

Nova Scotia's Response

Roundtable Report and Questions for NAC March 13, 2015 Meeting Participants

Introduction

Each meeting participant is invited to prepare a written report answering the following questions to provide background information and express views on key discussion points in advance of the March 13, 2015 in-person meeting. These written reports will be shared with all participants in advance and will serve as a written update and foundation for discussions at the meeting.

Brief background on participants

Please identify yourself and any organization you represent:

- Chief Justice Michael MacDonald
- Darrel Pink – Nova Scotia Barristers' Society

Please identify the access committee or other collaborative working group you/your organization is participating in.

- Nova Scotia's Access to Justice Coordinating Committee

Please list the organizations and/or individuals participating in the access committees or cluster groups you are collaborating with:

- Chief Justice Michael MacDonald- Co-chair
- The Honourable Lena Diab, Minister of Justice and Attorney General for Nova Scotia- Co-chair
- Dean Kim Brooks- Schulich School of Law
- Tilly Pillay, Q.C.- President Nova Scotia Barristers Society
- Robyn Elliott- Past President, Canadian Bar Association, NS Branch
- Karen Hudson- Executive Director, Nova Scotia Legal Aid
- Rev. Linda Yates- Member at Large

Supported by:

- Judith Ferguson, Deputy Minister- Department of Justice
- Darrel Pink, Executive Director- Nova Scotia Barristers Society
- Margaret L. (Peg) MacInnis- Executive Director- Executive Office of the Nova Scotia Judiciary

Please describe what role members of the public or non-legal groups play in these access committees or cluster groups:

- We have a lay representative on our Committee and we have engaged (and will continue to engage) non-legal community leaders.

Access Initiatives: outcomes measurement

Please describe the goals and terms of reference of any access groups or collaborative clusters you are participating in:

Our terms of reference are attached. In simple terms, our goal is to complete an inventory of all existing access to justice initiatives in the Province, promote them in a coordinated manner, and fill in any identified gaps. To complete these gaps, we will be meeting with existing A2J champions to identify the keys to their success.

Have any access initiatives emerged from or been undertaken by this committee/collaborative cluster or through connections made through the committee/cluster?

- Yes,

1. At the Halifax Law Courts, we are presently running, as a pilot, a pro bono clinic for self-represented litigants involved in civil litigation. Volunteers from the private Bar, paired with students from the Schulich School of Law, offer these services every Thursday morning.

2. NSBS, Nova Scotia Legal Aid, DoJ are also participating in a Criminal Justice Transformation Group (CJTG) . It is a multi-sector group lead by the Deputy Minister with representatives of all players involved in the criminal justice system, including the CJ of the Provincial Court. Its terms of reference are attached.

3. Focused on Client Need, the Differential Response(Family Court/Division) Initiative (DR)has been initiated to provide early, accessible and appropriate public legal education, front end intervention through assessment and triage, diversion through alternatives to the adversarial process, client aids to system navigation, information and empowerment, increased use of information technology and new and re-purposed projects and products.

If yes, please answer the following questions:

What access goal is this initiative meant to improve?

- Pro bono clinic: Making the civil Court process more accessible and meaningful for litigants who cannot afford legal counsel.
- CJTC-Improving the efficiency of several aspects of the Provincial Court process by enabling electronic disclosure of Crown information, enhanced video access to the courts and to individuals in custody, developing educational materials for court users (the public)
- DR- Adoption of a client focused different philosophical framework to provide improved access to justice in the family conflict context.

What is the goal of the access initiative or strategy?

- Pro Bono Clinic This is designed to help self-represented litigants navigate the trial and appellate court process by way of coaching and professional advice from experienced lawyers. This should enhance the experience not only for the self-represented litigant but also for opposing counsel and the Court. Another benefit involves the students who hopefully will be inspired to continue this type of public service as lawyers.

- CJTG – See above and to improve case processing times for matters in the Provincial Court
- DR: The right service, at the right time, to the right people

Is this initiative meeting a significant gap in access or a significant access need?

- Pro bono Clinic- Yes, while similar services are available in criminal and family law, there is no such service available for non-family civil litigants. Nor is there any such service available to family law appellants. Our vision therefore would be to expand this type of clinic throughout the Province and to include family law appellants.
- CJTG – NS has some of the longest case processing times in the country and the goal is to address some of the matters that contribute to delays. Initial indications are that the new collaborative approach is fruitful but it is too early to tell if we will be successful
- DR: Yes. The adversarial system does not meet the needs of many people who come in contact with the court. To address high rates of self-representation, barriers to A2J have been identified, a holistic and collaborative approach has been implemented and improved access

The Nova Scotia Access to Justice Coordinating Committee

Preamble

As the National Action Committee on Access to Justice in Civil and Family Matters released its report “A Roadmap for Change” and the Canadian Bar Association released its report “Reaching Equal Justice: An Invitation to Envision and Act”;

And as there is a commitment in Nova Scotia to building a coherent, collaborative, and coordinated approach to addressing all aspects of the justice system while avoiding duplication of effort and activity;

And because we recognize the constitutionally independent roles of many participants in the justice system and that each part of that system must work to improve those areas in which it has primary responsibility;

And because there is a need to put the public first in considering and implementing improvements in working to improve the justice system ;

Establishment of the Committee

The Nova Scotia Access to Justice Coordinating Committee (A2JCC) is hereby established.

Purpose

With the goal of making Nova Scotia a national leader in improvements to access to justice, the purpose of the A2JCC is to:

promote an efficient and cost-effective justice system for all Nova Scotians with an emphasis on justice services that address family law matters, criminal law processes and the individual’s civil legal needs;

promote an understanding of the importance of equal and accessible justice as a hallmark of a free and democratic society; and

to encourage the development of a shared purpose in pursuing these objectives

Terms of Reference

The A2JCC has the following terms of reference:

1. To provide leadership to a cohesive and collaborative approach for access to justice initiatives in Nova Scotia.
2. To provide, as appropriate, a forum for engaging the public and public sector participants.
3. To share information, monitor and co-ordinate work undertaken, and educate the public on our efforts.

4. To promote innovation in all aspects of the delivery of justice services.
5. To measure the impact of its work by gathering appropriate data and identifying expected indicators of success and outcomes in a manner that does not interfere with judicial independence.

Working Groups

1. The A2JCC will collaborate with existing (and if necessary will create) working groups which will autonomously address family law matters, criminal law processes and improving the response to civil legal needs. In that process, it will build on work that is already underway.
2. Working groups will be encouraged to:
 - develop Terms of Reference and, within existing budget allocations ,identify resources necessary to undertake its activities;
 - engage the public and justice sector participants, as appropriate, in collaborative and coordinated processes designed to address the A2JCC's purpose; and
 - periodically make presentations to the A2JCC.

Term

The A2JCC will have a term of three years at which time it is expected that:

Initiatives pursuant to the ACJCC purpose have been launched in family law matters, criminal law processes and improving the response to civil legal needs ;

Appropriate measurements have been determined and data is being collected; and

Substantial progress has been demonstrated

Membership

The following persons will be the members of the A2JCC:

1. The Chief Justice of Nova Scotia —Co-Chair;
2. The Minister of Justice — Co-chair
3. The President of the Nova Scotia Barristers' Society;
4. The President of CBA-NS Branch;
5. the Dean of the Schulich School of Law;
6. Executive Director- Nova Scotia Legal Aid;and
7. A member of the public

Resources

The work of the A2JCC will be supported by staff from each of the members of the A2JCC. Communications plans and strategies will be developed as appropriate.

Annual Assessment

The A2JCC will assess progress and that of its Working Groups in meeting their respective purposes on an annual basis.

through a convergence of communication approaches is being achieved.

What is the expected outcome of the access initiative?

- Pro bono Clinic: - Basic guidance and coaching for non-vexatious self-represented litigants
- CJTG – reduced processing times for matters in the Provincial Court
- DR- Improved legal information in a variety of “packages”,(web-based, workbooks, videos, etc.) an improved intake, assessment and triage system, ADR expansion, specialized services

Who are the intended beneficiaries?

- Pro bono Clinic- The self-represented litigants, the bar, the court
- CJTG – The courts, the Bar, accused persons, witnesses, victims and others impacted by criminal charges
- DR- Families in crisis, self –represented litigants and the public looking for better information and court alternatives

What is the intended impact?

- Pro Bono Clinic- Fairer hearings, more efficient hearings, fewer frivolous actions
- CJTG – A reduced backlog in Provincial Court, speedier justice which should = better justice
- DR- Improving access to justice in family law

Outcomes and results:

What was the achieved outcome?

- Pro Bono, CJTG - It remains a work in progress
- DR- The programs are being evaluated.

What were the measurable impacts on access needs?

- Pro bono Clinic- Number of clients assisted, number of cases impacted.
- CJTG – Too early to tell
- DR-
 - Nsfamilylaw.ca:49,469 users 3rd quarter 2014, 54,622 during 4th quarter 2014-76% 1st time users; web surveys overwhelmingly positive

What were the impacts that could not be measured (not every indicator of success can be counted)?

- Pro Bono Clinic- Level of enhanced satisfaction with the process, benefits to opposing counsel, benefits to the court, benefits to students, motivation for students (to continue public service)
- CJTG- improved collaboration, focused efforts based on work plans
- DR- Collaboration, re-deployment of existing resources, leadership, active change management

Lessons learned for others:

What challenges did this initiative pose in implementation?

- Pro bono clinic-
 - Coordinating all the different players, proceeding with no budget, relying on volunteers, marketing the appropriate candidates (to avoid vexatious litigants)
 - Conflict of interest rules would preclude lawyers in several firms from participating
- CJTG-
 - Lack of a focus, no work plans, no assigned accountabilities

- DR-
 - Co-ordination, re-deploying resources, resistance

What successes?

- Pro Bono Clinic
 - Volunteer roster of lawyers and students, helpful education program, several one on one sessions so far,
 - The Model Code of Professional Conduct amendments were adopted by the Barristers' Society to allow for a modification of the conflict of interest rules that means they apply differently in circumstances of not for profit legal services offered through a clinic or program.
- CJTG
 - Leadership, a sense of purpose
- DR
 - Collaboration, leadership, improved communication media

What recommendations do you have for others considering a similar initiative?

- Use pilot projects, start small, start (as opposed to endless planning), re-deploy existing resources, Judicial leadership

Do you have resources to share for others interested in something similar?

- We could
 - a. produce a summary of our experience,
 - b. share our forms,
 - c. share our education module. (We relied heavily on the Ontario and Alberta experiences and their resources)

Do you think others could pursue something similar?

- Yes
 - CJTG – Have a cross sector group participate in, take ownership of and be accountable for improving the Provincial Court system is new to us in NS. The leadership of the Deputy is essential. The willingness of all sector players to report

on and be held accountable for plans and eventually for outcomes is fairly radical. It is very refreshing to see groups working together to find solutions that work for all rather than 'pointing' at others and thereby leveling blame elsewhere.

- DR- Already underway in a variety of forms across the country

Access committees: lessons learned

Did your committee face any obstacles getting formed?

In determining focus? Yes

In advancing objectives? Yes

- Finding a means for the sectors on our A2JCC to work together is challenging. We do not have a culture of the judiciary and government working with the public on justice issues; those of us inside the system very quickly gravitate to 'court' or 'government' focused issues rather than access issues that are priorities for the public. Our challenge is to find a way for the public's issues to be identified and considered, not necessarily to exclude the formal justice system but to recognize that it is not the experience that most face.

How have you worked around or overcome these obstacles?

- Several meetings with difficult discussions and cooperation

Have you been successful?

- Too much of a work in progress to declare success. Motivation and determination have been the key drivers so far. We plan to forge ahead

If yes, please describe what you think contributed to the success. If no, please describe any plans to continue to address the issue.

- N/A

Creating a culture of access innovation:
collaborating and sharing ideas

What future role do you see for the National Action Committee as a coordinating national leader on access?

- Sharing success stories to prevent reinvention of wheels and to keep us motivated

Would your organization, committee or cluster working group benefit from regularly sharing ideas, insights, and innovations with access stakeholders across Canada?

- Yes

Does your organization, committee or cluster working group already share ideas with like minded groups working on similar projects or in the same sector?

- Yes

If yes, could this ongoing dialogue be more broadly accessed by interested groups across the Canadian access to justice scene?

- Yes

Would your organization, committee or cluster working group benefit from an electronic forum, such as an email list-serve where interesting ideas, success, failures could be shared on a regular basis (daily, weekly etc.)?

Yes- or even monthly.

Would your organization, committee or cluster working group benefit from regularly organized meetings of access groups either online for shorter time periods or in-person?

- Yes

Would your organization, committee or cluster working group benefit from access to an online repository of ideas, materials and discussions?

- For sure

What is your view on the importance of engaging the public in access to justice activities?

- It is important but must be very carefully orchestrated, i.e. for every constituency you include, you exclude several others.

Do you have any suggestions for ways to engage the public?

- We are inviting various community groups to present at our sessions. We will also be coordinating our respective communication officers to establish a consistent message and to coordinate an effective outreach plan.