legal services to its client departments and agencies. In addition to these interviews, the evaluation will also rely on other lines of evidence, including a review of documents and data, key informant interviews with representatives of the Department of Justice and clients, a file review, case studies, a survey of legal counsel and focus groups.

The information gathered through this interview will be summarized in aggregate form and individual respondents will not be identified in the evaluation report. You will have an opportunity to review the written summary of the interview and make any corrections or additions.

Some questions may not be applicable to the work you do. Please let us know and we will skip those questions.

The evaluation focuses on the five year period from 2009-10 to 2013-14, so please consider your experiences during those years in your responses. Unless otherwise stated, any reference in this interview guide to the work of the BRLP is meant to include the work of the Office of the Assistant Deputy Minister (ADMO), all Departmental Legal Services Units (DLSUs) within the Portfolio, the Commercial Law Section, and BRLP sections in the regional offices.

Introduction

1. Please describe your current roles and responsibilities as they relate to the BRLP specifically. With which group(s) do you interact most often in the Portfolio?

Relevance

2. Considering the range of files involving departments and agencies included in the BRLP, please describe how the demands for legal services from your regional office have evolved over the past five years. What have been the most significant changes, if any?

Performance -- Effectiveness

3. Considering the current structure and composition of the Portfolio, how would you describe its key strengths? What changes, if any, could be considered to enhance the efficiency and/or effectiveness of the Portfolio's structure and composition?
4. Please describe the level and nature of the collaboration between your regional office and BRLP DLSUs? How effective has this collaboration been? What changes, if any, could improve this collaboration?
5. Please describe the level and nature of the collaboration between your regional office and Justice Canada's specialized sections (e.g. Public Law Sector, Litigation Branch, Legislative Services Branch) on BRLP files? How effective has this collaboration been? What changes, if any, could improve this collaboration?
6. What structures and mechanisms are in place within the BRLP to coordinate significant legal issues (e.g. files involving multiple departments or agencies)? How well do these structures work?
7. What practices and/or mechanisms are in place to ensure that the advice provided by the BRLP is consistent with other advice provided or positions taken by Justice on the same type of legal question? What, if anything, could be improved, and how might the BRLP support any improvements?
8. Please describe how the BRLP works with its clients to identify legal risks and legal options for mitigating them. In particular, what key tools, strategies, committees or structures are currently utilized to mitigate and manage legal risks? Do those tools differ from the ones developed by your regional office? In your opinion, how effective and/or efficient have they been?
9. Please describe what you consider to be the key impacts of professional development activities undertaken to date in support of the work of regional legal counsel who work on BRLP files (practice groups, training sessions, presentations, etc.). Are there any gaps? Should changes to the type and range of issues addressed by professional development be considered?
10. In your opinion, has the level of awareness and understanding of legal risks among client departments and agencies improved over the last five years? If so, what do you consider to be

the Portfolio's contribution towards this outcome? Has your region offered any client training in this area?

11. One of the outcomes identified for the BRLP is that client departments/agencies have access to timely, responsive, and useful advisory and litigation services. To what extent is the BRLP able to achieve this outcome? What, if any factors, affect the BRLP's ability to provide timely, responsive, and useful advice?

Performance – Efficiency and Economy

12. What mechanisms and structures are in place within the BRLP to facilitate information exchange/communication between DLSUs, regional offices and ADMO? Are there improvements that could be made? To what extent are best practices, lessons learned, and work products (e.g. legal opinions) shared within the Portfolio?
13. Is there anything that the BRLP could do to make your work more effective and efficient?
14. What specific steps has your regional office taken to reduce legal costs related to BRLP files?
15. In general, have appropriate DLSU counsel been assigned to work with your office (considering the level of classification, expertise, and experience of the counsel and the nature of the file)?
16. Are there any aspects of legal management practices or models in other portfolios of Justice Canada or in other jurisdictions that could be considered for implementation within the BRLP to enhance efficiency and/or effectiveness? If so, please describe them.

Conclusion

17. Do you have any further comments relating to the work of the BRLP?

Thank you. We greatly appreciate your participation.

Evaluation of the Business and Regulatory Law Portfolio Key Informant Interview Guide for Special Advisors

The Department of Justice Evaluation Division is conducting an evaluation of the Business and Regulatory Law Portfolio (BRLP). This evaluation comes in response to the Treasury Board Policy on Evaluation, which requires government departments to evaluate all direct expenditures (including legal services) every five years. The purpose of the evaluation is to assess the extent to which the BRLP provides effective and responsive legal services to its client departments and agencies. In addition to these interviews, the evaluation will also rely on other lines of evidence, including a review of documents and data, key informant interviews with representatives of the Department of Justice and clients, a file review, case studies, a survey of legal counsel, and focus groups.

The information gathered through this interview will be summarized in aggregate form and individual respondents will not be identified in the evaluation report. You will have an opportunity to review the written summary of the interview and make any corrections or additions.

Some questions may not be applicable to the work you do. Please let us know and we will skip those questions.

The evaluation focuses on the five year period from 2009-10 to 2013-14, so please consider your experiences during those years in your responses. Unless otherwise stated, any reference in this interview guide to the work of the BRLP is meant to include the work of the Office of the Assistant Deputy Minister (ADMO), all Departmental Legal Services Units (DLSUs) within the Portfolio, the Commercial Law Section, and BRLP sections in the regional offices.

Introduction

1. Please briefly describe your current roles and responsibilities within the BRLP.

Relevance

2. How have the demands placed on the Portfolio evolved over the past five years? What have been the most significant changes, if any? How has the Portfolio responded to these changes?
3. In the context of your work in the BRLP, how do the Portfolio's services support Government of Canada priorities? Which files should be highlighted in the evaluation report?

Performance — Effectiveness

4. Considering the current structure and composition of the Portfolio, how would you describe its key strengths? What are its key challenges? What changes, if any, could be considered to enhance the efficiency and/or the effectiveness of the Portfolio's structure and composition?
5. Please describe the level and the nature of collaboration between your office and a) the BRLP DLSUs b) the Regional Offices and c) the specialized sections within Justice Canada (e.g. Public Law Sector, Litigation Branch and Legislative Services Branch)? How effective has this collaboration been? What changes, if any, could improve this collaboration?
6. What structures and mechanisms are in place within the BRLP to coordinate and manage significant legal issues (for e.g. high impact files, files involving multiple departments or agencies)? How well do these structures work?
7. How would you describe the nature, level and scope of integration and cooperation within the BRLP?
8. What practices and/or mechanisms are in place to ensure that the advice provided by the BRLP is consistent with other advice provided or positions taken by Justice on the same legal question? What, if anything, could be improved, and how might the BRLP support any improvements?
9. To what extent does BRLP's advice appear to inform decisions made by Ministers and client departments/agencies? What is the basis for your opinion?
10. What have been some of the greatest accomplishments of the BRLP over the last five years?
11. What have been the greatest challenges faced by the BRLP over the last five years?

Performance — Efficiency and Economy

12. Please describe the types of professional development activities available to BRLP counsel to support their work. Are there any gaps? Should changes to the type and range of issues addressed by professional development be considered?
13. What measures are in place to ensure that the Portfolio's activities are carried out efficiently? Cost-effectively? Are there improvements that could be made?

14. What mechanisms and structures are in place within the BRLP to facilitate information exchange/communication between DLSUs, regional offices and ADMO? Are there improvements that could be made? To what extent are best practices, lessons learned, and work products (e.g. legal opinions) shared within the Portfolio?
15. Are there any aspects of legal management practices or models in other portfolios of Justice Canada or in other jurisdictions that could be considered for implementation within the BRLP to enhance efficiency and/or effectiveness? If so, please describe them.

Conclusion

16. Do you have any other comments?

Thank you. We greatly appreciate your participation.

Evaluation of the Business and Regulatory Law Portfolio Key Informant Interview Guide for Client Departments

The Department of Justice Evaluation Division is conducting an evaluation of the Business and Regulatory Law Portfolio (BRLP). This Portfolio is responsible for providing legal services and advice to a number of regulatory departments and agencies, including your own. This evaluation comes in response to the Treasury Board Policy on Evaluation, which requires government departments to evaluate all direct expenditures (including legal services) every five years. The purpose of the evaluation is to assess the extent to which the BRLP provides effective and responsive legal services to its client departments and agencies.

The information gathered through this interview will be summarized in aggregate form and individual respondents will not be identified in the evaluation report. You will have an opportunity to review the written summary of the interview and make any corrections or additions.

Some questions may not be applicable to the work you do. Please let us know and we will skip those questions.

The evaluation focuses on the five year period from 2009-10 to 2013-14, so please consider your experiences during those years in your responses. Unless otherwise stated, any reference in this interview guide to the work of the BRLP is meant to include the work of the Office of the Assistant Deputy Minister (ADMO, BRLP), all Departmental Legal Services Units (DLSUs) within the Portfolio, the Commercial Law Section, and BRLP sections in the regional offices.

Relevance

1. Over the last five years, have you observed any changes in your department or agency's demand for and use of legal services? In your response, please consider the volume, type of legal issues, complexity, legal risk level, the urgency of the requests being made and any other characteristics.

Performance — Effectiveness

2. Bearing in mind your department's priorities over the review period, please comment on the following dimensions of the quality of the overall services provided by your DLSU, by regional offices or other BRLP offices:

- a. The extent to which counsel respond to your requests for legal services in a timely manner.
 - b. The extent to which counsel negotiate and meet mutually acceptable deadlines.
 - c. The extent to which you are provided with regular and informative progress reports or ongoing feedback in respect of requests for services.
 - d. The extent to which your department/agency is provided with clear and practical guidance for resolving legal issues.
 - e. The extent to which counsel identifies means to prevent and resolve legal disputes at the earliest opportunity.
 - f. The extent to which your department/agency is provided with advice/options appropriate to your policy and program objectives.
 - g. The extent to which legal counsel work with you to identify legal risks.
 - h. The extent to which legal counsel involve you in the review/development of legal options to mitigate identified legal risks.
 - i. The extent to which your department or agency receives consistent legal advice.
3. Bearing in mind your department's/ agency's priorities over the review period, overall, how satisfied were you with the quality of the legal services provided by your DLSU, by the regional offices or other BRLP offices?
 4. Based on your experience, is your DLSU consulted when it should be? What situations, if any, have limited the use of your DLSU's services (e.g., cost, lack of awareness/understanding of when it would be advisable to consult the DLSU, perception of usefulness/desirability of obtaining DLSU advice)?
 5. Have you participated in any legal training activities or information sessions on legal issues and legal risks offered by your DLSU, by the regional offices or by another part of the BRLP within the past five years? If yes, what type of training did you receive? How effective was this training in improving your understanding of the relevant subject-matter?

6. In your experience, to what extent is the advice provided by the BRLP considered in the legal strategies pursued and decisions made by your department or agency? What is the basis for your opinion?

Performance — Efficiency and Economy

7. To your knowledge, are there any factors that influence the ability of your DLSU or the regional offices to deliver their services effectively? If so, please describe these factors. What changes, if any, are needed to increase the efficiency and/or effectiveness of the services offered?
8. Has your department or agency tried to reduce or manage the level of demand for BRLP legal services? If so, how?

Conclusion

9. Do you have any other comments?

Thank you. We greatly appreciate your participation.

Evaluation of the Business and Regulatory Law Portfolio Key Informant Interview Guide for Commercial Law Section Clients

The Department of Justice Evaluation Division is conducting an evaluation of the Business and Regulatory Law Portfolio (BRLP). This evaluation comes in response to the Treasury Board Policy on Evaluation, which requires government departments to evaluate all direct expenditures (including legal services) every five years. The purpose of the evaluation is to assess the extent to which the BRLP provides effective and responsive legal services to its client departments and agencies.

The information gathered through this interview will be summarized in aggregate form and individual respondents will not be identified in the evaluation report. You will have an opportunity to review the written summary of the interview and make any corrections or additions.

Some questions may not be applicable to the work you do. Please let us know and we will skip those questions.

The evaluation focuses on the five year period from 2009-10 to 2013-14, so please consider your experiences during those years in your responses. Unless otherwise stated, any reference in this interview guide to the work of the BRLP is meant to include the work of the Office of the Assistant Deputy Minister (ADMO, BRLP), all Departmental Legal Services Units (DLSUs) within the Portfolio, the Commercial Law Section, and BRLP sections in the regional offices.

Relevance

1. Over the last five years, have you observed any changes in your DLSU's demand for and use of the legal services provided by the Commercial Law Section? In your response, please consider the volume, type of legal issues, complexity, legal risk level, the urgency of the requests being made and any other characteristics.

Performance — Effectiveness

2. Please comment on the following dimensions of the quality of the overall services provided by the Commercial Law Section:
 - a. The extent to which counsel respond to your requests for legal services in a timely manner.

- b. The extent to which counsel negotiate and meet mutually acceptable deadlines.
 - c. The extent to which you are provided with regular and informative progress reports or ongoing feedback in respect of requests for services.
 - d. The extent to which counsel provide clear and practical guidance for resolving legal issues.
 - e. The extent to which counsel identify means to prevent and resolve legal disputes at the earliest opportunity.
 - f. The extent to which the advice/options provided is appropriate to your client department's policy and program objectives.
 - g. The extent to which legal counsel work with you to identify legal risks.
 - h. The extent to which legal counsel involve you in the review/development of legal options to mitigate identified legal risks.
 - i. The extent to which your department or agency receives consistent legal advice.
3. Overall, how satisfied were you with the quality of the legal services provided by the Commercial Law Section?
4. Have you participated in any legal training activities or information sessions on legal issues and legal risks offered by the Commercial Law Section within the past five years? If yes, what type of training did you receive? How effective was this training in improving your understanding of the relevant subject-matter?
5. In your experience, to what extent is the advice provided by the Commercial Law Section considered in the legal strategies pursued and decisions made by the DLSU and/or the client department or agency? What is the basis for your opinion?

Performance — Efficiency and Economy

6. To your knowledge, are there any factors that influence the ability of the Commercial Law Section to deliver their services effectively? If so, please describe these factors. What changes, if any, are needed to increase the efficiency and/or effectiveness of the services offered?

Conclusion

7. Do you have any other comments?

Thank you. We greatly appreciate your participation.

Evaluation of the Business and Regulatory Law Portfolio Key Informant Interview Guide for Other Justice Sections

The Department of Justice Evaluation Division is conducting an evaluation of the Business and Regulatory Law Portfolio (BRLP). This evaluation comes in response to the Treasury Board Policy on Evaluation, which requires government departments to evaluate all direct expenditures (including legal services) every five years. The purpose of the evaluation is to assess the extent to which the BRLP provides effective and responsive legal services to its client departments and agencies. In addition to these interviews, the evaluation will also rely on other lines of evidence, including a review of documents and data, key informant interviews with representatives of the Department of Justice and clients, a file review, case studies, a survey of legal counsel, and focus groups.

The information gathered through this interview will be summarized in aggregate form and individual respondents will not be identified in the evaluation report. You will have an opportunity to review the written summary of the interview and make any corrections or additions.

Some questions may not be applicable to the work you do. Please let us know and we will skip those questions.

The evaluation focuses on the five year period from 2009-10 to 2013-14, so please consider your experiences during those years in your responses. Unless otherwise stated, any reference in this interview guide to the work of the BRLP is meant to include the work of the Office of the Assistant Deputy Minister (ADMO), all Departmental Legal Services Units (DLSUs) within the Portfolio, the Commercial Law Section, and BRLP sections in the regional offices.

Introduction

1. Please describe the level of your involvement and the nature of your work with the BRLP.
2. What types of legal services (e.g., what type of advice, litigation support) have you provided to or sought from the BRLP over the past five years?

Relevance

3. Please describe how your work with the BRLP has evolved over the past five years. For example, have there been changes in the volume or nature of legal issues, the complexity and/or urgency of the requests being made, file complexity or any other characteristics?

Performance — Effectiveness

4. Please describe how your work with the BRLP is currently structured. We are particularly interested in any processes you may have in place (formal or informal) to deal with the Portfolio's files.
5. Please describe your level of satisfaction with the following dimensions of your work with the BRLP:
 - a. The extent to which your group is consulted in a timely manner.
 - b. The extent to which the timeframes for completing requests are appropriate.
 - c. The extent to which you are consulted on the appropriate issues.
6. Please describe the type and frequency of consultations that occur between your group and BRLP. Are they effective? What works particularly well? What, if anything, could be improved, and how might BRLP support any improvements?
7. How effective are consultations among the BRLP, other Justice areas, and other federal departments and agencies in ensuring a consistent legal position across government and developing a whole-of-government approach? How effectively are differences in legal opinions resolved and through what process? What, if anything, could be improved, and how might the BRLP support any improvements?
8. Please describe how/if BRLP legal counsel and counsel in your area work together to identify and assess legal risks, and how/if they work together to develop legal and/or policy options to manage or mitigate those risks. In your opinion, how effective is this collaboration?
9. In your opinion, to what extent does the BRLP meet the needs of the Government of Canada in terms of the provision of timely, high-quality legal services? Is there anything you are aware of that would require the BRLP to change the way it provides legal services?

Performance — Efficiency and Economy

10. In what ways, if any, could the BRLP work more effectively and efficiently with your group?
11. In general, have appropriate BRLP counsel worked with your group (considering the level of classification, expertise, and experience of the counsel and the nature of the file)?

Conclusion

12. Do you have anything you would like to add about your group's relationship with the BRLP?

Thank you. We greatly appreciate your participation.

Evaluation of the Business and Regulatory Law Portfolio Key Informant Interview Guide for Public Prosecution Service of Canada

The Department of Justice Evaluation Division is conducting an evaluation of the Business and Regulatory Law Portfolio (BRLP). This evaluation comes in response to the Treasury Board Policy on Evaluation, which requires government departments to evaluate all direct expenditures (including legal services) every five years. The purpose of the evaluation is to assess the extent to which the BRLP provides effective and responsive legal services to its client departments and agencies. In addition to these interviews, the evaluation team will also rely on other lines of evidence, including a review of documents and data, key informant interviews with representatives of the Department of Justice and clients, a file review, case studies, a survey of legal counsel and focus groups.

The information gathered through this interview will be summarized in aggregate form and individual respondents will not be identified in the evaluation report. You will have an opportunity to review the written summary of the interview and make any corrections or additions.

It is our understanding that the Public Prosecution Service of Canada (PPSC) is not a typical recipient of legal services from BRLP, but instead, collaborates with the BRLP in your role in providing prosecution services to BRLP regulatory clients. Some questions may not be applicable to the work you do. Please let us know and we will skip those questions.

The evaluation focuses on the five year period from 2009-10 to 2013-14, so please consider your experiences during those years in your responses. Unless otherwise stated, any reference in this interview guide to the work of the BRLP is meant to include the work of the Office of the Assistant Deputy Minister, all Departmental Legal Services Units within the Portfolio, the Commercial Law Section, and BRLP sections in the regional offices.

Introduction

1. Please describe the level of your involvement and nature of your work with the BRLP.
2. What type of legal services (e.g. what type of advice, prosecutorial support, consultation) have you provided to or sought from the BRLP over the past five years?

Relevance

3. Please describe how your work with the BRLP has evolved over the past five years. For example, have there been changes in the volume or nature of legal issues, the complexity and/or urgency of the requests being made, file complexity or any other characteristics?

Performance — Effectiveness

4. Please describe how your work with the BRLP is currently structured. We are particularly interested in any processes (formal or informal) you may have in place to deal with the Portfolio's files.
5. Please describe the type and frequency of consultations that occur between the PPSC and BRLP. Are they effective? What works particularly well? What, if anything, could be improved, and how might BRLP support any improvements?
6. Are there any barriers to consulting with the BRLP? What are the potential risks to the Government of Canada if the BRLP is not appropriately consulted?
7. Please describe how/if BRLP legal counsel and PPSC work together to identify and assess legal risks, and how/if they work together to develop legal and/or policy options to manage or mitigate those risks. In your opinion, how effective is this collaboration?
8. Have BRLP counsel provided your group with any formal training with respect to legal issues? If so, what was the nature of the training? How satisfied were you with the training provided?

Performance — Efficiency and Economy

9. In what ways, if any, could the BRLP work more effectively and efficiently with the PPSC?
10. In your opinion, are there processes/practices that could improve communications between BRLP and PPSC?
11. In general, have appropriate BRLP counsel been assigned to work with the PPSC (considering the level of classification, expertise and experience of the counsel, and the nature of the file)?

Conclusion

12. Do you have anything you would like to add about PPSC's relationship with the BRLP?

Thank you. We greatly appreciate your participation.

Evaluation of the Business and Regulatory Law Portfolio Case Study Guide for Client Representatives

The Department of Justice Evaluation Division is conducting an evaluation of the Business and Regulatory Law Portfolio (BRLP). This Portfolio is responsible for providing legal services and advice to a number of regulatory departments and agencies, including your own. This evaluation comes in response to the Treasury Board Policy on Evaluation, which requires government departments to evaluate all direct expenditures (including legal services) every five years. The purpose of the evaluation is to assess the extent to which the BRLP provides effective and responsive legal services to its client departments and agencies. The evaluation relies on multiple lines of evidence, including case studies that focus on specific files involving counsel from the BRLP. These case studies provide a unique opportunity to better understand the work of the Portfolio at an operational level.

The information gathered through this interview will be summarized in aggregate form and individual respondents will not be identified in the evaluation report. You will have an opportunity to review the written summary of the interview and make any corrections or additions.

1. How would you describe the working relationship between your group and counsel on this file? What factors contributed to, or detracted from, a positive working relationship between your group and counsel? In your opinion, are there processes/practices that could improve how counsel and clients work together?
2. To your knowledge, was more than one group within Justice Canada involved in this file? If so, how efficiently was the work coordinated between these different groups?
3. Did the Department of Justice Canada work with you to identify and assess the legal risks associated with this file? If so, how satisfied are you with the role you played?
4. How well did your department/agency understand the legal issues and risks involved?
5. Based on your experience, please comment on the following dimensions of the quality of the overall services provided by your legal services unit in relation to this file:
 - a. its capacity to respond to your requests in a timely manner
 - b. its capacity to meet mutually agreed-upon deadlines

- c. its understanding of the nature of the issue for which assistance was sought
 - d. the extent to which you were provided with regular and informative progress reports or ongoing feedback in respect of your request for service
 - e. the extent to which counsel involved you in the development of legal strategy and positions
 - f. the extent to which you were provided with clear and practical guidance on resolving legal issues
6. (For litigation files only) Were early resolution strategies or alternative dispute resolution strategies considered or used in this file? Why or why not? If they were used, what caused them to be successful or unsuccessful in resolving the file?
 7. To what extent did the advice provided by Justice Canada on this file inform the decisions made by your department/agency? In your opinion, what factors affected whether the advice was considered?
 8. Overall, how satisfied were you with the quality of the legal services you received on this file?
 9. Were adequate resources assigned to undertake the work required (appropriate counsel and number of counsel)? Please explain any capacity issues you encountered.
 10. In your opinion, was this file handled in a cost-effective manner? What, if anything, could have been done differently by Justice Canada and/or your department/agency to improve timeliness or to reduce costs?
 11. In your view, what, if anything, could Justice Canada have done differently to better serve your department's/agency's needs?
 12. Do you have any further comments relating to this file?

Thank you for your participation.

Evaluation of the Business and Regulatory Law Portfolio Case Study Guide for Commercial Law Section Clients

The Department of Justice Evaluation Division is conducting an evaluation of the Business and Regulatory Law Portfolio (BRLP). This Portfolio is responsible for providing legal services and advice to a number of regulatory departments and agencies, including your own. This evaluation comes in response to the Treasury Board Policy on Evaluation, which requires government departments to evaluate all direct expenditures (including legal services) every five years. The purpose of the evaluation is to assess the extent to which the BRLP provides effective and responsive legal services to its client departments and agencies. The evaluation relies on multiple lines of evidence, including case studies that focus on specific files involving counsel from the BRLP. These case studies provide a unique opportunity to better understand the work of the Portfolio at an operational level.

The information gathered through this interview will be summarized in aggregate form and individual respondents will not be identified in the evaluation report. You will have an opportunity to review the written summary of the interview and make any corrections or additions.

1. How would you describe the working relationship between your DLSU and the Commercial Law Section on this file?
2. Based on your experience, please comment on the following dimensions of the quality of the overall services provided by the Commercial Law Section in relation to this file:
 - a. its capacity to respond to your requests in a timely manner
 - b. its capacity to meet mutually agreed-upon deadlines
 - c. its understanding of the nature of the issue for which assistance was sought
 - d. the extent to which you were provided with regular and informative progress reports or ongoing feedback in respect of your request for service
 - e. the extent to which counsel involved you in the development of legal strategy and positions
 - f. the extent to which you were provided with clear and practical guidance on resolving legal issues

3. To what extent did the advice provided by the Commercial Law Section on this file inform the decisions made by your DLSU and/or the client department? In your opinion, what factors affected whether the advice was considered?
4. Overall, how satisfied were you with the quality of the legal services you received from the Commercial Law Section on this file?
5. Were adequate resources assigned within the Commercial Law Section to undertake the work required (appropriate counsel and number of counsel)? Please explain any capacity issues you encountered.
6. In your opinion, was this file handled in a cost-effective manner? What, if anything, could have been done differently by either your DLSU or the Commercial Law Section to improve timeliness or to reduce costs?
7. In your view, what, if anything, could the Commercial Law Section have done differently to better serve your needs?
8. Do you have any further comments relating to this file?

Thank you for your participation.

Evaluation of the Business and Regulatory Law Portfolio Case Study Guide for Other Justice Counsel

The Department of Justice Evaluation Division is conducting an evaluation of the Business and Regulatory Law Portfolio (BRLP). This evaluation comes in response to the Treasury Board Policy on Evaluation, which requires government departments to evaluate all direct expenditures (including legal services) every five years. The purpose of the evaluation is to assess the extent to which the BRLP provides effective and responsive legal services to its client departments and agencies. The evaluation relies on multiple lines of evidence, including case studies that focus on specific files involving counsel from the BRLP. These case studies provide a unique opportunity to better understand the work of the Portfolio at an operational level.

The information gathered through this interview will be summarized in aggregate form and individual respondents will not be identified in the evaluation report. You will have an opportunity to review the written summary of the interview and make any corrections or additions.

Processes and tools

1. If you are aware of it, please describe the process used to engage your group's services on this file. In your opinion, was your group engaged in a timely manner? Why or why not?
2. How were the roles and responsibilities among the various legal counsel involved in this file distributed? What role did you specifically play? In your opinion, were the roles and responsibilities adequately assigned?
3. As applicable, which processes were used to coordinate the work of legal counsel on this file? Based on your experience, what worked well with these processes and what challenges, if any, did you encounter?

Legal risk assessment

4. Were you involved in the communication of legal risk to the client department or agency? If so, please describe your involvement. Was your role appropriate in this regard?

Deployment of resources

5. In your opinion, were appropriate counsel assigned to this file, specifically with respect to a) the level and expertise of counsel assigned to the file? b) the number of counsel assigned to

the file c) the existing workload of counsel assigned to the file? d) if applicable, the timeline for completion associated with the file?

6. Did you observe any duplication of work or redundancies associated with this file? If yes, can you suggest ways that this work could have been completed more efficiently?
7. In your opinion, was this file handled in a cost-effective manner? What, if anything could have been done differently by the Legal Services Unit to reduce costs?

Outcomes

8. Were you in a position to deliver your services in a timely manner? What challenges, if any, did you face in attempting to meet the time frame required?
9. If you are aware of it, please describe the impact of the legal services you provided on the decisions made by either the other counsel assigned to this file or by the client, as the case may be?
10. Please describe any best practices or lessons learned resulting from this file that could be applied to other similar files, or to any files in general, that would improve the provision of legal services in the future.

Conclusion

11. Do you have any further comments relating to this file?

Thank you for your participation.

Evaluation of the Business and Regulatory Law Portfolio Case Study Guide for BRLP Representatives

The Department of Justice Evaluation Division is conducting an evaluation of the Business and Regulatory Law Portfolio (BRLP). This evaluation comes in response to the Treasury Board Policy on Evaluation, which requires government departments to evaluate all direct expenditures (including legal services) every five years. The purpose of the evaluation is to assess the extent to which the BRLP provides effective and responsive legal services to its client departments and agencies. The evaluation relies on multiple lines of evidence, including case studies that focus on specific files involving counsel from the BRLP. These case studies provide a unique opportunity to better understand the work of the Portfolio at an operational level.

The information gathered through this interview will be summarized in aggregate form and individual respondents will not be identified in the evaluation report. You will have an opportunity to review the written summary of the interview and make any corrections or additions.

Processes and tools

1. How were the roles and responsibilities among the various legal counsel involved in this file distributed? What role did you specifically play? In your opinion, were the roles and responsibilities adequately assigned?
2. As applicable, which processes were used to coordinate the work of legal counsel on this file? Based on your experience, what worked well with these processes and what challenges, if any, did you encounter?
3. Were other groups within Justice Canada (scratch committees, regional or national litigation committees, specialized units from the Public Law Sector, etc.) involved in this file? If so, please describe their involvement and their impact on the file.
4. Was the Business and Regulatory Law Portfolio office (ADMO) involved in this file? If so, please describe its involvement and its impact on the file.

Legal risk assessment

5. Did you work with the client to identify and assess the legal risks on this file? What processes were used to identify and assess legal risk?

6. How was the legal risk communicated to the client department or agency? How well did the client department or agency understand the legal risks involved in the file? How did the client use the assessment?
7. What challenges, if any, did you face in assessing or communicating the legal risk associated with this file?

Deployment of resources

8. In your opinion, were appropriate counsel assigned to this file, specifically with respect to a) the level and expertise of counsel assigned to the file? b) the number of counsel assigned to the file c) the existing workload of counsel assigned to the file? d) if applicable, the timeline for completion associated with the file?
9. Did you observe any duplication of work or redundancies associated with this file? If yes, can you suggest ways that this work could have been completed more efficiently?
10. In your opinion, was this file handled in a cost-effective manner? What, if anything could have been done differently by the Legal Services Unit to reduce costs?

Outcomes

11. Were you in a position to deliver your services in a timely manner? What challenges, if any, did you face in attempting to meet the time frame required by the client department or agency?
12. How would you describe the impact of the legal services you provided on the decisions made by the client department or agency?
13. Please describe any best practices or lessons learned resulting from this file that could be applied to other similar files, or to any files in general, that would improve the provision of legal services in the future.

Conclusion

14. Do you have any further comments relating to this file?

Thank you for your participation.

Evaluation of the Business and Regulatory Law Portfolio File Review Guide

1. File code number:
2. Date file opened: _____ (mm/dd/yy) Date file closed: _____ (mm/dd/yy)
3. Lead counsel (specify):
 __1 DLSU __2 Regional office: _____ __3 Other: _____
4. Case type: __1 Advisory __2 Litigation __3 Legislative
5. Total number of counsel who worked on the file: _____
6. Total number of paralegals who worked on the file: _____
7. Client: __1 Justice: _____ __2 Other government department/agency: _____
8. Notes

Questions 9 – 12 are for litigation files only.

9. BRLP is: __1 Claimant __2 Respondent __3 Appellant __4 Respondent on appeal __5 Can't tell
10. Level of court: __1 Supreme Court of Canada __2 Federal Court of Appeal __3 Federal Court
 __4 Provincial Court of Appeal __5 Provincial/Territorial Superior Court __6 Provincial court
 __7 Other, please specify: _____
11. What was the outcome of the case?
 __01 Settled __02 Court decision on merits in favor of government __03 Court decision on merits in favor of other party __04 Case dismissed without a decision on the merits
 __05 Case withdrawn __06 Partially successful __07 Other, please specify

12. Has the case been appealed?

- 1 Yes 2 No 3 Not applicable (cannot appeal from decision – e.g. Supreme Court file)
4 No decision on appeal yet/can't determine

If yes, remember to complete Appeal section.

Question 13 is for advisory files only.

13. What was the outcome of the file? (Check all that apply)

- 1 Legal advice was given 2 Client considered advice given 3 Client did not consider advice given
4 Unclear from the file

iCase Information – All File Types

14. Potential client impact:

- | | | |
|---|--|--|
| <input type="checkbox"/> 01 Affects administration of justice/public confidence | <input type="checkbox"/> 02 Affects federal, provincial, or international relations, treaties, or agreements | <input type="checkbox"/> 03 Legal issues or events that may be controversial, attract significant national media attention, or involve Cabinet Ministers or prominent public figures |
| <input type="checkbox"/> 04 Limitations of federal jurisdiction | <input type="checkbox"/> 05 Effect on fiscal resources of client or government | <input type="checkbox"/> 06 Effect on human rights, personnel, access and privacy, gender, or diversity issues |
| <input type="checkbox"/> 07 Effect on law/regulations of client or government | <input type="checkbox"/> 08 Effect on programs/policies/initiatives of client or government | <input type="checkbox"/> 09 Effect on relations with Aboriginal people, Métis |
| <input type="checkbox"/> 10 Effect on the Charter or Constitution | <input type="checkbox"/> 11 Matter of national interest | <input type="checkbox"/> 12 Impact on national security |
| | | <input type="checkbox"/> 77 Not applicable |
| | | <input type="checkbox"/> 88 Unable to assess |

15. a) Risk level (1-9 or Low-Medium-High): _____

b) Earlier risk level (if available through iCase) _____

16. Complexity

- 1 Low 2 Medium 3 High 4 Mega 7 Not applicable

17. What was the group/level of lead counsel:

- 1 LA0 2 LA1 3 LA2A 4 LA2B 5 LA3A 6 LA3B 7 LA3C 8 Can't tell

18. How many hours did lead counsel spend on the file? _____ hours

19. Indicate the number of additional counsel on the file by seniority level and indicate the number of hours spent on the file:

- LA0 _____ Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____
- LA1 _____ Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____
- LA2A _____ Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____
- LA2B _____ Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____
- LA3A _____ Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____
- LA3B _____ Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____
- LA3C _____ Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____

20. Indicate the number of Justice paralegals on the file and indicate the number of hours spent on the file by each paralegal:

_____ Hours for 1: _____; 2: _____; 3: _____; 4: _____; 5: _____

Information from file

21. Did legal counsel miss any client-imposed deadlines?

Yes No Unable to assess

22. (If yes to Q21) How many times, and for what reason(s) (if an explanation to the client is available on file)?

23. Is there documented evidence that timelines were negotiated? Yes No Unable to assess

24. (If yes to Q23) What evidence is there in the files?

Questions 25 – 27 are for litigation files only.

25. Did legal counsel miss any court deadlines? _____

26. (If yes to Q25) How many times? _____

27. (If yes to Q25) Were additional court procedures required (e.g., motions)?

_1 Yes _0 No _8 Unable to assess

28. How did BRLP legal counsel consult with client department(s)? Consultations can include oral/written updates or oral/written discussions of possible strategies, options, approaches to the file.

_7 Not applicable, file handled by early resolution _8 Unable to assess

(Go to Q31)

29. Is there documentation in the file that shows what the client department(s) was consulted about? (Check all that apply.) (If none apply, go to Q31)

_01 Identifying and assessing legal risk _02 Options to manage legal risk _03 Developing legal strategies and positions
_04 To discuss the impact of legal risk _05 To discuss possible settlement (including early resolution) _08 Unable to assess
_66 Other _____

30. (If identify any categories listed in Q29) What evidence is there in the files?

31. Have client department(s) expressed any concerns relating to a lack of consultation?

_1 Yes _0 No _8 Unable to assess

32. How often did BRLP legal counsel respond to documented client requests?

_1 Always (100-90%) _2 Usually (90-60%) _3 About half the time (40-60%) _4 Rarely (40-10%) _5 Never (Less than 10%) _8 Unable to assess

33. On average, how soon after documented client requests did BRLP legal counsel respond?

_1 2-3 days _2 4-10 days _3 11-20 days _4 21-30 days _5 More than 30 days

34. Was the file brought to the attention of any BRLP committees? _1 Yes _0 No _8 Unable to assess

35. (If yes to Q34) Which committees?

_01
_02
_03

_66 Other _____

36. Was the file brought to the attention of other Justice officials/structures?

_1 Yes _0 No _8 Unable to assess

37. (If yes to Q36) Which ones? _66 _____

38. Did counsel consult with specialized sections within Justice?

_1 Yes _0 No _8 Unable to assess

39. (If yes to Q38) Which ones: _____

40. What were the specialized sections consulted about? (Check all that apply):

_01 Identifying and assessing legal risk _02 Managing legal risk _03 Potential legal options
_04 Potential litigation strategies _05 Questions of law _66 Other

41. Were other potentially affected departments and agencies consulted?

_1 Yes _0 No _8 Unable to assess

42. If yes to Q41, which one(s): _____

43. (If yes to Q41) What were they consulted about? (Check all that apply):

_01 Identifying and assessing legal risk _02 Managing legal risk _03 Potential legal options
_04 Potential litigation strategies _05 Questions of law _66 Other _08 Unable to assess

Questions 44 – 46 are for litigation files only.

44. At what stage were dispute resolution options considered? (Check all that apply.)

_00 DR not considered (GO TO Q47)
_01 Post-pleading _02 Post-production of documents _03 Post-discovery _04 Just prior to trial or hearing
_66 Other (please specify) _____ _88 Don't know/can't tell

45. At what stage were dispute resolution options used?

_01 Post-pleading _02 Post-production of documents _03 Post-discovery _04 Just prior to trial or hearing
_66 Other (please specify) _____ _88 Don't know/can't tell

46. What dispute resolution options were used?

_01 Negotiation _02 Voluntary mediation _03 Court-mandated mediation _04 Neutral evaluation
_66 Other (please specify) _____ _88 Don't know/can't tell

Questions 47 – 50 are for advisory files only.

47. Is there documented evidence in the file that the client department considered the BRLP legal advice in program and policy development?

_1 Yes _0 No _8 Unable to assess

48. (If yes to Q47) What evidence is there in the files?

49. Is there documented evidence in the file that the client department considered BRLP legal advice to prevent, mitigate, and/or manage legal risk?

_1 Yes _0 No _8 Unable to assess

50. (If yes to Q49) What evidence is there in the files?

51. Is there documentation in the file that shows that any of the following were used/prepared?

- _01 Risk assessment document (e.g., letter/memo to client re: likelihood of success and impact on client)
- _02 Contingency plan
- _03 Communication plan (should be part of contingency plan, but check to ensure it is)
- _04 Briefing notes
- _05 Documents on roles and responsibilities from Civil Actions toolkit or similar document (e.g., for litigation strategy, dispute resolution, risk assessment, communication strategy, contingency planning, etc.)
- _06 Early Warning Note for file
- _07 Documentation on structured review of facta/approval of facta
- _08 Early Resolution process
- _09 Practice directives

52. Was the file included in any of the following?

- _01 Early Warning Notes _02 Top 100 High Impact Report _03 Radar Screen _04 Scanning News
- _05 Justice Practice Group discussion

Risk assessment [from file or from text fields in iCase (background, impact, and status)]

53. What legal risks are identified? Please check all that apply. Only include if there is documentation that specifies risks (in iCase or in file); do not try to interpret information (e.g., counsel indicates difficult facts in memo in file; the researcher should not make their own decision that facts are difficult). You do not have to enter risks that are already listed under potential client impact in iCase. You should include other risks that might be identified in the Background, Impact, and Status sections of iCase as well as risks identified in the paper files.

- | | | |
|---|--|---|
| <input type="checkbox"/> __01 New/novel legal issue | <input type="checkbox"/> __02 Constitutional or Charter issue | <input type="checkbox"/> __03 Issue with availability of evidence |
| <input type="checkbox"/> __04 Issue with availability of affiants/witnesses | <input type="checkbox"/> __05 Difficult facts to support claim/defence | <input type="checkbox"/> __06 Unfavourable case law |
| <input type="checkbox"/> __07 Significant media interest | <input type="checkbox"/> __07 Potential to lead to termination or elimination of program | <input type="checkbox"/> __08 Class action |
| <input type="checkbox"/> __08 Cabinet Ministers or other prominent figures involved | <input type="checkbox"/> __09 Legal issue considered controversial | <input type="checkbox"/> __10 Case involves national security |
| <input type="checkbox"/> __66 Other, please specify _____ | | <input type="checkbox"/> __88 Can't tell |

54. Is there a discussion/indication of risk level indicated in the file?

- __1 Yes __0 No (**GO TO Q62**)

55. What is the **initial (or only)** risk level (1-9 or Low-Medium-High)? _____ __88 Can't tell

56. Date of **initial (or only)** risk assessment: _____(mm/dd/yy) __88 Can't tell

Questions 56 – 60 are for litigation files only.

57. At what stage in the case was the **initial (or only)** risk assessment done?

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> __01 Post-pleadings | <input type="checkbox"/> __02 Post-discovery | <input type="checkbox"/> __03 Pre-scheduled trial date | <input type="checkbox"/> __04 After decision |
| <input type="checkbox"/> __05 After appeal filed | | | |
| <input type="checkbox"/> __66 Other, please specify _____ | | | <input type="checkbox"/> __88 Can't tell |

58. Was risk **reassessed**?

- __1 Yes __0 No (**GO TO Q61**) __8 Can't determine (**GO TO Q61**)

59. At what stage in the case was the risk **reassessed**?

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> __01 Post-pleadings | <input type="checkbox"/> __02 Post-discovery | <input type="checkbox"/> __03 Pre-scheduled trial date | <input type="checkbox"/> __04 After decision |
| <input type="checkbox"/> __05 After appeal filed | | | |
| <input type="checkbox"/> __66 Other, please specify _____ | | | <input type="checkbox"/> __88 Can't tell |

60. If case was **reassessed** to a higher risk level, did any of the following occur after the reassessment?

- | | | | |
|---|--|---|---|
| <input type="checkbox"/> __01 Increased number of counsel on file | <input type="checkbox"/> __02 Assignment of senior counsel to file | <input type="checkbox"/> __03 Consideration of dispute resolution process | <input type="checkbox"/> __04 Use of dispute resolution process |
| <input type="checkbox"/> __05 Increased consultations | <input type="checkbox"/> __06 Increased reporting | | |
| <input type="checkbox"/> __66 Other, please specify _____ | | | <input type="checkbox"/> __88 Can't tell |

61. What language was used to describe the level of legal risk to clients? Please give verbatim examples that show the range of language used.

62. Any additional comments? (indicate applicable question number, if appropriate).

**For all files where Q12 is yes (was appealed)
iCase information (from Appeal file)**

63. Potential client impact:

- | | | |
|---|--|--|
| <input type="checkbox"/> __01 Affects administration of justice/public confidence | <input type="checkbox"/> __02 Affects federal, provincial, or international relations, treaties, or agreements | <input type="checkbox"/> __03 Legal issues or events that may be controversial, attract significant national media attention, or involve Cabinet Ministers or prominent public figures |
| <input type="checkbox"/> __04 Limitations of federal jurisdiction | <input type="checkbox"/> __05 Major effect on fiscal resources of client or government | <input type="checkbox"/> __06 Major effect on human rights, personnel, access and privacy, gender, or diversity issues |
| <input type="checkbox"/> __07 Major effect on law/regulations of client or government | <input type="checkbox"/> __08 Major effect on programs/policies/initiatives of client or government | <input type="checkbox"/> __09 Major effect on relations with Aboriginal people, Métis |
| <input type="checkbox"/> __10 Major effect on the Charter or Constitution | <input type="checkbox"/> __11 Matter of national interest | <input type="checkbox"/> __77 Not applicable <input type="checkbox"/> __88 Unable to assess |

64. Risk level (1-9): _____ 64b. Earlier risk level (if available through iCase) _____

65. Complexity:

- __1 Low __2 Medium __3 High __4 Mega __7 Not applicable

Survey of BRLP Legal Counsel

Introduction

Your response is very important to us. All information you provide is confidential and only aggregate results will be included in the evaluation report.

1. When did you first join the Department of Justice Canada?

- Less than a year ago
- Between 1 and 5 years ago
- Between 6 and 10 years ago
- More than 10 years ago

2. How long have you worked in the Business and Regulatory Law Portfolio?

- Less than a year
- Between 1 and 3 years
- Between 4 and 6 years
- More than 6 years

3. Where do you work?

- Legal Services Unit (LSU)
- Regional Office
- Commercial Law Section

4. (LSU counsel) Please specify the legal services unit to which you currently belong:

- Agriculture and Food Inspection
- Atlantic Canada Opportunities Agency
- Canada Economic Development for Québec Regions
- Canadian Heritage
- Competition Bureau
- Employment and Social Development Canada
- Environment Canada
- Fisheries and Oceans Canada
- Foreign Affairs, Trade and Development Canada
- Health Canada
- Industry Canada
- Natural Resources Canada
- Public Works and Government Services Canada
- Transport Canada

5. (BRLP counsel in regional offices) In which regional office are you currently located?

- Atlantic Regional Office
- British Columbia Regional Office
- Northern Region
- Ontario Regional Office
- Prairie Region
- Quebec Regional Office

6. What is your classification?

- Counsel (LP1 or LP2)
- Senior Counsel, General Counsel, or Senior General Counsel (LP3, LP4 or LP5)
- Manager (LC)

7. What kinds of files do you work on most often? (Check all that apply)

- Litigation
- Litigation support
- Advisory
- Other (please specify): _____

8. Based on the files you have worked on over the last two years, how often were the following goals achieved?

| | Frequently (80%-100% of files) | Regularly (50%-79% of files) | Occasionally (25%-49% of files) | Rarely (1%-24% of files) | Never (0% of files) | Don't know | Not applicable to my work |
|--|--------------------------------------|------------------------------------|---------------------------------------|--------------------------------|---------------------------|-----------------------|---------------------------------|
| Negotiated and met mutually acceptable deadlines | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Provided the client with updates or progress reports | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Provided timely assessments of legal risk so they could be factored into decision making | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Reassessed legal risk when factors that affect the level of risk changed | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Identified means to prevent or resolve legal disputes at the earliest opportunity | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

| | Frequently (80%-100% of files) | Regularly (50%-79% of files) | Occasionally (25%-49% of files) | Rarely (1%-24% of files) | Never (0% of files) | Don't know | Not applicable to my work |
|---|---|---|--|---|------------------------------------|-----------------------|--|
| Provided clear and practical guidance for resolving legal issues | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Involved the client in the development of legal strategies or positions | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

9. Please provide your level of agreement with the following statements.

| | Strongly agree | Agree | Neutral | Disagree | Strongly disagree | Don't know | Not applicable to my work |
|---|---------------------------|-----------------------|-----------------------|-----------------------|------------------------------|-----------------------|--|
| The BRLP has effective structures/mechanisms in place to coordinate and manage significant legal issues (for example, high impact files, files involving multiple departments or agencies). | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| There are practices/mechanisms in place to ensure that the advice provided by the BRLP is consistent with other advice provided or positions taken by Justice on the same legal question. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| There are structures in place to ensure that risks are assessed in a consistent manner across DLSUs and regions. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The BRLP has contributed to enhancing clients' understanding of legal issues and their implications. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The BRLP systematically offers legal services in both official languages. | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

10. (LSU counsel) When you work together on a file, how effective is the collaboration with the other BRLP areas listed below? Please explain or qualify your response in the space provided below.

| | Very effective | Effective | Neither effective nor ineffective | Ineffective | Very ineffective | Don't know | Not applicable to my work |
|---|-----------------------|-----------------------|-----------------------------------|-----------------------|-----------------------|-----------------------|---------------------------|
| Other BRLP DSLUs | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Regional Offices | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Commercial Law Section | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| BRLP Assistant Deputy Minister's Office | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Comments:

11. (BRLP counsel in regional offices) When you work together on a file, how effective is the collaboration with the other BRLP areas listed below? Please explain or qualify your response in the space provided below.

| | Very effective | Effective | Neither effective nor ineffective | Ineffective | Very ineffective | Don't know | Not applicable to my work |
|---|-----------------------|-----------------------|-----------------------------------|-----------------------|-----------------------|-----------------------|---------------------------|
| BRLP DSLUs | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other Regional Offices | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Commercial Law Section | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| BRLP Assistant Deputy Minister's Office | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Comments:

12. (Commercial Law Section counsel) When you work together on a file, how effective is the collaboration with the other BRLP areas listed below? Please explain or qualify your response in the space provided below.

| | Very effective | Effective | Neither effective nor ineffective | Ineffective | Very ineffective | Don't know | Not applicable to my work |
|---|-----------------------|-----------------------|--|-----------------------|-------------------------|-----------------------|----------------------------------|
| BRLP DLSUs | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Regional Offices | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| BRLP Assistant Deputy Minister's Office | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Comments:

13. When you work together on a file, how effective is the collaboration with the other areas of Justice listed below? Please explain or qualify your response in the space provided below.

| | Very effective | Effective | Neither effective nor ineffective | Ineffective | Very ineffective | Don't know | Not applicable to my work |
|------------------------------|-----------------------|-----------------------|--|-----------------------|-------------------------|-----------------------|----------------------------------|
| Public Law Sector | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Legislative Services Branch | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Litigation Branch | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Aboriginal Affairs Portfolio | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Comments:

14. (LSU counsel) When you work together on a file, are the roles and responsibilities clear between your DLSU and the other BRLP areas listed below? Please explain or qualify your response in the space provided below.

| | Very clear | Somewhat clear | Neutral | Not very clear | Not at all clear | Don't know | Not applicable to my work |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|---------------------------|
| Other BRLP DLSUs | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Regional Offices | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Commercial Law Section | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| BRLP Assistant Deputy Minister's Office | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Comments:

15. (BRLP counsel in regional offices) When you work together on a file, are the roles and responsibilities clear between your Regional Office and the other BRLP areas listed below? Please explain or qualify your response in the space provided below.

| | Very clear | Somewhat clear | Neutral | Not very clear | Not at all clear | Don't know | Not applicable to my work |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|---------------------------|
| BRLP DLSUs | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other Regional Offices | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Commercial Law Section | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| BRLP Assistant Deputy Minister's Office | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Comments:

16. (Commercial Law Section counsel) When you work together on a file, are the roles and responsibilities clear between the Commercial Law Section and the other BRLP areas listed below? Please explain or qualify your response in the space provided below.

| | Very clear | Somewhat clear | Neutral | Not very clear | Not at all clear | Don't know | Not applicable to my work |
|---|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|---------------------------|
| BRLP DLSUs | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Regional Offices | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| BRLP Assistant Deputy Minister's Office | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Comments:

17. When you work together on a file, are the roles and responsibilities clear between your DLSU, Regional Office or Section and the other areas of Justice listed below? Please explain or qualify your response in the space provided below.

| | Very clear | Somewhat clear | Neutral | Not very clear | Not at all clear | Don't know | Not applicable to my work |
|------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|---------------------------|
| Public Law Sector | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Legislative Services Branch | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Litigation Branch | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Aboriginal Affairs Portfolio | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Comments:

18. To what extent do you find the following tools, structures and processes useful to your work?

| | Very useful | Useful | Neutral | Not very useful | Not at all useful | Don't know | Not applicable to my work |
|--|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|---------------------------|
| Legal risk management (LRM) assessment grid/matrix | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Practice directives | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Practice groups | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

| | Very useful | Useful | Neutral | Not very useful | Not at all useful | Don't know | Not applicable to my work |
|--|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|---------------------------|
| Justipedia | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Peer review | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Internal mentoring practices | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Information sharing on best practices | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Secretariat assistance (Real Property Law Secretariat and IP/IT Secretariat) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

19. Are there other tools, structures or processes that you have found useful in managing your work?

- Yes
- No

If yes, please specify:

20. In your opinion, are there other tools or support that would assist you in your work?

- Yes
- No

If yes, please specify:

21. How satisfied are you with the professional development opportunities that are available to you?

| | Very satisfied | Satisfied | Neither satisfied nor dissatisfied | Dissatisfied | Very dissatisfied | Don't know | Not applicable |
|---|-----------------------|-----------------------|------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| BRLP Annual Training Day | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other training within the Department of Justice | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| External training | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

22. In your opinion, do any gaps exist in the professional development opportunities available to you?

- Yes
- No

If yes, please explain:

23. Have you provided BRLP-related training or information sessions over the last five years?

- Yes
- No
- Unable to assess / Do not remember

24. To whom did you provide this training or information session(s)? (Check all that apply)

- Other BRLP staff
- Other Justice staff outside the BRLP
- Client department / agency staff
- Public Prosecution Service of Canada (PPSC) staff
- Other (please specify): _____
- Unable to assess / Do not remember

25. Please select the topic area(s) of this training or information session(s). (Check all that apply)

- Legal process
- Legal risks
- Substantive law issues (e.g. user fees)
- Other (please specify): _____
- Unable to assess / Do not remember

26. Based on the files you have worked on over the last two years, how often...

| | Frequently (80%-100% of files) | Regularly (50%-79% of files) | Occasionally (25%-49% of files) | Rarely (1%-24% of files) | Never (0% of files) | Don't know | Not applicable to my work |
|---|---|---|--|---|------------------------------------|-----------------------|--|
| Were files assigned to the appropriate level of counsel given the legal risk / complexity of the files? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Were files assigned to the appropriate number of counsel given the legal risk / complexity of the files? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Were tasks allocated appropriately (level and experience) within the team assigned to manage the files? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Were appropriate levels of mentoring and / or supervision provided to support the management of your files? | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

27. Based on the files you have worked on over the last two years, how often did paralegals provide support when needed?

- Frequently (80%-100% of the time)
- Regularly (50%-79% of the time)
- Occasionally (25%-49% of the time)
- Rarely (1%-24% of the time)
- Never (0% of the time)
- Don't know
- Not applicable to my work

28. Based on the files you have worked on over the last two years, how often have paralegals been used for the following activities?

| | Frequently (80%-100% of files) | Regularly (50%-79% of files) | Occasionally (25%-49% of files) | Rarely (1%-24% of files) | Never (0% of files) | Don't know | Not applicable to my work |
|--|---|---|--|---|------------------------------------|-----------------------|--|
| Legal research | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Document production | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Redaction of documents for privileges (solicitor-client and national security) | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| Other | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

If other, please explain:

29. What factors contribute to the BRLP's ability to provide high-quality legal services?

30. What factors constrain the BRLP's ability to provide high-quality legal services?

31. What suggestions, if any, do you have for improving the legal services provided by the BRLP?

32. Do you have any other comments?