



# **Management Response and Action Plan**

## **Evaluation of the Public Law Sector**

**Department of Justice Canada**

**MANAGEMENT RESPONSE AND ACTION PLAN**

**PROJECT TITLE:** Evaluation of the Public Law Sector

**RESPONSIBILITY CENTRE:** PUBLIC LAW SECTOR (PLS)

Conclusions	Recommendations	Management Response	Action Plan	Responsible Manager (Title)	Planned Implementation Date
<p><u>Clarifying Expectations for PLS Legal Advice</u></p> <p>Overall the evaluation found that PLS services are coherent and useful to those requesting them. The evaluation did identify some areas of potential improvement. Some Justice counsel perceive the advice from some sections as occasionally too technical or academic to be shared directly with client departments without the advice being rewritten by DLSU counsel. While PLS has responded by developing best practices for legal opinions, it may want to consider other ways to respond to the expectations and practice of DLSU counsel so that the purpose and use of the advice is clear.</p> <p>The evaluation also identified that although consultations within the PLS are working well, where more than one PLS section is involved in a legal matter, where appropriate, PLS could produce more joint opinions.</p> <p>Another way to clarify expectations is to improve the quality of requests.</p>	<p><b>1. That the PLS consult with Justice DLSUs on the proper use of PLS services in order to manage clients' needs and expectations.</b></p>	<p>Agreed.</p> <p>It is important for PLS to clarify the expectations of DLSUs/clients on an ongoing basis to identify and manage client's legal services needs and expectations.</p> <p>Also, it is important for PLS to work on a collaborative basis with the DLSUs/clients to manage PLS' resources. Ways to reduce strain on PLS resources include the provision of joint opinions, where warranted, and ensuring that requests for legal services are managed in a way that avoids unnecessary or duplicative efforts.</p>	<p>This recommendation will be discussed with Portfolio Heads of DLSUs.</p> <p>Following discussions, PLS will develop Guidelines to share with LSU heads on the proper use of PLS services. The Guidelines will serve as a supporting tool to manage the needs and expectations of the DLSUs and clients.</p> <p>In particular, the discussions and Guidelines will focus on ways to improve the quality of requests for PLS' legal advice, to minimize the risk of duplicative requests, to ensure that legal advice is not unnecessarily technical or academic.</p> <p>PLS will encourage DLSU heads to work with LSU counsel within the Guidelines.</p> <p>PLS will continue to identify</p>	<p>ADM Public Law Sector (PLS)</p>	<p>December 2014</p>

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<p>The evaluation found that unclear and duplicative requests or misunderstood expectations of what the client needs can lead to unnecessary additional work by the PLS.</p>			<p>the need and to provide joint opinions, as appropriate.</p>		
<p><u>Clarifying Role of PLS</u></p> <p>By working with multiple DLSU counsel, litigators and client departments and agencies, PLS counsel are well placed to take a national perspective on legal issues. PLS counsel consulted with other potentially affected government departments on most of the files reviewed for the evaluation. However, the evaluation did raise some questions about whose responsibility it is to identify when other departments or DLSUs will be affected by a public law issue and to inform and engage them.</p> <p>While the Department has identified ‘best practices’ in providing legal advice including the sharing of information with Justice colleagues, there is no explicit guidance on who is responsible to do so. Focus group participants generally agreed that this is a responsibility of both PLS and DLSU counsel.</p>	<p><b>2. That the PLS identify, where appropriate, departments with which the DLSUs or client departments should consult.</b></p>	<p>Agreed.</p> <p>The primary responsibility for consulting other affected departments rests with the DLSU or client department that has initiated the request for PLS legal services.</p> <p>However, PLS recognizes its value in bringing a cross-cutting or whole-of-government approach on public law issues.</p> <p>The primary responsibility of the DLSUs is also consistent with Phase II of Legal Risk Management that places responsibility of managing legal risk with the DLSUs.</p>	<p>PLS will make recommendations to DLSUs, when appropriate, as to which other government departments should be contacted.</p> <p>This issue will be reflected in the PLS Guidelines (#1 supra).</p>	<p>ADM PLS</p>	<p>December 2014 for the Guidelines (#1 supra) with ongoing engagement with DLSUs on a per file basis.</p>

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<p><u>Managing Demand for Services</u></p> <p>As of April 2013, the PLS will no longer cost recover for its services. The evaluation concluded that cost recovery had to some extent affected decisions about when to consult PLS. The evaluation indicated that cost recovery may have reduced the demand for PLS services particularly on lower profile (lower risk and complexity) files. It is anticipated that the demand for PLS services may now increase, particularly for CAILS, HRLS and ILAPS.</p>	<p><b>3. That the PLS take steps to monitor and manage the demand for their services in the absence of cost recovery.</b></p>	<p>Agreed.</p> <p>PLS assesses client demand for legal services on an ongoing basis as part of its annual business and financial planning exercise.</p> <p>PLS will take steps to assess the resource impact of the ILAP Centre of Expertise.</p>	<p>Individual sections within PLS will review end-of-year roll-ups of the volume of requests by client departments and will analyze for purposes of managing demand and report to ADM.</p>	<p>ADM PLS</p>	<p>June 2014 (following a full fiscal year without cost recovery)</p> <p>Annual monitoring in subsequent years</p>
<p><u>Timeliness and Resource Issues</u></p> <p>Based on multiple lines of evidence, the evaluation found that PLS clients consider the legal services from PLS to be timely, coherent and useful, despite the challenging environment with many urgent requests. The exception was with JLT, which has a heavier workload in terms of hours spent on files than any other PLS section. JLT has experienced a substantial increase in workload while simultaneously encountering a decline in the number of legal counsel. The unique pressures on JLT were supported by multiple lines of evidence and resource issues appear to</p>	<p><b>4. That the PLS work with DFAIT to assess how to address workload issues.</b></p>	<p>Agreed.</p> <p>JLT is experiencing unique resource challenges due to heavy client demand.</p> <p>An increase in resources to meet client demand would likely improve JLT's timeliness.</p>	<p>PLS will engage with DFAIT in managing demand for legal services and to assess resource issues.</p>	<p>ADM PLS</p>	<p>JLT has already engaged with DFATD and obtained further short term funding to address negotiation and litigation pressures.</p> <p>DFATD has indicated a shared interest in moving forward with investigating longer term solutions.</p>

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<p>have an impact on JLT's ability to manage the demand for its services</p>					
<p><u>Training of Justice Counsel</u></p> <p>The evaluation confirmed that PLS is actively carrying out its role in providing training to Justice counsel. Its sections have offered over 200 events to over 3600 participants through the Department's Professional Development Directorate (PDD) as well as a significant number of training courses outside of PDD.</p> <p>The training data currently available varied by section and often did not include information on the participants or subject of the training. Given the importance of PLS training in informing counsel about public law issues, the PLS may want to conduct more systematic reviews of its training to ensure that training is meeting needs.</p>	<p><b>5. That the PLS systematically collect information about the training it provides to Justice legal counsel and clients including information about the quality and usefulness of the training.</b></p>	<p>Agreed.</p> <p>Training outside PDD is provided to Justice counsel and clients upon request and is tailored to meet specific and stated client needs. Information about its usefulness could provide insights as to how the training responds to increased demand for legal services (supra #3 and 4).</p> <p>Ways to acquire such information should take into account the various contexts in which training is provided.</p> <p>PLS training offered through PDD is, and will continue to be, evaluated by PDD.</p>	<p>Each training section will open a file to track training delivered.</p> <p>PLS will explore the most appropriate ways to collect performance measurement information that will take into account the various contexts in which training is provided and that can be achieved without straining or diverting limited resources from actual training operations.</p> <p>Business management unit will roll up information on an annual basis at the sectoral level.</p> <p>PLS Directors or their training coordinators will meet PDD annually to determine PDD demands for PLS training.</p>	<p>ADM PLS</p>	<p>October 2013 for files to track training delivered.</p> <p>September 2014 for collecting performance measurement information.</p> <p>Annual monitoring thereafter.</p>
<p><u>Training for Senior Public Law Counsel</u></p>	<p><b>6. That the PLS examine the training needs of more senior counsel</b></p>	<p>Agreed, subject however to available resources and necessary approvals that are</p>	<p>Subject to department policies, PLS will continue to promote training</p>	<p>ADM PLS</p>	<p>Annual assessment and actioning during</p>

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<p>As for the training available to PLS counsel, the evaluation found a decline in satisfaction with training over the evaluation period. Due to a variety of reasons, training that is appropriate for subject matter experts is not readily available.</p>	<p><b>working in the Sector, and develop training opportunities to meet these needs.</b></p>	<p>required to be sought at the departmental level for training opportunities for senior counsel.</p> <p>PLS is committed to fostering an environment that favours and facilitates continuous learning and professional development for all lawyers, including training and opportunities to develop management capacity in the Department.</p>	<p>opportunities for their more senior lawyers on an ongoing basis, and, in particular, through the discussions that form part of the performance evaluation process.</p> <p>Moreover, PLS managers will continue to engage senior counsel on training requests and opportunities as they arise.</p>		<p>mid- and end-of-year performance review discussions including ILPs and through Talent Management Process (where applicable)</p>
<p><u>iCase Data</u></p> <p>The ability to use iCase to respond to evaluation questions was limited. During the evaluation period, less than 1% of PLS files had a complexity level assigned and similarly for legal risk levels. This limited the analysis of trends on the nature of demand for PLS legal services and also limited the ability to assess law practice management measures such as assignment of higher risk, higher complexity files to more senior counsel.</p> <p>Although the Department has not yet standardized a legal risk management (LRM) grid for advisory files, it would be useful for the PLS to record legal risk assessments and re-assessments on appropriate advisory files. PLS</p>	<p><b>7. That the PLS record and track legal risk and complexity in iCase on appropriate legal advisory files using available LRM tools once this has been launched by the Department.</b></p>	<p>Agreed.</p> <p>PLS currently applies sectoral legal risk management standards and has participated actively in the development of the new proposed legal risk assessment tool for advisory services.</p> <p>The Department will soon implement its new legal risk grid, which can then be introduced to PLS.</p>	<p>PLS will continue to participate as appropriate in Departmental working groups and the LRM Renewal initiative and to implement, on an ongoing basis, new procedures developed for the Department.</p>	<p>ADM PLS</p>	<p>Beginning November 2013 once PLS LRM training has been completed.</p>

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<p>may want to develop performance indicators related to work assignment (file, legal requests) that are appropriate to the PLS and can be tracked.</p>					
<p><u>Consistent Approach to Opening Files</u></p> <p>The use of iCase data was also affected by the lack of a consistent approach in opening advisory files across PLS sections. A ‘file’ may not be a consistent unit of analysis in that the number of requests for legal services does not necessarily equate with the number of files opened.</p>	<p><b>8. That the PLS apply a more standardized process to opening advisory files such that it is possible to measure and compare requests for legal services and analyze trends over time.</b></p>	<p>Agreed.</p> <p>A more standardized process in opening advisory files across PLS sections could assist PLS to compare client demands for legal services among sections.</p> <p>It will be necessary as well to take into account Justice’s progress on process optimization and Single File Initiatives, which will also affect how advisory files are opened and what data is collected for subsequent analysis.</p>	<p>PLS will review its processes in opening advisory files and will identify which elements or information should be collected when opening advisory files, so that it will be possible to measure and compare client demands for legal services among PLS sections.</p> <p>Subject to Justice iCase standards, process optimization and Single File initiatives, PLS will adjust its file opening procedures as necessary to reflect the identified elements.</p>	<p>ADM PLS</p>	<p>Timelines will follow those of the Department for the single file initiative on advisory files as well as implementation of GCDocs and of the case management program that will replace iCase.</p> <p>December 2013 for discussions with SPPM on whether there is a</p>

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					way to improve iCase data for PLS advisory files in the interim, and with SPPM and ISB to explore whether the future Departmental platform will assist with workflow tracking
<p><u>Role of National Legal Advisory Committee (NLAC)</u></p> <p>The NLAC, which is chaired by the ADM of the PLS, is intended to provide a forum for senior Justice officials to discuss non-litigation issues and ensure that the Department ‘speaks with one voice’ on advisory issues. The evaluation found that the NLAC has not often been used. Many potential reasons were identified for its low usage, including the perceived lack of clarity as to the NLAC’s role and a general lack of awareness of this committee.</p> <p>Multiple lines of evidence indicate that differences of opinion between PLS and lead counsel on files are resolved through informal discussions and meetings of counsel to arrive at a Justice position. Given the low use of the NLAC, it may be appropriate for the Department to review the NLAC’s terms of reference and to clarify its</p>	<p><b>9. That the PLS bring the findings of this evaluation related to the NLAC to the attention of the Executive Committee to discuss and clarify its role in the Department.</b></p>	<p>Agreed.</p> <p>In anticipation of this recommendation, PLS ADM brought this matter to the attention of the Executive Committee. Senior management is currently considering options with respect to NLAC’s role and structure.</p>	<p>Completed.</p>	<p>ADM PLS</p>	<p>N/A</p>

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role in the Department.					