

**EARLIER SOLUTIONS, FASTER JUSTICE:  
THE FUTURE OF ADMINISTRATIVE JUSTICE IN BRITISH COLUMBIA**

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**I. Introduction:**

The complexity, costs and delay associated with proceedings in the civil justice system have made the system increasingly inaccessible to most Canadians. Access to justice is a serious problem for the average Canadian because the justice system is frequently unaffordable to all but the wealthiest. As the Right Honourable Beverley McLachlin recently said “The most advanced justice system in the world is a failure if it does not provide justice to the people it is meant to serve. Access to justice is therefore critical.”<sup>1</sup>

British Columbia, like many other Canadian jurisdictions, is taking serious steps to reform its civil justice system to make it more responsive, accessible and efficient. The Ministry of Attorney General, responsible in government for the administration of justice and leadership in law reform, will be providing leadership across government and with other justice system stakeholders and community partners to build collaborative and innovative approaches to the various issues faced by our justice system. The Ministry’s vision is a province governed by the rule of law with an effective justice system serving all British Columbians. Its goals are to not only to improve access to justice, but to improve access to resolution, so that citizens can solve their problems more simply, quicker and at less cost. The Ministry’s fundamental reform strategy is to provide “earlier solutions and faster justice” – earlier intervention and earlier resolution – in all aspects of the justice system.

Administrative justice is an integral component of the civil justice system, and while access to BC’s administrative justice system has been enhanced by a number of recent reforms,<sup>2</sup> additional administrative justice reforms can and should be expected to ensure that BC’s citizens are provided with the information and tools they need to resolve their disputes, earlier, faster and more simply. Given the role of the administrative justice

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<sup>1</sup> Recent speech to the Empire Club of Canada

<sup>2</sup> Details about some of those reforms are provided, *infra*, starting at page 5.

sector within the larger civil justice system, those reforms will be informed and guided by the principles and framework already articulated with respect to BC's court reforms. To provide the context for the anticipated administrative justice reforms, this paper first provides an overview of the reform work currently being undertaken in relation to BC's civil court system, and then sets out the proposed administrative justice system reforms.

## **II. BC's Civil Court Reforms**

### *A. Justice Review Task Force*

The Justice Review Task Force was established in March, 2002 on the initiative of the Law Society of BC and is a joint project of the Law Society, the Attorney General, the BC Supreme Court, the BC Provincial Court and the BC Branch of the Canadian Bar Association. The Task Force has the objective of identifying a wide range of reform ideas and initiatives to help make the justice system more responsive, accessible and cost-effective.

### *B. Civil Justice Reform Working Group*

As part of that initiative, the Civil Justice Reform Working Group (CJRWG) was formed in 2004 to explore and make recommendations for fundamental change to the civil justice system from the time a legal problem develops through the entire Supreme Court litigation process.<sup>3</sup> In conducting its work, the CJRWG was specifically asked to consider if there is a better way for the BC civil justice system to resolve disputes.

In answering this question, the CJRWG looked beyond mere procedural reforms and simply tinkering with the Supreme Court Rules to focus on the interests of the users of and participants in the legal system, in order to find options that meet as many of those interests as possible. The interests identified included:

- *Accessibility* - dispute resolution processes, including trials, that are affordable, understandable and timely;
- *Proportionality* - procedures that are proportional to the matters in issue;
- *Fairness*: parties to have equal and adequate opportunities to assert or defend their rights;

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<sup>3</sup> Working groups have also been established to review issues concerning family law, street crime and large criminal cases.

- *Public Confidence* - parties who are confident that the civil justice system will meet their needs, and consider that it is trustworthy and accountable;
- *Efficiency* - the civil justice system uses public resources wisely and efficiently, and
- *Justice* - the truth, to the greatest extent possible, is ascertained and applied to produce a just resolution.

In conducting its work, the CJRWG needed to reconcile two fundamental but competing interests: comprehensive due process and affordable dispute resolution. Access to the courts and the trial system is fundamental to our society; our courts promote social order and public confidence by deciding the tough cases, establishing legal precedent, and protecting the vulnerable. The reality, however, is that very few cases go to trial. The system is, in fact, overwhelmingly a dispute resolution system, not a litigation system, and most citizens are seeking early and fair dispute resolution, not a costly and prolonged adversarial trial.

### *C. The Working Group's Report: "Effective and Affordable Civil Justice"*

The CJRWG issued its report, *Effective and Affordable Civil Justice*, in November, 2006.<sup>4</sup> In the report, the CJRWG expresses a vision of a civil justice system that provides access to justice to everyone, regardless of their means, so they can obtain just solutions to legal problems, quickly and affordably.

Five key principles were articulated as the underlying basis of this vision of an accessible justice system:

- *Proportionality* - the amount of process used will be proportional to the value, complexity and importance of the case;
- *Flexibility and matching* - the process used will be designed to fit the needs of the case and the parties;
- *Judicial intervention* - judges and masters will take a more active role in the management and resolution of cases;

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<sup>4</sup> The report can be viewed at: [www.bcjusticereview.org](http://www.bcjusticereview.org).

- *An expanded role for lawyers* - lawyers will use an expanded toolkit that reflects a multitude of process options to assist their clients in quickly arriving at just solutions; and
- *Preservation of the rule of law* - the new system must support and be guided by the rule of law.

The CJRWG proposes two broad strategies to achieve its vision:

- providing integrated information and services to support those who want to resolve their legal problems on their own before entering the court system, and
- providing a streamlined, accessible Supreme Court system where matters that can be settled are settled quickly and affordably and matters that need a trial get to trial quickly and affordably.

#### *D. The Working Group's Recommendations:*

The CJRWG report makes three key recommendations for implementing the identified strategies.

1. The first recommendation involves the introduction of a “hub”, a single place where people can go to get the information and services they require to solve legal problems on their own. A hub would:

- coordinate and promote existing legal-related services,
- provide legal information,
- establish a multidisciplinary assessment/triage service to diagnose the legal problem and provide referrals to appropriate services, and
- provide access to legal advice and representation if needed through a clinic model.<sup>5</sup>

2. The second recommendation is that parties to Supreme Court actions be required to attend a case planning conference before they engage the system beyond simply

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<sup>5</sup> For example, the Nanaimo Family Justice Services Centre pilot project, recently established through the co-ordinated efforts of the Ministry of Attorney General and the Legal Services Society, offers information, assessment, advice, mediation, and referrals to members of the public respecting family law issues. The Centre is a single point of entry where people can get information about how to solve their problem outside the courts or about how to work their way through the courts. The Centre's web site is: <http://nanaimo.familyjustice.bc.ca/>

initiating and responding to a claim. Specifically, a case planning conference would address:

- settlement possibilities and processes,
- narrowing of the issues,
- directions for discovery and experts,
- milestones to be accomplished,
- deadlines to be met, and
- setting of the date and length of trial.

3. The third recommendation proposes a complete rewrite of the Supreme Court Rules, with an explicit overriding objective that all proceedings be dealt with justly and pursuant to the principles of proportionality.<sup>6</sup> In applying the new rules to an action, the court<sup>7</sup> will be called on to consider the

- complexity (for example, the number of parties and the nature of the issues),
- monetary value, and
- importance with respect to the public interest.

The principles that will be applied in the rewrite of the Supreme Court Civil Rules<sup>8, 9</sup> are:

- proportionality,

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<sup>6</sup> Perhaps the best example of the broad application of proportionality as a general principle is in the Civil Procedure Rules of the United Kingdom (See Rule 1.1 at [http://www.dca.gov.uk/civil/procrules\\_fin/contents/parts/part01.htm](http://www.dca.gov.uk/civil/procrules_fin/contents/parts/part01.htm)). Under the UK rules all civil matters are guided by the “overriding objective” of enabling the court to deal with cases justly.

<sup>7</sup> In Quebec, the court rules place the burden of ensuring proportionality on the parties: “Parties must ensure that the proceedings they choose are proportionate, in terms of the costs and time required, to the nature and ultimate purpose of the action or application and to the complexity of the dispute.” Quebec, Code of Civil Procedure, Rule 4.2.

<sup>8</sup> The Family Rules Working Group, which includes representatives from the Ministry of Attorney General, the Provincial and Supreme Courts and the private bar, is also working on rewriting the rules for family law cases, to revise the rules and forms in both the Provincial and Supreme Courts and to incorporate in those new rules the same principles as will be applied in the rewrite of the Supreme Court Civil Rules - proportionality, simplicity, matching and early resolution.

<sup>9</sup> In British Columbia, the recent Expedited Procedure Rule (Rule 68) already reflects aspects of the proportionality principle, setting out an expedited, simplified proceeding for cases where the amount at issue is less than \$100,000. The new rule limits both pre-trial procedures and the evidence that can be called at trial. While the rule does not extend to matching the procedures to the non-monetary aspects of a case, it does permit parties to apply for an order to be excused from the provisions of the rule or, if the rule does not apply, to agree to its application. In this way, parties to cases with a lower monetary value that have important non-monetary implications can seek permission to be exempted from the rule, and parties to cases that have a large dollar value at issue but are otherwise simple, can agree to the rule applying.

- simplicity,
- matching, and
- early resolution.

Specific suggestions for the new rules include:

- abolish the current pleading process and instead adopt a new case initiation and defence process that requires the parties to accurately and succinctly state the facts and the issues in dispute and to provide a plan for conducting the case and achieving a resolution;
- limit discovery, while requiring early disclosure of key information;
- limit the parameters of expert evidence;
- streamline motion practice;
- provide the judiciary with power to make orders to streamline the trial process;
- consolidate all three regulations regarding the Notice to Mediate into one rule under the Supreme Court Rules; and
- provide opportunities for litigants to quickly resolve issues that create an impasse.

#### *E. Next Steps in Civil Court Reforms*

Since the release of the CJRWG report, Chief Justice Donald Brenner and I have been touring British Columbia, presenting the report's recommendations, hearing comments and answering questions. Feedback from bar associations, CBA sections, Chambers of Commerce, service clubs, law schools and other organizations has generally been positive. In particular, feedback from people who have used the civil justice system as parties to litigation is very positive. Members of the Bar have expressed support, as well as specific concerns relating to the role of "hubs," the proposed reform of the Supreme Court Rules to place restrictions on discovery, the efficacy of the proposed case planning conference and the adequacy of the notice provided by the new case initiation process.

This feedback will be incorporated into the on-going reform work and the drafting of the new rules.<sup>10</sup> A “concept draft” of the new rules is expected by the end of June, 2007, to serve as the basis for another round of discussions and consultations. The hope is that lawyers and others interested in the justice system will take the opportunity to contribute to the development of the new rules and other initiatives being explored.<sup>11</sup> Strong leadership from those directly involved in the justice system will be required to overcome long-held attitudes, based on a culture of precedent and tradition.

### **III. Administrative Justice System Reforms**

#### *A. What do the proposed court reforms mean for BC’s administrative justice sector?*

At the most general level, the court reforms will inform and provide a conceptual framework for broader reforms across the whole of the justice system in British Columbia; more specifically, the court reforms may be seen as setting the bar for government’s expectations for change with respect to the administrative justice system. The administrative justice sector will need to ensure it, in fact, provides a true alternative to the reformed court system, and to do that, the administrative justice sector must ensure it provides early solutions and faster justice for BC citizens. The administrative justice sector as a whole - tribunals, statutory decision makers, and others - will need to adopt the goal of not only providing easier access to justice, but also to providing easier access to resolution.

For the tribunal sector, it will mean tribunals will need to re-examine their own processes and practises, to ensure that they are not simply a scaled down version of, but in fact are out front of the courts, in terms of developing and implementing opportunities for early solving of problems and resolution of disputes. And tribunals will need to ensure that

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<sup>10</sup> For example, one of the suggestions that is being considered is to revise the report’s proposed elimination of oral discovery without leave or consent in cases valued at \$100,000 or less, to permit 2 hours of examination as of right, with up to a maximum of 2 days by consent, regardless of the value of the case.

<sup>11</sup> Other reform initiatives being explored by the Ministry of Attorney General to further the goals of earlier resolution, faster solutions, include a pilot project to test highly expedited procedures for small claims cases that have a monetary value of less than \$5,000 to provide a very simple, very fast process for resolving these disputes, and the possibility of mediation for all small claims cases with a value of more than \$5,000.

where early resolution is not possible, they provide streamlined, proportionate and timely adjudicative processes that are simpler, faster and less costly than the new court processes.

For first level statutory decision-makers, they will need to provide effective opportunities to resolve matters using mediation and other tools, where appropriate, and, if not resolvable, to make the best possible decisions, fairly and quickly. They will need to ensure they communicate their reasons for those decisions effectively.

And there may be a need for further, additional court reforms to provide a more streamlined approach to judicial review of both tribunal and other administrative decisions, and possibly apply a legislated standard of review to those decisions, where none currently applies.

As these reforms will build on BC's earlier administrative justice reforms, a brief review of that work will provide some context for the future reforms.

#### *B. Administrative Justice Reforms to date*

The Administrative Justice Project (AJP), the first ever system-wide review of BC's administrative justice system, was initiated by the government in 2001 to address concerns about delays, costs, fairness and the increasing complexities of administrative justice processes. The AJP consulted with tribunals, ministries, tribunal users, the legal profession and the public about reforms to ensure the administrative justice system provided an effective alternative to the courts to resolve disputes, and published a number of discussion papers on topics related to specific reforms.

In 2002, the AJP released a White Paper, *On Balance: Guiding Principles for Administrative Justice Reform in British Columbia*,<sup>12</sup> which made 54 recommendations for a more efficient and effective administrative justice system. BC's government has acted on most of the AJP's recommendations.<sup>13</sup>

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<sup>12</sup> Available at [http://www.gov.bc.ca/ajo/down/white\\_paper.pdf](http://www.gov.bc.ca/ajo/down/white_paper.pdf)

<sup>13</sup> The very few outstanding White Paper recommendations not yet acted on include consolidating ministerial responsibility for tribunals, which requires further study. See below at page 14.



The *Administrative Tribunals Appointments and Administration Act, SBC 2003*<sup>14</sup> was the first legislative response to those recommendations. That Act:

- provides for merit-based, fixed term appointments, to ensure high quality, independent decision-making, and
- clarifies the responsibilities of tribunal chairs.<sup>15</sup>

Soon after, the more comprehensive *Administrative Tribunals Act SBC 2004*<sup>16</sup> was enacted to address various of the other White Paper recommendations. That Act incorporates the provisions of the *Administrative Tribunals Appointments and Administration Act* and also provides a modern framework for administrative tribunal practices, powers and authorities, using consistent, standard language. Those provisions have been selectively applied to the various tribunals, by consequential amendments to each of the tribunal's own enabling legislation, reflecting the unique nature, role and mandate of each tribunal, as appropriate.<sup>17</sup>

Other key *Administrative Tribunals Act* provisions to address efficiency and early resolution in the administrative justice system include provisions to address constitutional jurisdiction<sup>18</sup> and the standard of review.<sup>19</sup> (See also *Bill 33 - Attorney*

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<sup>14</sup> Available at [http://www.qp.gov.bc.ca/statreg/stat/A/03047\\_01.htm](http://www.qp.gov.bc.ca/statreg/stat/A/03047_01.htm)

<sup>15</sup> For most tribunals, the application of this Act has been repealed and replaced by the application of the similar provisions of the *Administrative Tribunals Act*, however, this Act still applies to those very few tribunals not yet brought under by the *Administrative Tribunals Act*.

<sup>16</sup> The ATA can be viewed at: [http://www.gov.bc.ca/ajo/popt/legislation.htm#ata\\_act](http://www.gov.bc.ca/ajo/popt/legislation.htm#ata_act)

<sup>17</sup> See [http://www.gov.bc.ca/ajo/popt/admin\\_tribunals\\_in\\_bc.htm](http://www.gov.bc.ca/ajo/popt/admin_tribunals_in_bc.htm) for a list of the BC tribunals that adopt provisions of the ATA.

<sup>18</sup> On second reading of the ATA, then Attorney General, Geoff Plant, identified a number of reasons for the express limitations on constitutional jurisdiction (see Hansard, May 18, 2004, at 11194). Those reasons included the complexity of constitutional litigation, that constitutional cases require a wide-ranging consideration of a great number of legal issues and that these decisions may have far reaching public policy implications. A related reason was that the expertise required to decide constitutional issues often goes beyond the specialized expertise of a tribunal. The Attorney General pointed out that this may even be the case where a tribunal's membership includes lawyers, as not all lawyers have a high degree of experience in the highly specialized area of constitutional law. In addition, this approach to constitutional issues recognizes and acknowledges that most lay litigants are not well equipped to deal with complex constitutional arguments without legal representation. In a constitutional matter, this works to the disadvantage of both the lay litigant and the tribunal by delaying decisions, increasing the costs and complexity of the decision-making process, and undermining the fundamental goals of accessibility, efficiency and speedy dispute resolution of the administrative justice system. An additional factor identified was that, even if a tribunal has the institutional capacity to deal with constitutional issues, its decisions are not binding. As a result, most constitutional law questions end up in the courts in any event. The considerable costs of constitutional challenges for the

*General Statutes Amendment Act, 2007*, introduced April 25, 2007, which proposes amendments to clarify tribunals' jurisdiction respecting *Human Rights Code* issues.<sup>20)</sup>

### C. Administrative Justice Office

Not all of the White Paper recommendations required legislation; one such recommendation was for the creation of the Administrative Justice Office (AJO) within the Ministry of Attorney General to research, support and, where appropriate, lead initiatives for administrative justice system reform.

Created in 2003, the AJO works collaboratively with:

- the members of the public who look to the administrative justice system for alternative dispute resolution, regulatory and other decisions and for policy implementation
- BC's independent administrative tribunals that resolve those disputes, make decisions and implement policy
- the provincial ministries that work with and fund BC's administrative tribunals
- the lawyers both within government and in private practice who appear before or advise administrative tribunals.

The work of the AJO has included a Tribunal Tool Kit, comprising various guides, information bulletins, publications and other information for tribunals and others to support the implementation of the ATA.<sup>21</sup>

The AJO has also undertaken work in support of tribunal independence and accountability. With the input and advice of tribunal chairs, ministry staff and many

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parties and the tribunal and the commitment of extensive public resources support the approach of leaving these questions for the courts to decide.

<sup>19</sup> Although some have been critical of a legislated standard, others, including the courts, have reacted positively. See, for example, *Victoria Tours Limited v. Passenger Transportation Board*, 2005 BCSC 1693, where Mr. Justice Bauman stated (at para. 6): "Happily, the *Administrative Tribunals Act*, S.B.C. 2004, c. 45, in s. 58 thereof, dictates the standard of review one is to apply to decisions of the Board." And *McIntyre v. British Columbia (Employment and Assistance Appeal Tribunal)* [2005] B.C.J. N0.1808, where Madam Justice Russell said (at para. 15): "Determining the applicable standard of review has historically involved a complicated and labyrinthine analysis aimed at discovering the legislative intent of the statute creating the tribunal whose decision is being reviewed. Fortunately, in British Columbia, the Administrative Tribunals Act has removed the need for this analysis...."

<sup>20</sup> See <http://www.leg.bc.ca/38th3rd/votes/progress-of-bills.htm> for information on the status of Bill 33 and a link to the Bill.

<sup>21</sup> See: [http://www.gov.bc.ca/ajo/popt/tribunal\\_tool\\_kit.htm](http://www.gov.bc.ca/ajo/popt/tribunal_tool_kit.htm)

others, the AJO developed a model Memorandum of Understanding (MOU) that has been used by various tribunal chairs and the responsible minister as the basis to discuss and agree on their mutual expectations.<sup>22</sup> And the AJO participated in the recent review and revision of the Treasury Board Directive, which provides a transparent framework for the remuneration to tribunal members and is intended to support independence and also to enable the administrative justice sector to attract and retain the best possible tribunal members.<sup>23</sup>

The AJO and the Ministry's Dispute Resolution Office (DRO) are collaborating on work to enhance and expand dispute resolution capacity in the administrative justice system.<sup>24</sup>

And the AJO continues to work on legislative reform, reviewing and advising on all ministries' proposals for legislative administrative processes, to ensure consistency with the framework established by the ATA.<sup>25</sup>

#### *D. Next Steps in Administrative Justice System Reform*

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<sup>22</sup> An MOU does not create legal or binding obligations on the chair or the minister, but is intended to provide a framework for a positive and co-operative working relationship between them. Ministers and chairs may adapt the model MOU to reflect the unique circumstances of the particular ministry and tribunal for which they are responsible. The model MOU includes a variety of provisions, not all of which will be applicable to each tribunal/ministry relationship and, in some cases, provides options to reflect the wide range of possible arrangements. While comprehensive, the model MOU is not intended to be exhaustive, as it is impossible to conceive and reflect all possible variations and unique circumstances. The primary goal should be achieving the appropriate balance of tribunal independence and tribunal/ministerial accountability, to support effective administrative justice. Some of the MOU's that have been signed include those between the Minister of Employment and Income Assistance and the Chair of the Employment and Assistance Appeal Tribunal, the Minister of Forests and Range and Minister Responsible for Housing and the Chair of the Safety Standards Appeal Board, and the Minister of Energy, Mines and Petroleum Resources and the Chair of the Mediation and Arbitration Board.

<sup>23</sup> See: <http://www.fin.gov.bc.ca/ocg/fmb/manuals/TBDirs/TBD2-07.pdf>

<sup>24</sup> A report on the first phase is available on the AJO's website at [[Dispute Resolution Needs Assessment Project: Initial Research and Preliminary Assessment](#)]. The follow-up report and proposal for an evaluation framework are expected to be posted to the AJO website very soon. An early indication of the expectation that tribunals would be proactive in adopting dispute resolution processes can be seen in the comments of the Attorney General (Hansard, May 18, 2004 second reading of the ATA, at 11192.): "The move to encourage alternative dispute resolution is an important part of rethinking the justice system, and administrative tribunals have an opportunity to show leadership in this regard."

<sup>25</sup> For more information on the Administrative Justice Office, see: <http://www.gov.bc.ca/ajo/>

Despite this wide ranging work over the past several years, more remains to be done to ensure the administrative justice system is responsive, accessible and efficient. As noted above, the Ministry of Attorney General has adopted, and is encouraging others to adopt, a fundamental change of perspective - from simply providing access to justice to providing access to resolution. To accomplish this within the administrative justice sector, the Ministry will be engaging with the leaders of the various components that comprise the administrative justice system, and will be promoting discussion with and the participation of those leaders in the application and extension of aspects of the Ministry's plan for civil court reforms to the administrative justice sector.

#### *E. Key Strategies*

The Ministry of Attorney General has adopted five strategies for its justice transformation plan, which will also apply to the reform plan for the administrative justice sector. Those strategies are:

- *Prevention*: to minimize or avoid conflicts from developing
- *Integration*: to co-ordinate with systems and services in the community, to the extent possible
- *Information*: to provide citizens more and better information, advice and guidance on how the justice system, including the administrative justice sector, works
- *Simplification*: to support and encourage decision makers, including tribunals and others, to streamline their procedures to make them faster, proportional and more user-friendly
- *Resolution*: to encourage an early resolution focus, through procedures that encourage problem-solving and mediation, reserving adjudication only where no other option makes sense.

These strategies will be applied to reforms in the administrative justice system through a number of key actions proposed to be undertaken over the next several years by the Ministry of the Attorney General, in consultation with other administrative justice system stakeholders and community partners.

#### *F. Key Actions:*

1. Prevention: The Ministry proposes several initiatives aimed at minimizing, avoiding and resolving issues before they become disputes that would need to be considered by a tribunal or other oversight body such as the courts.

The most comprehensive and longer term of those projects will be to undertake research in support of developing a statutory framework for modern, standard powers and procedures for statutory decision-makers in order to deliver fair, transparent and consistent decision-making. This work is expected to be similar to the highly successful Administrative Justice Project, and will commence with discussion papers that highlight various common topics which, for example, may include inspection powers, subpoena powers, dispute resolution processes and the various means and types of decision-making processes. It is expected that this project will involve the various statutory decision-makers, their stakeholders and the responsible ministries, plus others. If the research and consultation indicates supports for it, legislation, similar to the *Administrative Tribunals Act*, may follow.

More immediately, the Ministry, through the joint efforts of its DRO and AJO, will be looking to build and support the enhanced use of mediation by government's statutory decision-makers. Training materials for mediation skills specific to the context of statutory decision-makers is expected to be developed, piloted and evaluated, to promote more effective resolution so these matters do not become a dispute that a party then needs to ask be considered by a tribunal or the court.

A related initiative will be the development of more education and training opportunities for statutory decision-makers in how to make fair, transparent and consistent decisions when it is necessary to do so, and also to ensure those statutory decision-makers provide clear and understandable reasons for those decisions, so that the persons affected by those decisions can easily understand and accept the decisions that are made, thereby reducing appeals from and potential for judicial reviews of those decisions.

The Ministry will also be looking for additional opportunities to resolve problems and avoid or limit conflicts early in the process, and to limit or avoid disputes being brought

into the administrative tribunal sector by, for example, undertaking research into the design of dispute resolution systems.

2. Integration: The Ministry will be looking to make the administrative justice system more efficient and effective through efforts to co-ordinate within that system and also with other external systems and services.

At its broadest, and over the longer term, this may encompass exploring the full spectrum of what service integration can potentially mean at the various levels and across the broad range of the administrative justice sector.

Among immediate efforts, the AJO will be asked to look for opportunities to better share information with tribunals and ministries, to lead to more co-ordinated and effective use of administrative justice resources. The Ministry, through the AJO, will be looking to initiate and support opportunities for tribunals to coordinate their systems and services through co-location, cross-appointments or other options where possible, building on the already successful co-location and shared registries by some BC tribunals. The AJO will also be asked to work with ministries to co-ordinate their support to tribunals where possible, so that the government's efforts within and across the administrative justice sector are integrated.

Consolidation of ministerial responsibility for tribunals, an AJP White paper recommendation, will be given consideration, starting with specific, individual cases followed by study of a broader application across the sector.

3. Information: As with the civil court reform initiatives, providing citizens more information, advice and guidance on how the administrative justice system works will be a key element in the Ministry's efforts to support early and faster resolution of disputes within the administrative justice system.

As the Ministry anticipates that many of the problems citizens would bring to a civil justice hub – recommended by the CJRWG to provide a single, front- end access point so citizens can more easily resolve their own issues – would relate to the administrative

justice sector, the Ministry will be consulting with its civil justice system partners on expanding the justice information hubs to also provide more easily accessible information, advice and guidance about issues and disputes that arise in relation to the administrative justice sector.

Over the longer term, the Ministry will also look to for options to provide faster, easier access to information across the full spectrum of the administrative justice sector - federal, provincial, and other sector participants - to all citizens in BC.

And high quality, easily accessible information on various issues related to administrative justice will continue to be provided though the website and by the AJO and others participating in various legal education and other seminars and publications.

4. Simplification: As part of government's goal to make the justice system more affordable, less complicated and more responsive, the Ministry will be supporting efforts to make tribunal and other decision-makers' procedures faster, proportional and more user friendly.

The AJO is expected to complete its work on model rules as a best practise for tribunal case management and dispute resolution processes, to stream problems and disputes to faster, more proportionate resolutions. The model rules will be posted on the AJO website and tribunals will be encouraged to modify their rules to achieve the identified best practises and provide the most proportionate, yet fair, resolutions.

Recognizing that despite all efforts to resolve matters, the courts will still be asked to judicially review some decisions made by tribunals and others, the Ministry will be exploring opportunities with the Supreme Court and other stakeholders to re-write of the court rules that govern judicial review proceedings. As with the re-write of the general court rules that is currently being undertaken, the Ministry is interested in working with other stakeholders on rules for judicial review proceedings that will include opportunities for streaming, case management and mediation, in order to reduce the costs, complexity and lack of flexibility of the current judicial review rules which may present barriers to accessing justice.

As a further effort to promote a justice system that is more affordable, less complicated and more responsive, the Ministry will undertake research on expanding the use of administrative monetary penalties in a larger number and wider range of regulatory and public safety matters as a potential option to divert more of these matters from the prosecution stream in the criminal courts.

In addition, the Ministry will be researching opportunities to provide off ramps for specific matters from the courts to specialized tribunals with more simplified, faster processes. Preliminary work is expected to be directed to identifying and defining any potential constitutional issues.

And as part of its simplification strategy, the Ministry will continue to maintain, support and expand the use of the *Administrative Tribunals Act* as a comprehensive framework for an administrative justice system that is timely, proportionate and a more user friendly alternative to the courts. This will mean all proposed legislation will be reviewed to ensure any administrative decision-making processes provide appropriate powers and authorities to effectively deliver faster, proportional and more user friendly administrative justice.

5. Resolution: The Ministry will be stepping up its efforts to actively encourage early resolution through procedures that encourage problem solving and mediation, so adjudication is used only where no other option makes sense.

Problem solving without adjudication will be a focus. Research will be undertaken into dispute resolution systems design to explore opportunities to resolve conflicts as soon as possible, both before and after the tribunal sector is engaged. Other supports proposed for enhancing the use of dispute resolution processes such as mediation at tribunals include a proposed pilot dispute resolution program and providing an evaluation framework. In addition, the Ministry is supporting research on any barriers to and looking to increase opportunities for mediation in determining statutory rights and entitlements.



Where a matter cannot be resolved and adjudication by a tribunal is required, the Ministry will work to ensure that policies are in place and applied to support the appropriate level of decision-making independence including appointment and re-appointment practises, remuneration and indemnity policies, and the use of use of Memoranda of Understanding as a best practise to balance independence and accountability.

Where judicial review by the court is required, the Ministry will be researching and developing options for providing legislative direction on the deference and standard of review to be applied by the courts in relation to the decisions of statutory decision-makers, to simplify the resolution of those matters, similar to the success achieved by the *Administrative Tribunals Act* in relation to tribunals' decisions. In this way, the time and efforts of the parties to a judicial review can be focussed on the true matters at issue between them.

#### **IV. Conclusion:**

An efficient and effective justice system provides the necessary foundation for social order and democracy. Clearly, the time has come for comprehensive action so that all components of our civil justice system work efficiently and effectively for all British Columbians to resolve their issues, earlier and faster. The Ministry of Attorney General intends to provide strong leadership in justice reform initiatives, signalling to other justice system participants the government's commitment to justice system reform. The Ministry also recognizes that to effect real and fundamental change to BC's justice system, it must work collaboratively with those other justice system stakeholders and participants. The Ministry will be consulting and collaborating with the various other partners and interests to ensure that all those who participate in the civil justice system, in order to meet the challenge of reform. Making the justice system, including the administrative justice system, more relevant and responsive to the needs of society will strengthen public trust and public confidence, which is essential for a healthy, stable and prosperous society for all BC citizens.