

# Evaluation of the Form Filler Program in the National Resolution Framework (NRF)

*30 November 2007*

## Table of Contents

	Page
1.0 Executive Summary	3
2.0 Introduction and Background	5
3.0 Planning and Methodology	8
3.1 Evaluation Framework	9
3.2 Data Collection Process and Tools	9
3.3 Form Filler After Action Review	9
4.0 Discussion and Findings	11
4.1 Form Fillers	11
4.2 Focus Group Meeting	13
4.3 Former Students	14
4.4 Adjudicators	19
4.5 Plaintiff Counsel Advisory Committee (PCAN) and Chief Adjudicators Reference Group (CARG)	20
4.6 Indian Residential School Resolutions Canada (IRSRC)	21
4.7 Indian Residential Schools Survivor Society (IRSS)	22
4.8 Data Analysis	23
5.0 Conclusions	25
6.0 Form Filler program Strengths and Weakness Synopsis	27
7.0 Form Filler role recommendations under the IAP	28
8.0 Form Filler Training Recommendations	32
9.0 Evaluation Team	33
10.0 Appendices	
<i>Appendix A</i> - Interview Raw Data	34
<i>Appendix B</i> - IRSRC Form Filler Toolkit TOC	39
<i>Appendix C</i> - Form Filler Hiring Matrix	40
<i>Appendix D</i> - Additional Form Filler Comments	42
<i>Appendix E</i> - Future Care Guidelines	43
<i>Appendix F</i> - Certificate of Independent Legal Advice	47
<i>Appendix H</i> - Form Filler Statistics	48
<i>Appendix I</i> - ADR Flowchart	50

## 1.0 EXECUTIVE SUMMARY

It is clear from the data gathered, both quantitative and qualitative, that there is a place for a Form Filler role for Self-Represented Claimants (SRCs) in the Independent Assessment Process (IAP). It is also clear that, for this role to be effective and contribute toward the key objective of helping SRCs with healing and reconciliation, it needs to be redesigned. ADR challenges and best practices need to be considered as well as the feedback and data gathered during the evaluation process.

The ADR Form Filling program provided a valuable service but, in some cases, Form Fillers exceeded their mandate or were unable to provide full service in part due to the high number of SRCs and geographical challenges. These actions have created conflict, confusion and resentment for many stakeholders. The reason for the conflict, confusion and resentment varied according to the stakeholder group. Additionally, the role was in a constant state of evolution and was under-supported in terms of resourcing (both internally and externally to IRSRC), training, and resolution health support services all of which served to exacerbate the difficulties.

While the initial training program covered the same key areas for all Form Fillers including filling out the ADR application form, getting release forms signed, and providing direction to Form Fillers as to where and how to find legal or support services, it missed other areas e.g. most Form Fillers were unprepared to deal with the emotional trauma of hearing the SRCs stories and then maintaining their emotional independence from the SRC. Unfortunately when there was turnover within the Form Filler ranks this basic training was not provided; new Form Fillers, were given the ADR training binder, access to a web-based training program, job shadowed a peer in the field and then were expected to perform the job. It was left to the individual contracting agencies to provide additional training and there was no standard practice consistently across the country.

There were not enough Form Fillers in some areas of the country to manage the caseload. This oftentimes led to delays in Form Filler response and a timely initial meeting between the Form Filler and the SRC. Furthermore there was gradual disclosure by many SRCs requiring Form Fillers to make as many as five trips to the same SRC to get the application form completed which left Form Fillers unable to meet the needs of all the SRCs who requested the service. Further, there were some SRCs who did not have timely access to their choice of either male or female Form Filler, a Form Filler who fluently spoke their language or one who was culturally representative of the SRC's community.

Although Form Fillers were strongly encouraged to meet with SRCs in the presence of a Resolution Health Support Worker (RHSW), this was not always the case. Unfortunately, this led to the SRCs sometimes becoming emotionally attached to the Form Filler and vice versa. This was not an expected outcome of the Form Filler role and complicated the guidelines and boundaries established by Indian Residential Schools Resolution Canada (IRSRC). If the Form Filler role continues under the IAP, a clear, precise, step-by-step process needs to be implemented which would solve the problems of the current process and allow Form Fillers to focus on their role as one part of the overall process.

Key to the above is training and accreditation for all Form Fillers, prior to beginning work under the IAP. The suggestions for the training program are a recurring theme and they are discussed throughout the report with further attention in the recommendation section. Some salient points are:

- Form Fillers must understand and communicate their role in the IAP to the SRC so the expectation of continued Form Filler contact is eliminated beyond the Form Fillers defined role.
- Form Fillers must understand and translate the IAP process to SRCs and help them understand when and how to seek legal counsel if required.
- Most importantly, the Form Filling process needs to have the healing and reconciliation of SRCs as its primary motivation which will require philosophical will and practical implications in the redesign of the Form Filler role.

There was considerable consistency between the various stakeholders who took part in the evaluation process. There were also inconsistencies and, although fewer in number, are extremely important because the majority of these come from SRCs and are in direct contradiction with other stakeholders. Considering both incongruities and consistencies makes the development of a path forward for improvement in process, role definition, delivery and strengthening the guiding principles of healing and reconciliation very clear which results in the recommendation that the Form Filler program should be continued under the IAP.

## 2.0 INTRODUCTION AND BACKGROUND

In June 2001, the Indian Residential Schools Resolutions Canada (IRSRC) was created to focus federal efforts to manage and resolve abuse claims and address the legacy left by the Indian Residential schools. In November 2003, the Government launched the National Resolution Framework, which included a litigation strategy, health supports, a Commemoration Program and an ADR process.

The ADR process was a more holistic way of providing additional choices to former students seeking compensation for sexual abuse, physical abuse and wrongful confinement. It was a voluntary process that provided former students with a fair, timely and supportive option to settle claims outside the courts. To enter the ADR process, a claimant needed to complete and submit a detailed application form to IRSRC. Although it was anticipated that most claimants would engage legal counsel to assist them with the completion of the application form, some claimants exercised their right to proceed unrepresented. The ADR process featured IRSRC reading cases for hearing and representing the Government of Canada during the hearing. Because of the complex nature of the application material, and the fact that some claimant's decided to proceed without counsel, a Form Filling service was made available to self-represented claimants at their request.

Contracts were established with organizations to provide Form Filling services in Quebec, Ontario, Manitoba, Saskatchewan, Alberta, British Columbia and the Northwest Territories.

The Independent Assessment Process (IAP) Secretariat will be providing claimant support services within the IAP model. Conducting an evaluation of the Form Filler program at this point allows the Secretariat to learn from the experience to date and ensure such lessons are applied in the design and implementation of the Form Filling processes under the IAP.

This evaluation is designed to be both summative and formative. It is meant to evaluate the Form Filler program as part of the ADR process. The experience and expertise of a wide variety of stakeholders were used to make recommendations for a potential future role under the IAP.

The guiding principle was to maintain the focus on determining what was best for former students from a healing and reconciliation perspective. The participating stakeholders had strong opinions on every aspect of the Form Filler Program. The information gathering focused on what worked well, what did not work well, what needed to be changed and the recommendations for a continuing but revised role for Form Fillers. The key recommendations arose from those things that worked well and the recommendations for revision.

The IRSRC Form Fillers were chosen based on their experience of working with Aboriginal people, counselling, knowledge sharing, and dealing with administrative responsibilities. They were chosen to fill a very delicate role. The training they received was considered to be appropriate, comprehensive and extensive for the original conception of the role.

The training program covered a variety of aspects that helped the Form Filler fulfill their roles. The Hiring Matrix is attached in Appendix C, the table of contents for the training program in Appendix B.

### Background

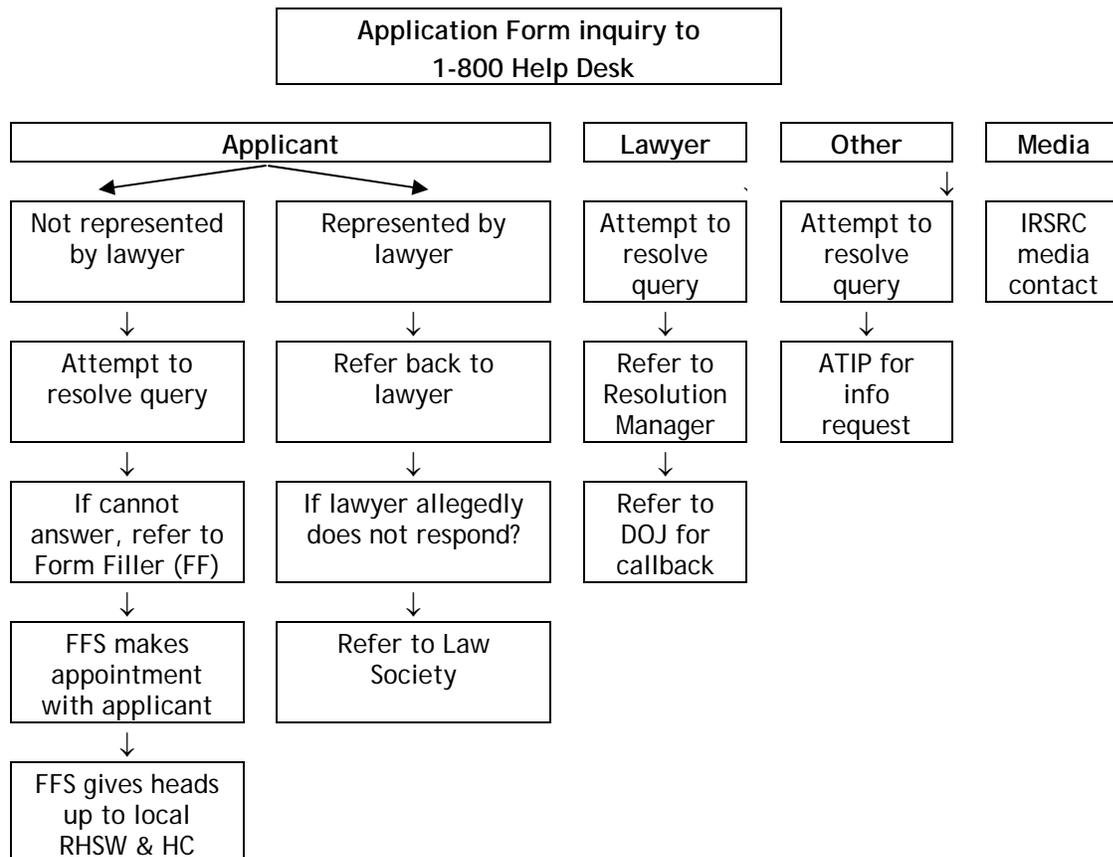
IRSRC was committed to providing unrepresented claimants with support in filling out the application, but could not do so itself due to a conflict of interest. Instead, IRSRC trained and funded organizations that had experience assisting Aboriginal people interfacing with legal and/or government processes to provide this Form Filler support role. In doing so, such organizations as Native Court Workers, Friendship Centres and University Aboriginal Law clinics were contemplated. A pilot for the first five months following the launch of the ADR

Process was recommended to lead the way for a longer term strategy to be developed and delivered through a tendering process.

It was intended that requests and inquiries for the ADR application package and all communication materials would be directed to the 1-800 Help Desk. The Help Desk provided a single window point of contact for information and referrals, including 24-hour access to crisis counseling. The operators were trained on all aspects of the ADR process and had a general understanding of the ADR application form. The Help Desk was able to serve a triage function by offering to assist the caller with basic technical questions related to the application form. Callers requiring further assistance were referred to Form Filler supports.

In order to ensure tracking and coordination of these Form Filler supports, the Help Desk was tasked with making contact with the Form Filler, confirming availability and advising the Form Filler of the applicant's contact information. The Form Filler would then make an appointment with the applicant. As the application form expressly asked for details of abuse and its impact, the Form Filler had to be aware of counselling supports available in the area, including the regional Health Canada IRS contact and Resolution Health Support Workers (RHSWs). Crisis counsellor supports were also available via the Crisis Line, 24 hours a day. The Form Filler assisted the claimant to the best of his/her abilities, made a follow-up appointments (if necessary), advised claimant of next steps e.g. completing form, signing declaration and submitting form, and prepared an aggregate statistical report to support billing, reporting and forecasting needs e.g. appointment date, length, nature of assistance given, etc.

How it was anticipated that queries to the Help Desk, about the application form, would work:



## **Form Filler Support and Counselling Support Overlap**

Assisting a SRC with the completion of the application form was not envisioned as a linear process, i.e. of simply going from one question to the next. Many of the questions proved to be potential triggers for painful memories and often resulted in varying forms of emotional trauma. As a result, completing the application form could take several hours or even days. Often, it proved difficult to separate where the Form Filler role ended and a counselling role took over. Consequently, Form Fillers were expected to have some exposure to crisis counselling training and, as a further precaution, they were to arrange for counselling supports for SRCs, such as a RHSW or professional counseling service provider via the regional Health Canada office.

There was also serious concern, that without proper preparation, the persons providing form assistance were going to invariably experience some strong emotions around hearing the specifics of the abuse that the SRCs would be sharing. It was felt that this could potentially have had an adverse effect on the Form Filler. It was thought that some of this preparatory work would be covered through training, such as self-care techniques, regular debriefs, weekly teleconferences and the monitoring of coworkers

## 3.0 PLANNING AND METHODOLOGY

### 3.1 Evaluation Framework

Evaluators worked closely with the Project Authority to design the framework for the evaluation. The Evaluation Framework was based on the following set of guiding questions:

1. Who is the evaluation for?
1. What are we evaluating?
2. What methods will we use in conducting our evaluation?
3. How will we gather and analyze information?
4. How will we justify our conclusions?

In order to ensure the quality of the evaluation we will also use the following Program Evaluation Standards:

1. Utility (Is the evaluation useful?)
2. Feasibility (Is the evaluation viable and practical?)
3. Propriety (Is the evaluation ethical?) (This includes confidentiality.)
4. Accuracy (Is the evaluation correct?)

We followed these evaluation steps:

5. Engage stakeholders.
6. Describe the program/mandate.
7. Focus the evaluation design.
8. Gather and analyze data
9. Form conclusions
10. Prepare Assessment

### 3.2 Data Collection Process and Tools

The currently available documentation was reviewed which included, but was not limited to the following:

- IRSRC Operations Plan and Performance Measurement System 2005/06
- National Resolution Framework RMAF and RBAF
- Form Filler RFP
- Form Filler Contracts
- Form Filler Training Programs
- Form Filler Reports (Quarterly or otherwise)
- Representative sample of Completed Forms (Assisted and not)
- Notes or minutes of meetings and conference calls involving Form Fillers

Face-to-face and phone interviews were conducted with key participants. These included:

- Former students
- Form Fillers
- Resolution Managers (RMs) East
- Resolution Managers (RMs) West
- Screening team members
- Resolution teams
- IRSSS representatives
- PCAN and CARG members
- Adjudicators

### 3.3 Form Filler After Action Review (AAR)

A facilitated After Action Review (AAR) was conducted by McLennan Consulting, using the format in the chart below. The facilitated After Action Review is an intense group meeting that is used post-activity to self-review the actions of any one group or action.

This particular process was used because it allowed the Form Fillers to self-evaluate the program in an honest, objective, and confidential team setting. It brought out some pertinent details about what the Form Fillers thought were the key areas of success and areas requiring improvement with the ADR Form Filler program. The round table format and the pro-active facilitation encourages all members of the review to contribute. It provides them with an opportunity to learn and, as they listen to their peer's comments, think about their own activities from a different perspective than if they had answered the questions by

themselves. This process reduced individual bias, but did not dilute the strength or the focus of the group thought process.

The Form Fillers realized that they would likely have a very limited role in developing the Form Filler program under the IAP. However, because they were in the field, implementing the program on a daily basis, their views on the strengths and weaknesses of the program are worthy of careful consideration.

What was supposed to happen?	What actually happened?
What worked well?	What needs improvement?
<i>Path Forward?</i>	

All phone or face-to-face interviews with other stakeholders, including the former students, were also conducted using this same general format. All aspects of the program were explored with questions grouped under these four headings. Using the same guiding questions for each stakeholder group provided the evaluators with different viewpoints of the process resulting in a clear picture of the commonalities among the groups and specific group differences.

This approach helped to broaden and deepen our understanding of the interaction between the Form Fillers and each stakeholder group and, therefore, articulate a clear vision for how this role needs to be redesigned and implemented in the IAP including what is required from a functional perspective while maintaining, as its guiding principle, healing and reconciliation for claimants.

## 4.0 DISCUSSION AND FINDINGS

### 4.1 Form Fillers

The Form Fillers were interviewed as a group with a facilitated AAR. They were, as a group, committed and focused on their mandate. They always tried to answer questions and give information with the overall goal of creating a process for and facilitating anything that could provide healing and reconciliation for SRCs.

The Form Fillers thought that they provided a valuable service but also noted that they did not have the time, numbers, resources or broad enough mandate to satisfy the role they were hired to fulfill as laid out in the statement of work in their contracts. The number of SRCs was much higher than anticipated and the Form Fillers became more emotionally invested than was foreseen. Some of their frustration stemmed from the fact that the role and function of the Form Fillers seemed to be constantly changing as the gaps in the ADR process for SRCs were revealed e.g. access to interpretation services was difficult because when and how to access interpretation services was not part of the Form Filler training. In reality they were provided on an ad hoc basis and approved on a case by case basis through the Director of Resolutions East or West. The Form Filler had to identify the need, contact the Project Authority, and justify the requirement and many times also find the resource which was not an expected Form Filler function. Under the IAP interpretation services should be part of the formalized claim process.

During the life of the ADR, Form Fillers from every province were asked to not only fill forms but to look for and track down SRCs for Screening or for Resolution Managers, pro-actively help SRCs track down mandatory documents and, in many cases, prepare Future Care plans for former students. Many found that fighting the temptation to become an advocate was extremely difficult because there were gaps in service and support for the SRCs as they went through the ADR process.

The majority of the Form Fillers were Aboriginal and identified culturally and/or spoke the language of the SRCs. Many Form Fillers helped former students come forward and be more comfortable with disclosing details during the interview process. In some cases this relationship was very strong and Form Fillers were requested by SRCs to attend hearings as their support person. This was not a paid Form Filler function but they were reimbursed for travel expenses. Interestingly, one of the primary concerns of the SRCs was that the Form Fillers did not always speak the language of the SRC and were often not well-versed in the proper Aboriginal protocol. This was most likely due to the fact that the Form Filler program was under-resourced, and most Form Fillers covered a wide geographical area. Another theme expressed by the Form Fillers was that they perceived themselves as being knowledgeable and sensitive to the challenges face by the claimants and maintaining confidentiality while treating claimants with dignity and respect.

As such, the Form Fillers were frustrated by their perception that they were not respected by the legal community. They perceived themselves to be competent, well-intended professionals who were attempting to do the best they could to meet the needs of the SRCs within a narrow mandate. Part of the problem, as identified by Form Fillers, was that their title, "Form Filler", did not accurately reflect the scope and depth of their work. Names that were recommended by the Form Fillers, for the potential position under the IAP were:

- IAP Support Worker
- IAP Claims Assistant

- IAP Liaison Worker
- IAP Claims Facilitator
- Claimant Support Worker

The Form Fillers clearly understood that they were not a panacea for all SRCs and gave an example of this by noting that they had referred, after an initial meeting, almost 300 claimants from 2005-2007 to lawyers with over 90% of these types of referrals from Alberta, Manitoba and Quebec.

The Form Fillers have identified that any future role will need further training around legal referral under the IAP. This is due, in part, to the possibility that potential claims may be reopened for reconsideration for compensation or further compensation under Loss of Opportunity and/or Student-on-Student Abuse. Specifically, Form Fillers want a method of referring former students, with a complex case i.e. Harm 4 or higher, to legal counsel but continue to have the SRCs treated with respect, dignity and with the focus on healing and reconciliation. This further supports the recommendation for precise, clear, detailed and consistent training for Form Fillers under the IAP. There was a further concern that the interactions between Form Fillers and the legal community were often confrontational. This indicates a need for education for both Form Fillers and legal counsel regarding roles and respectful communication with a result of best serving SRCs.

One inconsistency that will need to be addressed—assuming there will be a continued role for Form Fillers under the IAP—was the marked difference in recognized job function, interaction and utilization of Form Fillers in different areas of the country. There was also a marked difference in the perception of some Form Fillers as to the process and relationship they maintained with Resolution Managers (RMs) from province to province. The expectation is that a training and accreditation program under the IAP would deal with these inconsistencies.

Many of the Form Fillers perceived that their service was well-respected and sought after in First Nations communities. They believed their perception was supported because most of the claimant referrals came from other former students or community leaders. There were 7,460<sup>1</sup> referrals to Form fillers for the fiscal years 2005-2006 and 2006-2007. 5,425 or 72% of these came from direct referrals to Form Fillers, i.e. from community members or personal referrals from SRCs. This appears to be a powerful message that supports the continued need for this type of program under the IAP.

The Form Fillers understood and welcomed the need for the role to be redesigned to better meet the needs of the SRCs. They voiced a strongly stated hope that any changes would contribute to the healing and reconciliation of claimants. They also indicated that some support services were not always available to claimants and recommended that the lack of inconsistency of such services would need to be addressed under the IAP. These services include: access to RHSWs to work in tandem with the Form Fillers; better access to traditional healing methods; interpretation services; and a way to articulate to SRCs a clear understanding of the process so they would know what to expect and when it would happen during the IAP process.

It appears that there were many times when certain necessary and expected aspects of the ADR process were not completed e.g. the preparation of Future Care Plans (FCPs). This was because the responsibility had not been clearly assigned. No one in the possible service provider groups i.e. Resolution Managers, RHSWs, Form Fillers, was held responsible to ensure

---

<sup>1</sup> Given that data from Manitoba was incomplete, it is certain that this number would have been higher.

there was one. Ultimately the Resolution Manager was responsible to contact the SRC two weeks prior to the hearing to ensure a FCP was in place if the SRC identified a need. It was expected that because the FCP was so personal that the SRCs should have taken this on themselves. The fact is that many SRCs were hesitant to make this decision and develop an FCP without support. Under the IAP it is hoped this support will be more overt and proactive on the IAP part, this potentially could be achieved by assigning responsibility to the new Claimant Support Provider (CSP) role in the Client Services Branch of the IAP Secretariat, which in some ways replaces the Resolution Manager's role under the ADR.

#### 4.2 Focus Group Meeting

The IAP Secretariat, in partnership with the Truth and Reconciliation Commission and the National Residential Schools Survivors Society, held two Focus Group sessions in Edmonton and Montreal during the summer of 2006. Almost 200 former students and other stakeholders attended these sessions. With respect to the IAP Secretariat, the main objective of the Focus Group Sessions was to seek feedback in the following areas:

- preparing claimants for their IAP hearings
- enhancing claimant supports within the IAP process
- challenges claimants may experience with the IAP Application Form and Guide
- creating IAP Hearing Facilities that respond to the needs of claimants

The pertinent results with regards to the future of the Form Filler program were as follows:

##### Enhancing claimant supports:

- self-represented claimants/elders need better information and support before, during and after hearing which needs to be provided in the claimants own language and include traditional ceremonies, elder support, etc. where desired
- more claimant supports / information officers / form fillers need to be hired
- local area form fillers should be trained in communities and these should be paid positions and should work with the claimant throughout process
- Form fillers and Resolution Health Support Workers should always assist claimants together
- more consideration to gender and a culturally sensitive approach when claimants are disclosing

##### Preparing for the IAP Hearing:

- materials, in different languages, should be available (e.g. pamphlet or video) to describe what the survivor can expect from the hearing i.e. what the room will look like, how it will be set up, who will be there, etc.
  - during and after the IAP process, wounds may be opened; support workers must be readily available; after a hearing, debriefings, sharing circles and an explanation of

what happened would be required after their hearing, claimants must be able to evaluate the IAP process / Resolution Managers / Adjudicators

Other related comments included:

- the IAP document guide is written at a literacy level not suited for most survivors
- IAP entitlement information not shared on each of the following items future care, harms, aggravating factors, loss of opportunity, actual income loss future care and settlement letter
- the form cannot be filled out by survivor without the help of a resource person e.g. lawyer and these people are not readily available
- there are not enough Form Fillers to assist survivors fill out forms
- the form requests information with no description in the guide or from Form Filler on why the question is being asked
- information is not provided to family members or helpers who could help the survivor understand the application and processes
- there is no description clarifying the role of parties involved with survivors e.g. Form Fillers, interveners, etc.
- there is an unrealistic expectation of Form Fillers to cover large territories and to provide information
- there are too many people intervening with the same survivor yet there is no consistency to support e.g. use form to identify network
- lawyers are sending junior staff (article students, paralegals, junior lawyers, etc.) to work with survivors and as a result information and the continuity of stories are lost there is a lack of resource people who understand the materials, the implications and application processes and these people are not available to inform survivors in the community

#### 4.3 Former Students

29 September 2007: In addition to the Focus Group Comments McLennan Consulting conducted more detailed interviews with Claimants re Form Filling Process of the ADR

Five claimants and one person representing her parents attended the six hour session. They represented the Blood, Piikani and Siksika Nations in Alberta, along with the orally related experiences of other claimants from both Alberta and Saskatchewan. We also interviewed SRCs from Quebec. Based on the consistency of the comments from the Focus Groups in Montreal and Edmonton, this smaller group was representative of SRCs in general.

The session began with the following clarifications:

- They were all participating willingly;
- The process was confidential in that nothing in the final report would identify them;
- They had the right to leave the session at any time;

- They had the option to stay as a group, meet with the evaluator individually or both (all six participants remained together for the full session);
- They would each be sent a copy of the combined comments to which they could make omissions, additions or changes to ensure that the final result was exactly what they intended. Again, they could choose at this juncture to leave the process by indicating whether or not they wanted their words included;
- The focus of the session was the Form Filler program which was the first step of the ADR process for some SRCs.

The four guiding questions were:

1. What were your expectations entering in to the ADR Form Filling process?
2. Were your expectations met or not met? Please explain.
3. Are you satisfied or unsatisfied with the process? Please explain.
4. Please share any suggestion you have to improve the process.

It has been the experience of the non-Native evaluator that Native people articulate emotion and passion quite differently than non-Native people. One must listen carefully to the words and not necessarily the tone although there were many tears during the interview. There was great frustration, as will be noted below, however and this group was indefatigable in their unswerving mission to be heard and seen as individuals.

Expectations entering into the ADR Form Filling process were that it would be less litigious, more conducive to healing, and easier to understand and manoeuvre, compensation would be equivalent based on experience and the process would not be as anxiety provoking as a court. The claimants expected that their full experience would be heard, that Form Fillers would be accessible and that they would not have to deal with lawyers. The SRCs noted that they understood the government recommended they each have a lawyer and if they chose this option, the lawyer would receive \$650. The information regarding legal counsel was misinterpreted because it is now believed that the \$650 to which the SRCs referred was for claimants to receive Independent Legal Advice in order to review the claim after adjudication and provide advice on the signing of the final release. The dissemination of information was apparently poorly done because the claimants also expected to have a Form Filler who spoke their language fluently and this was not a guaranteed service under the ADR. One of the recurring themes, and subsequent disappointments, was that they expected to be honoured, respected and trusted and rarely, if ever, did any of these claimants feel this during the process— from the application stage to Adjudication.

Per the claimants, the expectations were universally and woefully unmet.

NOTE: These concerns are addressed in the Recommendation Section 8.0

The following are their disappointments, frustrations and what they perceive as lack of respect, honour and trust:

- They were not heard. The telling of their story to the Form Fillers was both selectively written and not returned to them for final approval. They received a copy at the same time as the government and the church. They were often bewildered at either the lack of accuracy or detail or both.

NOTE: ADR policy required the SRC to send in their form in an attempt to avoid this very problem.

- The relating of their experience to the Form Filler was often the first time they had ever spoken of their abuse. Not one claimant who was present or, to their knowledge, any of their fellow survivors had a support person present. Health workers were met for the first time at the hearing. There was no relationship with the claimant, they were not of their choosing and they rarely, if ever, spoke the language of the claimant.
- The process often did not adhere to the proper protocol or cultural expectations of the claimant.
- The Form Fillers often did not keep appointments.
- The Form Fillers were not accessible.
- Form Fillers would often tell them if they had a claim or not.
- Form Fillers would often tell them if they would be placed in Category A or B during the Form Filling process and would tell them how much compensation they might receive.
- Claimants who believed they had legitimate claims were refused at the Screening level because they perceived that the Form Filling had been poorly or erroneously performed.

NOTE: ADR policy required that Screening contact the SRC for more or missing information on forms in order to complete the screening process.

- Many claimants felt rushed during the form filling interviews
- Some claimants had to go hotels to meet the Form Fillers rather than the Form Fillers coming to them.
- There were only three Form Fillers for the province of Alberta which meant that it was virtually impossible for them to do their job properly.
- The claimants were not asked where they would like to meet. There was an assumption that no one wanted to meet in their own homes or in their community. While this was true for some, it was by no means true for all.
- Men felt uncomfortable telling the graphic details required to a female and women felt the same with a male. This often resulted in the claimant leaving out very important details that were necessary for a Model A classification.
- Most, if not all, claimants/elders did not understand the process. There was no one to whom they could turn for clarification and the task of maneuvering the process fell to other claimants. This was universal to the group and too many other claimants in Alberta and Saskatchewan. An example was given of a young man who was advocating on behalf of his 92 year old grandfather who had "lost out" on the ADR process and he had no idea how to appeal this or where to go.

Given the responses to the question: "Were your expectation met or not met?", it is evident that the SRCs that were present and the reported experiences of others, which they shared with the evaluator, were highly unsatisfied with the process. The outstanding experience was one of not being honoured, respected, and trusted or being seen as an individual.

Despite their deep dissatisfaction with their experiences in the Form Filling process, the SRC, both present and those whose comments they shared, believe that the Form Filling process could be productive, effective and a positive step toward healing and closure. This was the question they were waiting to answer. They felt excluded from a process that exists because of their very experiences. They came to the session with great hope that this time they would truly and respectfully be heard and what they said would have weight since it is their lives, past and present, that the process impacts.

Some SRCs reported having filled two roles - one as a SRC and one as an unpaid, unrecognized and unappreciated Form Filler. One or more people in each community have been taking on the roles and responsibilities of Form Fillers and Support Workers and they see no conflict in this - this is what works for them. There was recognition by the participants that they have filled these roles out of choice. It appears though that if they had not done so, many SRCs would not have been heard.

The participants provided the following suggestions based on their own experiences and others who asked them to speak for them:

- The Form Fillers must speak the language of the claimant. They must understand the "colouration of the language" i.e. subtleties, semantics and syntax of the particular language and be able to translate this fully into English.
- The Form Fillers must understand the culture and protocol of each claimant to be able to write what is said by the claimant from the claimant's perspective.
- Male Form Fillers are needed for male SRCs. Female Form Fillers are needed for female SRCs.
- There needs to be much more time allotted to each SRC. There needs to be contact prior to the actual Form Filling, as much time as necessary for each SRC to relate their experiences which is individual and, therefore, highly variable. Because of the trauma due to their experiences and the graphic details required, SRCs noted that it was imperative to have contact and knowledge of the Form Filler prior to being asked to tell their story. Complementary to this is that the interviews have to be transcribed - an often lengthy process from the SRC's language to English - the transcript is then to be given to the SRC for additions or omissions prior to being sent to the next stage of the process.
- There need to be two Form Fillers per community - one male and one female - or access to either a male or female from another community.
- The SRCs want to hire the Form Fillers through the ADR groups in each community regardless if the community ADR group is a legal entity. The SRCs want to choose themselves who will assist them.
- The SRCs want to have a choice of where the Form Filling process will take place i.e., their home, a safe place in the community or outside of the community. If they choose the latter, expenses for meals and mileage should be provided.
- The SRCs want more and clearer information regarding the process to either in their own language or to have it explained verbally in their own language.
- The SRCs want the Form Fillers to follow through with them to the hearing process.
- The SRCs want Form Fillers to have training on process, a check list of what they are required to do and to share this with SRCs, they want to be informed, they want to be

consulted and they want their input listened to and acted upon during every step of the process that only exists because of them.

- The final point is related to the preceding one. The SRCs noted several times that the most important point for them is that they want to be trusted. They know what they need and what other SRCs need and they need to be respected and trusted to care for each other. This means that decision makers trust that SRCs know what to do and they will do it for their people in their communities. The reason the whole process exists is because of forces outside their communities. They made it clear that it will not be a successful process if forces outside the community continue to control it.

Other issues arising from the session that are not specific but are related to the Form Filling stage of the ADR process:

- SRCs do not want RHSWs, especially those who show up for the first time at a hearing. They want to be in charge of their own healing, how they want to participate and whom they want to help them - it may be traditional, it may be non-Native, and it may be themselves.
- There is a continued stated theme throughout all the groups interviewed and the written intent of the Government of Canada that the whole purpose of the IRSRC was to assist the survivors in their healing and reconciliation. There are many references to collaboration with Aboriginal groups yet the SRCs themselves have a feeling of not being trusted to manage their own affairs.
- There was a running commentary throughout the interview that they certainly did not have the experience of collaboration. They offered an example of real collaboration using the potential continued role of Form Fillers under the IAP. The relevance of this to the Form Filling evaluation is clearly stated by SRCs where they want to be part of the decision making and planning for any revisions to the Form Filling process under the IAP e.g. SRCs want to be part of selecting Form Fillers because how can anyone but a fluent native speaker determine if the potential Form Filler is fluent in that language?
- SRCs felt that all parties acted in a manner that was paternalistic and condescending. They articulately spoke to this and provided their own solutions. An example of this attitude, from all stakeholders, were that they often behaved in a way that suggested that they knew what was best for SRCs, without asking the SRCs what was best for them. The SRCs said that one obvious way to ameliorate this situation would be to honour and respect them to know what would best work for them. They said their experience has been that they get the sense that they are expected to be grateful for the compensation - silently and submissively.
- Further evidence of this attitude is shown when the Government has stated that Health Canada will coordinate and fund professional counselling. While the SRCs were very clear that they wanted to decide about their healing - not have it decided for them. This may mean non-native professional counsellors or it might mean Traditional Healers. The point was that they wanted to be respected and trusted to be able to decide for themselves. This is highly relevant for this evaluation of the Form Filling process, and how it will look if it continues, because of the importance to SRCs to choose their own path to healing and reconciliation, the dissemination of the above information is vital.
- There were certainly many commonalities in the answers to the four guiding questions from both SRCs and Form Fillers in regard to both problems and solutions e.g. there weren't enough Form Fillers, support workers were absent or scarce to name but two. It is interesting though that some of the concerns noted by the Form Fillers were not addressed

by the SRCs which leads to the belief that they had no idea about such services, they were not provided or they were not concerned with that particular aspect e.g., the Adjudicator could come to the SRC for their hearing if they required it, the hearing location would be whenever they wanted and these choices were to provide more control for the SRC (since SRCs reported not feeling any control over the entire process, the words "more control" are relative). However, if the SRCs did know that this was an option, it seems quite likely that they would have experienced some measure of control.

- The Form Fillers statement that they have too much experience not to be included in the IAP process flies in the face of so many of the statements from other stakeholders, most especially the SRCs. Per the SRCs, the Form Fillers were not able to do their job properly so what does experience mean in this instance? Again, the SRCs were sympathetic to the conditions under which the Form Fillers were working i.e. too few Form Fillers for the number of SRCs, but the SRCs would like to be part of the selecting of Form Fillers if the process continues under the IAP.

#### 4.4 Adjudicators

Adjudicators universally recognized the need for some type of assistance for SRCs. They also agreed that former students would be better served with legal counsel especially under the IAP which is more complicated with the need to pull out detailed information for Loss of Income and Opportunity and/or Student-on-Student Abuse.

Most of this group thought that the Form Filler role was positive and indeed performed a valuable service for those who did not want to deal with a person perceived to be official or in an authoritarian role, which included lawyers. Others held the view that the SRCs were better assisted by Form Fillers than having to fill the form out by themselves, but not by much.

Everyone supported some type of training or accreditation process that would ensure the Form Fillers stayed on task. There was a concern that Form Fillers stepped beyond their boundaries and embellished certain forms. This not only did the SRCs a disservice but also called into question the role of the Form Filler.

It was widely recognized that if the role was to continue that better training and clearly defined roles were required from the onset. Any change in the roles needed to be immediately and clearly disseminated to the Form Fillers and former students. This could be accomplished by regular information sessions with the Form Fillers either by phone or in person. The SRCs would also need to be informed through email and written correspondence remembering that some SRCs may lack in literacy skills and/or need a translator.

There were many thoughts on the entire process outside of the Form Filling role. It was strongly recommended that RHSWs meet and have a relationship with the self-represented and represented former students well before the hearing date. SRCs need to be made more aware of the process they are involved in and have better information in regard to Future Care Plans. Many Adjudicators noted that the latter was an area where some Form Fillers provided a great service in helping the SRCs. There was a suggestion of an information brochure similar to what the Department of Labour would use for those filing claims. This brochure would contain a complete description of the process, choices etc. in English, French and whatever aboriginal languages were appropriate.

NOTE: A copy of this brochure has been forwarded to the Project Authority by McLennan Consulting.

Adjudicators said that it was their impression that most lawyers had others filling forms for them. They noted that many forms, whether they were filled out by IRSRC Form Fillers, other

non-sanctioned Form Fillers, lawyers, or those working on the behalf of lawyers, were poorly completed with the worst often being the forms filled by those working for lawyers. Adjudicators said that, regardless of who was Form Filling; proper training was required by anyone who would be helping a former student fill out a form.

The overwhelming, but not unanimous, final word from the adjudicators was this - If SRCs are permitted under the IAP model, there needs to be a role like the Form Filler role for the IAP. There does, however, need to be comprehensive training, clear roles and some assurance that the best interests of the former students choosing self-representation are protected.

#### **4.5 Plaintiffs' Counsel Advisory Committee (PCAN) and Chief Adjudicators Reference Group (CARG)**

There is very strong belief among the PCAN and CARG members that former students can only be well served by utilizing legal counsel in their application process. They feel there aren't any circumstances where being self represented has any benefit over being legally represented. Many were not open to discussing how best to help self represented former students if they insisted on remaining self represented. However, a few felt that having some assistance was better than nothing and there were some areas where the PCAN and CARG members had similar views if the role is to be continued under the IAP.

The main issue with lawyers is that the Form Fillers were not legally trained and potentially did not help former students get the most compensation possible.

(NOTE: Information on compensation awards for self-represented former students versus those with legal counsel was requested by the evaluators but was unavailable. Information on all cases below Harm 4 comparing average awards to SRC and represented SRCs would be a valuable tool for future evaluations to determine if the SRCs are being awarded as much as if they were legally represented.)

Additionally, PCAN and CARG interviewees provided some anecdotal information of embellishments or lack of proper information on forms, accusations of encouragement by Form Fillers to fire lawyers, and simply Form Fillers not recommending to SRCs that they should have a lawyer during the initial meeting as dictated under ADR policy. We were not given actual proof of these claims but there was a strong general belief by PCAN and CARG that some Form Fillers, at times, undermined lawyers.

Much discussion was focused around how to get legal counsel for former students that did not want it, or did not trust lawyers or didn't want to deal with non-Aboriginal people on this issue. Many said it was an educational issue and that if former students understood clearly the choices and the process they would choose to have counsel.

There was more than one lawyer who said the use of Form Fillers paid for directly or indirectly by Canada was a conflict of interest. This is acknowledged and understood by Canada hence the development of the arms length IAP Secretariat to manage the Form Filling role.

There was a suggestion of using Native Court Workers or duty counsel instead of accredited Form Fillers. This concept was discussed with other stakeholders and the response to this idea was that it had the stigma of "wrongdoing" associated with it as those positions were only encountered by First Nation's people in a negative sense when charged with crimes. This was not discussed with the SRCs because it was not part of the evaluation. The only way to know how SRCs would feel about this is to ask them.

There are some issues that need to be addressed to avoid some of the issues that lawyers have with Form Filers and to ensure the best interest of the former students are taken into consideration with reference to healing and reconciliation. These include: proper training on the requirements of the IAP form and helping Form Fillers understand and explain the application to former students.

The roles and function of the Form Fillers need to be clearly defined and they need to understand that embellishing, guessing or leading the SRC in any way can prejudice their claim because this calls the SRC's credibility into question. The PCAN and CARG members interviewed also suggested that this position should be salaried and not paid on a per diem or per head basis. As stated above, there was some support for the concept of a legal resource to help with decision making for SRCs, however, this was also felt by some to be a conflict of interest and anything that directed SRCs away from independent legal counsel was seen as a disservice to them.

There was a concern that using a lawyer was not as good for the healing and reconciliation process as the user friendly, form filling assisted, self-represented process. This was explored. Many lawyers said they were able to help with this process as well. It seems that in some cases as many lawyers went to great lengths during the interview to explain their understanding of the need for respect and honour owed to former students. Furthermore, this group stated that the ADR process was not the place for the former student's story to be told because there were other avenues and programs for that such as the Truth and Reconciliation Commission (TRC) and Commemoration program.

#### **4.6 Indian Residential School Resolutions Canada (IRSRC) Staff**

The most noticeable issue that arose during these interviews was the difference in how the Form Filler program was perceived and utilized in all areas of Canada, how the Form Fillers in different parts of the country perceived and undertook their role as well as relationships between Form Fillers in different provinces with RMs.

The IRSRC staff said that the Form Filling role provided an invaluable service, when the Form Fillers stuck to their mandate. Many times when the Form Fillers stepped outside the boundaries there was miscommunication, lack of movement with files, and frustration on both sides. There was more frustration with some of the Form Filling activities in some provinces than others. During the Form Filling AAR there was a noticeable difference in how the function was performed and problem solved from Form Filler to Form Filler e.g. In some areas, if a SRC called a Form Filler looking for information, it was likely the Form Filler would call the Resolution Manager directly. In other areas it was more likely the Form Filler would ask the SRC to contact the Resolution Manager, the Manager would then call the Form Filler if required and the Form Filler would then pass on the request or contact the former student if required. This latter series of steps was what was supposed to happen under the ADR.

Process and roles for Form Filling will need to be more clearly delineated under the IAP to ensure uniformity of application. This would include spending the time on the Process Flow Chart to ensure that gaps in service for the SRC will be filled e.g. Who is responsible to ensure a Future Care Plan is in place?

There was an almost universal agreement that, if performed properly, the Form Filler role provided SRCs with a much less stressful experience than those going through a litigation process because the key focus is healing and reconciliation, with honour and respect although this latter part was somehow not transmitted to SRCs. It was hoped as well that if the Form Filling role is continued under the IAP that the Form Fillers have the capacity to understand when self-represented former students should have legal counsel and recommend same.

There was strong support for more communication between the Form Filling role and Admissions prior to the implementation of a program under the IAP. Form Filler training would benefit from a complete understanding of the form and what is expected for each section. A full slate of support services and referrals needs to be in place as well. Language, cultural identity, and geographic proximity are key factors for the Form Fillers to have under IAP. These are things all supported by Form Fillers.

A common theme for all groups interviewed and one echoed by the IRSRC, was that the Form Fillers have to have well defined boundaries and clearly defined roles. Although Form Filling can provide a valuable alternative to SRCs, it cannot work if Form Fillers step outside their roles and boundaries e.g.

- advising the SRCs on if they should be Model A or Model B
- telling SRCs if their claim will be compensable
- advocating for a SRC after the form has been submitted
- helping to arrange the dismissal of lawyers
- working with lawyers to help legally SRCs fill out ADR forms

#### **4.7 Indian Residential School Survivor Society (IRSSS)**

It was generally agreed with all those interviewed from the IRSSS that the Form Filler role helped provide a wonderful alternative to self-represented former students in the ADR process. The Form Filler program delivered what was expected and provided many who may not have had the opportunity or the courage to go through the ADR process, the comfort and confidence to do so. The Form Filler did more than help the former student complete the form. In many cases, they facilitated relationships between the former student and the process. While not becoming an advocate, it was this role that helped provide a space for healing and reconciliation to begin. IRSSS staff said they gave the SRC confidence and knowledge about the process and their options that they had not received before talking with the Form Filler.

This group said that because many former students are familiar and culturally connected with an oral culture versus a written one, many didn't feel comfortable with a process which could have led to feelings of re-victimization by some former students. However, they noted that the self-represented process was much quicker, less painful and a better option for former students in many cases. There was a perception that many lawyers took financial advantage of the ADR process which did little for healing and reconciliation. Higher awards and some control over the financial access to those awards by lawyers is desired and in many ways this will be addressed under the IAP.

IRSSS agreed with all other stakeholders in that there is a need for some changes to a Form Filler role under the IAP. Based on the volume of requests, the need for timely response, and the sometimes protracted nature of the disclosure, there should be as many as twice the number of Form Fillers because the demand could not be met especially in the more remote areas. SRCs asked for two Form Fillers per community which would be considerably higher than twice the current number of Form Fillers.

The same theme of a need for further training was reiterated with this group. Some suggested training areas are: understanding the IAP, understanding the differences between IAP and ADR, and learning how to ensure the application form is best completed to the benefit of the former student.

They said that some former students achieved closure while others due mostly to the restrictions placed on Form Fillers to engage the SRC more fully. The first sentence doesn't make sense. Another reason stated was the lack of support for the SRCs during and after the ADR process. There said there needed to be better access to more traditional forms of healing and counselling. It was strongly felt that an understanding of how the ADR process was going to unfold and some way of ensuring the SRCs were assisted and supported during every step of that process is required.

#### 4.8 Data Analysis

The statistical information that was captured to track and evaluate Form Filler performance during the ADR process was not adequate to provide a detailed analysis. Data was collected that was not required and in fact was contradictory to the ADR mandate i.e. The Form Fillers were asked to track the status of referrals, First Nation, Métis etc. (The ADR process was supposed to be status blind) So this should not have been a requirement. In addition there was confusion among Form Fillers as to where some information asked by the monthly report form was supposed to go, for example what activities were "Claimant Support" and what were those classified as "Assist IRSRC". In addition to these inconsistencies, some data fields were incomplete in some Regions which made some areas of detailed analysis difficult and inaccurate.

However there was some data that could be used that would help us determine how some areas the Form Filler program performed under the ADR and where the metrics could be improved under the IAP.

The Form Filler data tell us that the total time recorded as billed for all activities was just under 24,000 hours from 2005-2007. This is an average of 12,000 hours per year for 15 Form Fillers or approximately 800 hours per Form Filler per year. During that time Form Fillers provided assistance to just over 1500 SRCs in starting and completing ADR application forms. This is an average of 16 hours per SRC. Under the IAP it is expected that there will be a total of 14,500 claims made from 2008-2013. Of those it is expected that 40% or 5800 will be self-represented. If we use the model above to extrapolate, we would potentially need to provide 5800 SRCs at 16 hours per SRC, 92,800 hours of Form Filling assistance over a 5 year period or 18,560 hours per year. Using the ADR average of 800 hours per Form Filler, under the IAP we would need 24 Form Fillers per year over the 5 year mandate. However the IAP Secretariat does not expect to have an even distribution of claims. It is expected that there will be very heavy subscription in the first 2-3 years with a marked drop off in Years 4 and 5 after that. This means that there will not be an equal need of 24 Form Fillers in each year of the program. A more reasonable projection of 120 work-years of Form Filler work required over the 5 year IAP mandate might be:

Year 1 - 24

Year 2 - 36

Year 3 - 36

Year 4 - 12

Year 5 - 12

This extrapolation is by no means conclusive but it does illustrate a potential need for a marked increase in the number of trained Form Fillers under the IAP. It is unlikely that all potential SRCs will want to use the services of a Form Filler, so the need for a certain number of trained Form Fillers will need to be evaluated on an annual basis.

There were almost 4000 ADR information sessions given by the Form Fillers in the period 2005-2007. This performed a valuable role in letting potential claimants understand the process and their options, but it also speaks for a great need for communication to former students about the IAP process.

It is clear from the confusion of some data fields among form fillers and that much of the data gathered was not focused on, or useful for, monitoring the Form Filler program. More care needs to be taken in designing the metrics for the Form Filler program under the IAP. However, there was some valuable information gathered. This will provide the IAP and the Project Authority a strong base from which to work.

## 5.0 CONCLUSIONS

Although each stakeholder group had a different perspective on the claim process and the Form Filler role in that process, the findings shared similarities across the groups. This provides clear indications where to make improvements in a potential Form Filling role under the IAP. There was unanimous agreement, with the exception of the PCAN and CARG group, that a Form Filler role should continue under the IAP. The specific functions and task of a Form Filler role in the overall IAP process need to be determined. There are key areas that need to be developed to maximize the benefit for the former student of this type of role:

- The role must be clearly defined and be a part of an overall flowchart for the SRCs under the IAP.
- The role must be culturally and gender sensitive to former students.
- Training must be comprehensive, universal and kept up-to-date.

The Form Filler role needs to be improved functionally and logistically but these improvements are not, in and of themselves, important other than to make the role better able to meet the needs of the SRC for healing and reconciliation. Shortfalls in numbers of Form Fillers, training, clear boundaries, definition, and sensitivity led to some poor reviews of the process and individual Form Fillers. The conclusion one draws when meeting with the Form Fillers, and then reviewing the program with other stakeholders, is that the program was implemented efficiently and properly but the training, role and scope of the program was not adjusted as needs and potential conflicts became apparent.

Form Fillers, while well intended, were not equipped in many circumstances to maintain their emotional independence from the SRC with whom they worked. Combining this with the gaps in service for SRCs under the ADR it is easy to see why, on occasion, they overstepped their boundaries in order to assist the SRCs.

The role fulfilled its mandate of providing a safer, more user-friendly process of receiving compensation while maintaining dignity and respect for the SRCs. There were cases of this not happening but in general it was a welcome and successful program for SRCs. It was training shortfalls and the sheer volume of SRCs wanting to use the ADR process that led to some of the SRC negative perception of Form Fillers and that hampered the experience from being universally positive although SRCs also had a serious concern with Form Fillers not knowing the language of the SRC at all, or fluently enough, and not knowing the proper cultural protocols. The latter is extremely important aspect of Aboriginal mores

The legal community was strongly not in favour of the program. In many cases this was a perception that the best interests of the SRCs were not met when they were not represented in what was a legal process by appropriate counsel. However, the views of the SRCs, Form Fillers, Adjudicators, IRSSS and IRSRC staff contradict this belief. There is no doubt that it was a timelier and less stressful process and compensation amounts can only be a point of conjecture without more detailed data. There was little or no indication from the other stakeholders, other than PCAN and CARG, that there was a feeling of less than fair compensation for SRCs versus those claimants with counsel. The fact that there was under the ADR the requirement for all SRC to have their file reviewed by independent legal council, precludes this concern.

As per the ADR model: "Acceptance of Compensation and Release of Defendants:

On the expiry of the review period, or receipt of the last review decision, the defendants will prepare a release in the amount of the final decision and submit it to the claimant. The claimant will have 30 days from the mailing of the release to them, unless additional time was granted at the conclusion of their hearing, to accept the final decision by signing the release.

A claimant must certify that they have had legal advice on the consequences of signing the release. Where a claimant has not been represented by counsel to this point, they will be required to consult a lawyer to receive this advice, for which the government will pay \$600 whether or not they sign the release. Counsel for a claimant who has been represented will be paid \$600 for this specific service, independent of the government's payment of 15% of any accepted award as a contribution to legal fees."

## 6.0 STRENGTHS AND WEAKNESS SYNOPSIS

	Weaknesses	Strengths	Recommendation
SRCs	<ul style="list-style-type: none"> <li>- Not enough FFs</li> <li>- Not enough control for SRCs</li> <li>- Lack of language/culture knowledge</li> <li>- ADR Process not explained clearly</li> <li>- RHSW enter process too late</li> <li>- Had to travel for interview</li> </ul>	<ul style="list-style-type: none"> <li>- More control than civil process</li> <li>- Emotionally safer</li> <li>- Maintain dignity &amp; honour</li> <li>- Healing was started</li> </ul>	<ul style="list-style-type: none"> <li>- Hire more FFs</li> <li>- Clearly explain process</li> <li>- traditional healing</li> <li>- Cultural sensitivity/awareness</li> <li>- Language proficiency</li> <li>- More time allotted per SRC</li> <li>- Choice of interview location</li> </ul>
Form Fillers	<ul style="list-style-type: none"> <li>- Not enough FFs</li> <li>- No support for SRCs through entire ADR process</li> <li>- More compensation for SRCs</li> <li>- RHSW enter process too late</li> <li>- Lack of knowledge of FF program in communities</li> <li>- Forms too complicated/long</li> </ul>	<ul style="list-style-type: none"> <li>- More control for SRCs</li> <li>- Safer, user friendly</li> <li>- Healing &amp; Reconciliation focused</li> <li>- FF being Aboriginal</li> <li>- Male and Female FF</li> </ul>	<ul style="list-style-type: none"> <li>- Hire More FFs</li> <li>- Train FFs better</li> <li>- Clearly define roles to all stakeholders SRCs included</li> </ul>
Adjudicators	<ul style="list-style-type: none"> <li>- FFs not trained properly</li> <li>- RHSW enter process too late</li> <li>- Forms are complicated</li> <li>- SRCs have poor knowledge of ADR process</li> <li>- FCPs many times not done properly</li> <li>- FF strayed outside mandate</li> <li>- FF edited or embellished narrative at times</li> </ul>	<ul style="list-style-type: none"> <li>- Many SRCs would/could not submit a claim without FF to help</li> <li>- Some FCP prepared wonderfully by FF</li> <li>- SRC can meet when and where they want, easier, less stressful process</li> </ul>	<ul style="list-style-type: none"> <li>- Better training for FF under IAP due to loss of opportunity and income</li> </ul>
PCAN / CARG	<ul style="list-style-type: none"> <li>- Not legally trained</li> <li>- SRC best interest not met</li> <li>- Undermined lawyers</li> </ul>	<ul style="list-style-type: none"> <li>- Better than no support at all for SRC</li> </ul>	<ul style="list-style-type: none"> <li>- There shouldn't be any FFs under IAP</li> <li>- FFs must know when to bring in a lawyer for SRC</li> </ul>
IRSSS	<ul style="list-style-type: none"> <li>- RHSW enter process too late</li> <li>- Not enough FFs</li> <li>- Stepped outside mandate</li> <li>- Not enough training</li> </ul>	<ul style="list-style-type: none"> <li>- Kinder, holistic process</li> <li>- Promoted healing and reconciliation</li> </ul>	<ul style="list-style-type: none"> <li>- Needs to be continued under IAP</li> <li>- Better training on forms and meaning of questions</li> </ul>
IRSRC	<ul style="list-style-type: none"> <li>- RHSW enter process too late</li> <li>- Not enough FFs</li> <li>- Stepped outside mandate</li> <li>- Some had poor relationship with RHSW</li> <li>- Some embellishment occurred</li> </ul>	<ul style="list-style-type: none"> <li>- Less stressful process</li> <li>- Maintained dignity and honour</li> <li>- They were local First Nation people</li> <li>- choice of male or female</li> <li>- Good RM relationships. They had cultural familiarity and geographical identity</li> </ul>	<ul style="list-style-type: none"> <li>- Needs to be continued</li> <li>- Better training on forms and meaning of questions</li> <li>- Must understand loss of opportunity</li> <li>- Must have clearly defined roles and function</li> <li>- Hire more FFs</li> <li>- RHSW must be there for initial meeting</li> </ul>

## 7.0 FORM FILLER ROLE RECOMMENDATIONS UNDER THE IAP

NOTE: Included in Appendix A are all the recommendations from the various stakeholders. Many of the recommendations below were common to all stakeholder groups and have been merged where possible to focus on the key recommendations necessary for this program to be more effective as well as healing and reconciliation centered. The reader may find great value in reading through all of the stakeholder recommendations in Appendix A.

1. The Form Filler roles need to be continued under the IAP. The role should provide the following services.
  - Contact the SRC and coordinate a meeting with the SRC and a RHSW. It is expected that the FF will not meet with the SRC in initial or subsequent meetings without the RHSW being present.
  - Before the interview begins the FF needs to explain:
    - i. Facilitating access to interpretation services when necessary. (See Recommendation 2 below)
    - ii. The IAP Process - Step by step the SRC should be led through the process and each step should be explained and response checked by the FF.
    - iii. Advise the SRC that they should be seeking legal counsel and provide information on contacting counsel.
    - iv. The Roles of IAP Supports - What the roles of FF, RHSWs, CSP, Adjudicators are and how each could/should interact with the SRC during they way through the process.
    - v. The IAP Application Form - Section by section, what is in it, how it is completed and why it is completed a certain way. Provide answers to all questions.
    - vi. Assess SRCs readiness and assisting the claimant in identifying supports (family, Elder, counsellor, RHSW, Health Canada, etc.);
  - Must not offer a personal opinion on the IAP process or any aspects of the process to the SRC
  - Interview SRC and fill out the form. FF must transcribe as accurately as possible the SRCs story. **They must clarify narrative, not embellish facts.**
  - When the SRC feels that they are finished, the FF should review the completed form with the SRC
  - The FF should then review the IAP process with the SRC to ensure he/she understands their responsibilities, how the rest of the IAP process will unfold and who should be involved in each step. This include FCPs
  - De-brief with the RHSW to perform an After Action Review of interview and interaction with SRC. These can be done after each session with the SRC or after the form has been completed.
2. All SRCs should have access to a Form Filler that speaks their language. The Form Filler must understand the "colouration of the language" i.e. the subtleties, syntax and semantics and be able to translate to and from English with ease. The Form Fillers need to be culturally aware of that SRC's particular culture and protocol and be able to write what is said by the SRC from the SRC's perspective.

Despite the recommendation above it is anticipated that interpretation services will be required under the IAP as they were under the ADR and that this will be in addition to Form Filling services. Given this situation, the recommendations are:

- Liability issues with providing interpretation services need to be explored by the Project Authority and Legal Services. (DLSU)
  - If it is determined that interpretation service can be provided they should be contracted to Regional Aboriginal Organizations.
3. The SRC must have the choice of either a male or female Form Filler
  4. It was apparent from interviews with the Form Fillers and IRSRC that the Form Filler could take as much time as required with each SRC to ensure they could tell their story in their own way and in their own time. However, as is evidenced from the SRC interviews this was not always the case. There needs to be as much time allotted to each SRC as is required to meet the primary guiding principle of healing and reconciliation.

There needs to be contact prior to the actual Form Filling, and as much time as necessary for each SRC to relate their experiences which is individual and, therefore, highly variable. Because of the trauma caused by their experiences and the graphic details required, SRCs noted that it was imperative to have contact and knowledge of the Form Filler prior to being asked to tell their story.

5. Initial contact by a Form Filler needs to be made in the company of an RHSW. Furthermore the Form Filler needs to, if required, help facilitate a relationship between the RHSW and the SRC. It will be the RHSW not the Form Filler who is with the SRC every step of the way and provide support when and where required until the process is completed.

NOTE: SRCs stated that they wanted their chosen Form Fillers to follow through with them to the hearing. This was not intended as part of their role. That being said, Form Fillers on occasion did attend hearings, as emotional supports to the SRC, based on the SRC's request. The Form Fillers were not remunerated for this role and did not attend on behalf of IRSRC. As stated above, the RHSW is better able in both job function and role under the IAP to support the SRC to the completion of the process.

6. It is important for the SRCs healing and reconciliation that they have some control in the IAP process. They suggested being included in the Form Filler selection process, perhaps as part of the RFP selection committee and involved in developing the Form Filler Training and accreditation program.
7. Every effort should be made to accommodate SRC as to where the Form Filling process will take place e.g. their home, a safe place in the community or outside the community. No SRC should have to suffer out of pocket expenses to have their form completed and submitted.

8. Form Fillers should be required to go through a comprehensive training program. We have made some recommendations for this program in Section 7.0. This program should make provision for training updates for changes or addition in role or function.
9. The training program should come with an accreditation process for the Form Filler under the IAP. This accreditation will allow the Form Filler to be an accredited Form Filler under the IAP. Loss of accreditation for not adhering to role guidelines etc. would mean the Form Filler would not be allowed to perform this role until accreditation is returned. A regular review and post process user survey should be part of this accreditation.
10. Any body or agency that is contracted to provide Form Fillings under the IAP must also have a representative go through the accreditation process.
11. A program of Self Care needs to be developed for the Form Fillers under the IAP. Although touched on in the initial training, Form Filler self-care wasn't well explained or advocated during the ADR. This may include debriefing sessions between the RHSW and the Form Filler after SRC interviews and access to professional services provided by the IAP Secretariat.
12. Many of the concerns with the Form Filling role came because they were over subscribed by SRCs seeking assistance. To alleviate this concern and to deal with expected high number of SRCs making a claim under the IAP as under the ADR, the number of Form Fillers needs to be increased. (See discussion Page Input from the stakeholders ranged from 500 or having 2 per community, (which may equal or exceed this number), to twice as many as the 14 -15 that were used under the ADR. Based on the statistical information gathered to date, stakeholder input, the expected high usage rates in the first 36 months of the program and the current IAP projections for potential SRCs, we recommend a starting point of:

British Columbia - 2  
 Saskatchewan - 2  
 Quebec - 2  
 Atlantic - 2  
 North - 2  
 Manitoba - 4  
 Ontario - 4  
 Alberta - 6  
 TOTAL - 24

13. The Metrics that were provided for analysis of the Form Filling program were derived mostly from the Form Filler Monthly reports. Unfortunately the information was not consistently interpreted and reported from region to region. This made statistical analysis and interpretation of the information difficult. It is recommended that a more comprehensive and appropriate metrics system be developed and implemented for this program under the IAP. The metrics should be reviewed monthly or quarterly by the Project Authority under IAP to ensure the mandate is being fulfilled. Compliance to the metrics should be part of the accreditation requirements.
14. The Form Filler will be better able to serve the SRC within the IAP process if a flow chart detailing the steps required for each SRC to go through and where and who will help them with each step needs to be developed. A "check the boxes" approach should be implemented and each box have an assigned check off responsibility e.g. Form

Filler, RHSW, Claim Managers, Adjudicators, etc. Some of the key gaps that currently require addressing in the flowchart are:

- During the initial meeting the flowchart of the process needs to be explained to the SRC. This includes how, when and where the Form Filler role interacts with the SRC and where the cut-off is.
- In the ADR model, Resolution Managers called SRCs directly without any warning to seek more information if required to move their file forward. SRCs, Form Fillers, RMs and the IRSSS all stated that this process has caused great stress with some SRCs. Under the IAP, it is the RHSW who should initially be contacting the SRC on the behalf of the IP Secretariat and, if so asked by the SRC, the RHSW should be present in all 3 way calls to support the SRC when communicating with the IP Secretariat.
- The Preference Sheet section of the IAP form should be used during the initial contact to outline the Future Care Plan and this Plan needs to be followed up by the CSP.
- The Preference Sheet section could also indicate if the SRC has a preference for a CSP who is Aboriginal.

NOTE: Please see Figure 1 (Depiction of current ADR flowchart) and Figure 2 (Depiction of proposed IAP flowchart)

15. Application of the new Form Filler role must be uniform across Canada. The CSP must interact with Form Fillers and all other stakeholders in the process the same way in every province. It is vital that uniformity of service to SRCs be provided.
16. Initial contact, follow-up and closure should be timelier and red flags raised to ensure each individual claim process is on track and on time. Having a more clearly defined role and more trained Form Fillers available for SRCs will provide faster response times. Development of a time frame for file processing and closure should be considered under the IAP.
17. The creation of an independent legal ombudsman is considered essential. This would be a resource for Form Fillers to use with SRCs who insist, even after it has been determined by the Form Filler that legal representation is recommended due to the complexity of that particular application, that they wish to continue to represent themselves. This resource will help the Form Filler determine if legal representation is required and may help provide the SRC with appropriate information to seek legal representation.

## 8.0 FORM FILLER TRAINING RECOMMENDATIONS

The training program needs to have, as a guiding principle, the healing and reconciliation of former students. Compassion, respect, cultural identity, geographic proximity, relationship facilitation and safety for the former students and Form Fillers all need to be watch words for program content, training and implementation. This training should be accompanied by an accreditation process and if the Form Filler is not competent or steps outside the role and boundaries they risk losing that accreditation. All Form Fillers, screening, IAP Service Providers, RHSWs, need to have at least one face-to-face meeting to facilitate team process, get on message together and begin to develop some relationship to help resolve issues in the future.

The need for the contracting agencies to also be accredited was apparent in the evaluation. One possible implementation approach is a “train the trainer” function - IRSRC could train a person who would then train others in their organization, supported by an IAP Standard Operation Procedures manual, a Web based toolkit that contained resources such as Q&As, detailed instructions for completing the application form and real-time updates. However the accreditation process will still require a management by the Project Authority to ensure compliance by all parties.

1. Form Fillers must have a thorough understanding of the IAP form and process. This includes: what information each question is trying to uncover; how to expand on each question to get the proper information without leading the SRC; how to clarify narrative, not change it; and understanding when the SRC should be seeking a legal opinion and sources of that opinion e.g. whether a legal ombudsman, as recommended by this evaluation, should be consulted and providing the SRC with a list of accredited legal counsel. This section will require trainers from screening and those with a legal background.
2. There must be a clear definition of the function and role of the Form Filler in the IAP process. This would include: understanding the IAP flowchart; what functions need to be performed in which step of the process; how the steps are to be done; what boundaries cannot be crossed; and, more importantly, a referral list for the SRC for help with topics and functions that are not the responsibility or function of the Form Filler.
3. Form Fillers need to be able to explain the differences between the ADR and IAP process and what this means to the SRC.
4. Form Fillers need to know how to develop and be aware of the need for a self-care program. This is an area that was overlooked by the ADR process.
5. During the interview, which is often highly emotional, it is vital that the Form Filler stay on task. This is not to say they will not have an emotional reaction but their job is to be present with the SRC and not allow the interview to become about them. This can stop disclosure dead in its tracks. The RHSW can be vigilant about this and should also be available for a de-briefing with the Form Filler following the interview. It is of the utmost importance that this part of the training of Form Fillers be conducted by a highly experienced Counselling Therapist because they must be aware of potential situations arising and how to personally manage these without leading them to believe that they are Counselling Therapists.

## 9.0 TEAM MEMBER SUMMARY

### **Gordon McLennan: Principle Partner and Project Manager**

Mr. McLennan has a wide range of national and international experience in corporate program and personnel evaluation, program development and implementation, and project management. His expertise is in evaluation of performance versus mandate and correction of same. Situational Analysis, After Action Reviews, Realignment of resources, interviewing and short term relationship development, action plan development, coaching and mentoring to help key participants meet objectives are all skill sets employed in this process. He is a strong communicator and versatile facilitator. He has worked in a variety of cultural scenarios in intense, sensitive and sometimes hostile situations from which he has always delivered win/win solutions with a mutually agreed path forward.

### **Heather McLennan: Principle Partner**

Ms. McLennan has almost 30 years of experience, both at home and abroad, working with all age groups, from early childhood to advanced seniors, in a variety of settings - many culturally sensitive - covering what can confidently be said to be the human experience. Her roles have been varied and have been on a forward continuum of responsibility and intricacy. Her critical thinking and analytical skills are highly developed through extensive academic research, project evaluation, ADR and CRF, and an eclectic body of work associated with government agencies, courts and her work as a counselling therapist. She worked for seven years in the West Indies and has 20 years of counselling, developing and evaluating programs in the Mi'kmaq community. She has worked with all age groups including many survivors of the IRS system.

### **Rev Marsha Mundy: Resource**

Rev. Mundy is a recently ordained priest with the Anglican Church and has had 25 years experience working in counselling, mediation, and administration prior to this. She has a wide ranging experience in psychological and health care support. Her emphatic interviewing skills and experience with the First Nation community in Canada both professionally and within her own family, will provide a valuable resource. She is fluently bilingual and other strengths she brings are strong coordination, mediation and conflict resolution.

Rev. Marsha Mundy: Resource

## Appendix A - Interview Raw Data

### FORM FILLER COMMENTS

#### What was supposed to happen? (What actually happened = \*)

Not to go to hearings  
Not prepare future care plans  
Weekly Calls  
Referral to health care and other agencies  
Supposed to recommend they seek legal advice  
Supposed to inform of all options  
Transcribe as stated  
If they want lawyer, supposed to refer to legal society  
Supposed to contact legal society if there were complaints  
Suppose o be independent  
Suppose to offer no opinions of ADR  
Not supposed to provide legal advice  
Supposed to give group information meetings  
Fill only ADR forms  
NOTE: Comment was made that later Form Fillers were asked to help with all types of forms later  
No names to be used, just file numbers  
Supposed to provide support till hearing  
Put survivors first  
Just fill forms, nothing else  
Could meet face to face or over phone\*  
Not counsellors  
Supposed to be a 9 month process  
Supposed to be compassionate and empathic\*  
Supposed to be user friendly  
Supposed to be informative about options\*  
Form Fillers to work with stakeholders\*  
Supposed to let go if lawyer gets involved\*  
If role changed there was supposed to be training  
Monthly report and stats\*  
Outreach for claimants  
Assist in obtaining mandatory documents\*  
Provide translations for official communication\*  
Help RMs find claimants\*  
Provide understanding of documents\*  
Timely initial contact after lead or request is received  
Suppose to be able to cross departments with communication  
Survivor sensitive  
Have liability release form signed by claimant  
Government supposed to stay in contact until check arrives  
Rigid process  
Referrals only from help desk

Not supposed to keep files or list  
Voluntary process for claimants \*  
Supposed to be confidential  
No advertising of FF service  
Suicide risk assessment  
Accessible to all, survivors \*  
Suppose to provide self care supports  
Involved RWSH where require \*  
Supposed to be training \*  
Not supposed to help fire lawyers  
Supposed to get expenses in 30 days  
Supposed to ask if represented \*  
Supposed to be only one FF in Quebec\*

#### What worked well?

We could go into communities  
RHSWs and FFs being form the same organization - better coordination  
Being aboriginal  
Being a survivor  
Having option of male or female FFs  
More comfortable - less intimidating  
Cultural identity with aboriginal Form Fillers  
Informal  
Word of mouth (WOM) referrals  
Compassion & empathy  
Repeated visits no problem, no pressure  
One stop approach  
Communicate with Joan and RMs easily  
No court house or formal meetings just with FFs  
Adjudicator could come to them if required  
Hearing location whenever you want  
More control for claimant  
Flexibility  
Information exchange and understanding was better

#### What didn't work well?

Waiting period for translation  
Multiple contacts sometimes conflicting  
Not enough FFs  
ADR ending without notice  
Guideline too constrained  
Training gaps and inconsistencies  
Not all survivors know that Form Fillers are an option - not aware of options  
Form size, how it is written, format  
FF info on claimant not always available  
Lack of consent forms  
RHSW poor coordination with FF  
Lawyers lied

#### Training Recommendations

How to fill out form

How to explain questions in layman's terms without being leading  
What is the objective of each question from a legal perspective?  
Definition of terms so we are all saying the same thing  
How to transfer from the ANR to IAP process  
How to define levels  
How to develop self care plans  
Flowchart of process  
Suicide assessment  
Physiological care  
Resident school layout  
Clear roles and responsibilities of all involved  
Resource list  
Video training  
How hearing process works and future care plans  
How to fill forms that are compensable  
Policies and guidelines under IAP  
Laptops and e copy of form  
Understanding gloss of grief (AHF role in training)  
Aboriginal awareness training  
Dealing with transference and counter transference  
Interviewing skills  
How to make complaints to law society  
What is screened in and out? Be on same page as RMs  
Training with helping people with Group claims

### **Recommendations**

Train community Form Fillers at expense of community  
Advertise Form Fillers for regional purposes  
Promotional material  
More and some in Maritimes  
Carry ADR roles forward into IAP  
Meeting with RMs for regional support  
"How to process" Video  
Meetings with RSHWs on a monthly basis  
Training session in communities with videos  
Translation vouchers given up front  
Assist in CEP  
Training for FF on form question by question, purpose etc. Universal response in answering questions  
Networking with lawyers to better serve claimants  
Ability to work with Claimants upon referrals from lawyers  
Self care plan training  
Best practice, meetings with Form Fillers alone  
Future care plans training and with wills etc.

Check list for all FF to follow, everybody on same page  
Community urban/rural resources for after care  
Reduce 1 800 numbers  
Translate ADR to IAP  
Assist IAP secretariat in any way required  
Having a hearing checklist to review with claimants. Practice hearing  
Have IAP outreach programs  
Attend hearings for support  
Consent forms for all mandatory documents  
Liability forms  
Assist in finding claimants  
Claim status update inquires available to FF  
Net work of community resources to give to claimants  
Follow-up visits to communities as requested or required  
Assist with completing 30% application submissions  
Assist with top up form from ADR to IAP  
Training to ensure consistency on FF for everyone  
Independent legal counsel complaint department for each region  
National/regional public service announcement on resources available and settlement agreement  
Networking conference calls and face to face meetings with all stakeholders to get roles straight  
Provide claimant with claim identity cards with IAP file number for wick referencing  
Checklist with IAP kit on documents needed  
Clear flowchart on process and where appropriate how to refer to legal counsel so claimant can be better served through IAP process

### **Closing statements**

We need a public policy/mission statement on FF roles etc.  
Staff should come and attend an interview with FF  
Awareness needs to be higher  
We have too much experience to not be included in IAP process

### **Parking Lot**

Was it only for aboriginal, Métis etc. why others?  
FF referral stats

## ADJUDICATOR COMMENTS

### What was supposed to happen?

Help former students/self represented claimants SRC with filling ADR forms  
Not to give legal advice  
Not to become advocates  
Those not able to help themselves were helped by FF (probably would not have filed a claim if not for FF helping them)

### What actually happened?

Form were filled  
Form was very hard to understand without help

### What worked well?

Many claimants filed that wouldn't have  
Many forms filled out better than those with counsel.  
Future Care Plans prepared by many FF better than most others

### What didn't work well?

Hard for FF to fill forms properly sometimes as they did not have a legal background  
Sometimes not objective  
Some forms were editorialized; SRCs did not recognize their own story  
Some forms were filled out with a story but not compensable, this information needed to be dug out during hearing  
Many SRC unprepared for what was going to happen at hearing - some expect adjudicator to have a check for them.

### Recommendations

FF are necessary for IAP, no other option for SRC, in fact Canada has an obligation to provide them.  
Form Fillers should have clearly defined role need training on interviewing and conversation skills  
Need to understand IAP form, that is more complicated due to loss of income/opportunity, and be able to explain what each section means in layman terms to SRC  
More feed back on filled forms from adjudicators to Form Fillers  
What Harms look like under the IAP, what do to ask to establish  
Leading or guessing only harms the SRC potential claim, better to let the adjudicator bring our facts than guess on form

SRC need to meet with RHSW from the very beginning of process not at hearing.  
Need training to understand key words and phrases necessary for compensation  
FF should aboriginal and both male and female should be available  
Can't send a Cree FF to a Blackfoot SRC  
Must be able to and need to, call in lawyer when required for SRC at higher levels  
Must not embellish  
Should be providing more information to former students on choices - i.e. Dept of labour brochure.  
Most SRC do not understand process at all, need more knowledge transfer

## PCAN AND CARG COMMENTS

### What was supposed to happen?

To help self represented former students fill out ADR form  
Assist aboriginal people with application forms in remote areas  
Help people that did not want to deal with white lawyers to enter the ADR process

### What actually happened?

Not legally trained, thus poor form filling  
Went beyond their mandate and led claimants, sometimes forms did not match testimony at hearing, due to poor understanding of legal issues  
Responded to questions beyond scope and training  
Advised not to use lawyers when asked even though they were supposed to be recommending the use of lawyers  
Some former students called for a lawyer anyway even after form filler was there  
Form fillers gave quasi legal advice

### What worked well?

Self represented former students had some help, sometimes better than none

### What didn't work well?

Forms not filled out properly or in the best interest of the former students  
Form fillers got the impression that former students never needed a lawyer  
Former students did not always get the most compensation they could have if they used a lawyer  
Form fillers gave former students a false sense of security

Form fillers often told former students whether they would be eligible for A or B compensation  
Form Fillers did a poor job or explaining the process  
Form fillers often left former students alone after initial form filling meeting. Former students felt lost.  
Not enough form filler for all the people that wanted them

### **Recommendations**

No role under the IAP because it is a complicated application that requires a lawyer  
If there is going to be a role then better training is required to ensure self represented former students have the best chance at proper compensation  
Duty Council should utilized to help former students with claims  
Lawyers should be involved in training  
MUST stick to their role and not overstep boundaries  
Form Fillers should be on a salaried basis, not paid per diem or per capita basis  
Supposed to be an independent process BUT form fillers are paid by Canada = Conflict of interest  
Significantly more form fillers required  
Significantly more RHSW required  
Better communication with communities on all aspects of settlement agreement, CEP, truth and reconciliation, counselling recourses, IAP process.  
Former students have a difficult time understanding the process, telling their story  
The hearing is not a place to tell their story unless it is required for compensation.  
They need better understanding of form and process.

### **IRSRC STAFF COMMENTS**

#### **What was supposed to happen?**

Form fillers to assist former students with their applications only  
To be done with empathy and compassion  
Work with the community  
Work with RHSW  
Former students to feel safe

#### **What actually happened?**

RHSW not always available so form fillers had to fill that role  
Most felt comfortable with role

Were used by IRSRC staff to track down information for model choice and document collection  
Tracking down claimants at the request of IRSRC staff  
Many forms completed better than those of lawyers  
Greater demand than could be met by current number of form fillers  
Performed a valuable task  
Called upon to prepare future care plans  
Wide range of expectations from the start  
Documentation gathering and suicide assessment part of role  
Tried to contact and get information with dignity and respect  
Embellishment occurred on some occasions  
Some acted as advocates for former students did not follow proper process with resolution managers

#### **What worked well?**

Former students that were illiterate or were intimidated by authority felt comfortable and well served by form filler assistance  
Many claims would not have moved forward without the form fillers  
They were local  
First nation's people  
There was a choice of male or female  
Great relationship with resolution managers  
They had cultural familiarity and geographical identity  
Funding worked well  
Development of trust  
Respect, dignity and healing was paramount

#### **What didn't work well?**

Not lawyers so sometimes unable to help identify higher levels of harm  
Sometime declarations not signed  
Sometimes advice given when they were supposed to just explain differences, explain process and record information  
Some had poor relationships with RHSW  
Not enough of them and they did not have enough time to make frequent visits if required  
No single interview can provide closure but hope that it leads to healing and reconciliation  
Form fillers made some cold calls  
Some former students were contacted directly by IRSRC and they were shocked as they felt their file was supposed to be confidential  
Expected clarification if any by interaction with form filler

Former students had a poor understanding of process even after meeting form fillers  
Some did not work well with RHSW

#### **Recommendations**

Needed for IAP  
Better training required  
Need more possibly 30-40 form fillers under IAP  
Need to help with the forms and then be removed from process  
They need clear roles and clear dos and don'ts  
Training on the form with screening etc. to know what should be in the form and what IAP is looking for from the forms  
Role needs to be continued under the IAP  
They need to be local, first nations, former students need choice of male or female.  
Demographic of age, sex and race needs to be met  
Need training in development of future care plans  
Should be able to identify complex track cases and have them be referred for legal council  
Training required under IAP on document completion, referral list for help, support legal advice  
Better relationship between screening unit and form fillers  
Documentation gathering a good relationship with case maintenance officer  
Process and care depends a lot of whether it is an urban or remote claim  
Form filler must speak language of former student  
Must attend first interview with RHSW

#### **IRSSS STAFF COMMENTS**

##### **What was supposed to happen?**

Process was to be more user friendly, kinder, gentler with SRC being treated with dignity and respect  
SRC were to be helped with form by Form Fillers  
Form Fillers to have time to develop trust with SRC to make disclosure easier  
Process was perceived at helping SRC achieve closure

##### **What actually happened?**

In many cases much quicker process  
Higher SRC satisfaction that those with counsel  
Some unhappy with lack of alternative healing methods available, better now

New form filler had no formal training  
Closure was not always achieved

##### **What worked well?**

Process was quick, simple, and much quicker than civil process that took 2-3 years  
Was a better process  
Many with an oral tradition were able to get application completed. Never would have happened otherwise

##### **What needs improvement?**

Should allow those with an oral tradition to submit claim orally  
Award amounts were too low B claim amounts insulting  
Awards were inconsistent from one adjudicator to the next  
More time was sometimes required for gradual disclosure but many times Form Fillers did not have time cause their weren't enough of them  
The hearing process was sometimes intimidating, lack of knowledge for SRC about process, only met RHSW at the hearing - need to see them much sooner in process

##### **Recommendations**

Form Fillers need training on conflict resolution and communication skills  
Need Form filler for urban areas as well as remote areas  
Boundaries and roles need clearer definition  
RHSW need to be involved in initial meeting  
All Form Fillers need formal training as some; those that came into role after first initial training received none  
Would like to have laptops and e copies of forms with digital signatures  
Should have simpler form  
Need to have some simple explanation of questions both in meaning and what information the question is looking for  
SRC need to understand IAP process is not the same as Truth and Reconciliation or Commemoration  
Form Fillers and lawyers should work together  
Adjudicator should be involved in feedback and training  
Form Filler should be able to work with represented claimants  
Should be able to advocate and support throughout process.

## Appendix B - IRSRC Form Filler Toolkit Table of Contents

### Indian Residential Schools Resolution Canada Alternative Dispute Resolution Process Application Form Filler Support Toolkit

<b>IRS Help Desk (8-8 CST, Mon-Fri)</b> <ul style="list-style-type: none"><li>• General info on ADR</li><li>• Order Application Kits</li></ul>	1-800-816-7293 info@irsr-rqpi.gc.ca <a href="http://www.irsr.gc.ca">www.irsr.gc.ca</a>
<b>IRS Crisis Line (24 hours)</b> <ul style="list-style-type: none"><li>• Aboriginal crisis counsellors</li></ul>	1-866-925-4419 <a href="mailto:Crisis1@irsss.ca">Crisis1@irsss.ca</a>

#### Table of Contents

##### Tab 1 - Role of the Form Filler

Appendix A	Summary of the Form Filler
Appendix B	Form Filler Contact List
Appendix C	Self Care Resources
Appendix D	Information Updates & Notices

##### Tab 2 - Introduction to the Resolution Framework

Appendix A	IRSRC Update, May 2004
Appendix B	IRSRC Key Contacts
Appendix C	Statement of Reconciliation
Appendix D	Recommendations from Exploratory Dialogues: Guiding Principles

##### Tab 3 - ADR Process Basics

Appendix A	Intro to ADR
Appendix B	Notices of Change: ADR Form & Guide
Appendix C	ADR Application Form
Appendix D	Guide to the ADR Process
Appendix E	Notice of Class Actions
Appendix F	DR Model Policy Paper
Appendix G	Group ADR

##### Tab 4 - Working with Self-Represented Claimants

Appendix A	Thoughts to Consider When Working With Self-Represented Claimants
Appendix B	Form Filling Checklist
Appendix C	Mental Health Supports Program
Appendix D	Trauma & Emotional Stress Awareness
Appendix E	Legal Advice and Referring to Lawyer
Appendix F	Lawyer and Law Societies Contacts
Appendix G	Sample Letters
Appendix H	

##### Tab 5 - Completing the Application Form

Section by Section Guide

##### Tab 6 - Billing and Reporting Requirements

Appendix A	Sample Invoice
Appendix B	Travel Expenses
Appendix C	Monthly Reporting Requirements

## Appendix C - Form Filler Hiring Matrix

### Rated Requirements

Candidate:

Security clearance:

Location:

<p>R-1 The proposed resource must have demonstrated experience assisting aboriginal people with government programs and/or the legal system</p> <ul style="list-style-type: none"> <li>Two points per month spent on projects assisting aboriginal people with government programs and/or the legal system.</li> </ul>		
<p>Max points: 30</p> <p>Candidate points:</p>	<p>Dates/Total Months</p> <p>Company Name</p>	<p>Comments: Meets the requirements.</p>
<p>R-2 The proposed resource must have demonstrated experience counselling people in distress</p> <ul style="list-style-type: none"> <li>Two points per month.</li> <li>10 bonus points if experience is related to aboriginal physical and sexual abuse</li> </ul>		
<p>Max points: 30</p> <p>Candidate points:</p>	<p>Dates/Total Months</p> <p>Company Name</p>	<p>Comments: Meets the requirements.</p>
<p>R-3 The proposed resource must have familiarity with the legacy of Indian residential schools gained through work experience.</p> <ul style="list-style-type: none"> <li>0-13 points: Less than 6 months experience and relevance to assignment is nil or limited or not adequately described.</li> <li>14 points: Between 6 months and 1 year experience and fairly relevant to the requirements of this project and is adequately described</li> <li>15-20 points: More than 1 year experience and entirely relevant to the requirements of this project and is fully described.</li> </ul>		
<p>Max points: 20</p> <p>Candidate points:</p>	<p>Dates/Total Months</p> <p>Company Name</p>	<p>Comments: Meets the requirements.</p>
<p>R-4</p> <p>The proposed resource must have demonstrated experience in preparing monthly tracking reports</p> <p>1 point per report prepared.</p>		

Max points: 10 Candidate points:	Dates/Total Months Company Name	Comments: Meets the requirements.			
<p>R-5</p> <p>The proposed resource must have demonstrated experience conducting information and/or training workshops</p> <p>1 point per workshop conducted.</p>					
Max points: 10 Candidate points:	Dates/Total Months Company Name	Comments: Meets the requirements.			
<p>R-6</p> <p>The proposed resource must have demonstrated capacity for knowledge sharing within bidder's own team and with at least one other organization.</p> <p>2 points per project involving teams and relying on knowledge sharing (Note: Bidders must clearly demonstrate the importance of knowledge sharing in each project described; project of over 6 months of length can be duplicated)</p>					
Max points: 10 Candidate points:	Dates/Total Months Company Name	Comments: Meets the requirements.			
Sub total			110		
R-7	Price*				
TOTAL					

- The score for R-7 will be calculated as follows: Lowest multiplied by evaluation

## ***Appendix D - Additional Form Filler Comments***

Evaluation Meeting

Sept. 19/2007

Comments about the ADR process to present at the Form Filler Evaluation meeting.

### What in the ADR process worked?

- 1) Meeting with the claimants at the location of their choice.
- 2) Offering compassion and understanding to survivors while assisting them with the application process.
- 3) Form Fillers in many cases were the first to hear their story; this is why I felt the need to allow the claimants to proceed at their own personal pace.
- 4) The importance of continuing with on-going supports with Claimants.
- 5) Updates for Claimants on a regular basis, when they required assistance that we are available to them immediately.
- 6) Referred them to help line, RHSW, or other.

### What in the process didn't work?

- 1) Issues with confidentiality? Claimants have experienced many years in Residential School, the lack of trust they have towards Government officials, and authority figures sometimes make the process more difficult. Therefore I believe it is very important to have the same individuals such as Form Fillers involved in all aspects of the work; ADR, IAP.
- 2) The referral process was not always successful as the claimants more often than not were unable to reach a live attendant. The calls in most cases reached a voice mail service, which only led them to contact me again in regards to their original questions, and concerns.

If in fact we are offered a contract with the Secretariat IAP process, I feel it would be very important to have RMs and/or other staff on board, working directly with Form Fillers . As discussed in the past this was supposed to be the case; the work would be sent to us directly from the government Dept.

Respectfully Yours,

*[Name omitted]*

ADR Form Filler

IRSRC Project

## Appendix E - Future Care Guidelines

Title <b>Future Care Guidelines</b> <b>ADR Process</b>	
Status Final	Date August 2006

### Purpose

To provide guidance to Resolution Health Support Workers (RHSWs), Health Canada Regional Coordinators, Form Fillers, Resolution Managers (RMs) and claimants' counsel when discussing the preparation of future care plans with claimants.

### Future Care Plan Definition

Some claimants may be eligible to receive a future care award along with their ADR settlement award. For the purposes of the ADR program, a future care plan is a plan of care the claimant develops, often with the help of a family member, a doctor, a recognized counsellor or an Elder/Healer, to address the harms which were caused by abuse compensable in the ADR program. Future care may include, but is not limited to, discussions with the counsellor or Elder/Healer to strengthen parenting or life coping skills and/or treatment for anger management, substance abuse or depression.

Future care plans can include: counselling by a provider of the claimant's choice, psychiatric care, support of an Elder/Healer and reasonable transportation costs (including meals, hotel and travel where necessary). The future care plan should include the frequency (number of sessions) and cost per session.

### Background

- Where a claimant proves a Model A Claim and subsequent harms in the ADR process, they may be eligible to receive a future care award. It is the claimant's option to request compensation for future care needs and associated transportation costs.
- In section 11 of the ADR application form, the claimant is asked to indicate whether they will be seeking compensation for the cost of their future care. If yes, they are asked to provide details of their treatment plan by completing this section prior to submitting their ADR form.
- The Dispute Resolution Model for Indian Residential School Abuse Claims<sup>2</sup>, page 39, sets out specific factors to be considered by the adjudicators in assessing claims for

<sup>2</sup> [http://www.irsr-rqpi.gc.ca/english/dispute\\_resolution\\_adr\\_policy\\_paper.html](http://www.irsr-rqpi.gc.ca/english/dispute_resolution_adr_policy_paper.html)

future care. It states that, “Where a claim has been made for future care, the adjudicator will consider whether to award additional damages within and according to the criteria in the framework. Relevant factors here will include the impacts of the proven abuse on the individual, any treatment already received for those impacts, the availability of treatment in the claimant’s home community and the need for assistance with travel costs, *and the individual’s degree of commitment to obtaining future care.*”

- There should be a realistic basis in the evidence to support findings that:<sup>3</sup>
  - The claimant plans to attend a specific course of therapy;
  - The therapy has some chance of addressing their needs; and
  - The costing of the proposed therapy is reasonable.
- The ADR Guide, page 47, states that the claimant may be awarded:
  - up to \$10,000 for general medical treatment and/or counselling;
  - up to \$15,000 if psychiatric treatment is required.

### **Considerations**

- To avoid, to the extent possible, an adjournment of a claimant’s hearing due to the absence of a future care plan, by ensuring the claimant is prepared to address their future care needs during the hearing. Those that come into contact with the claimant (including the Form Filler, RSW and RM), prior to hearing, must explain Section 11 of the ADR form in detail. Failing to provide a Future Care plan may result in a delay in resolution of the claim.
- To ensure a common approach that is consistent with the government’s policy of promoting reconciliation and ensuring claimant safety.
- To understand that the claimant may be traumatized because:
  - a) completing the application form can be a difficult experience as claimants must relive the memories of residential school
  - b) they may be in an emotionally fragile state
  - c) many are elderly and/or in poor health
  - d) they may lack formal education and/or literacy skills
  - e) they may have difficulty with the English or French language

---

<sup>3</sup> Email instruction to RMs from Doug Ewart, Sr Advisor to the Deputy Minister, 2/14/2005

- f) some have had no past healing experience
- g) most have no understanding of what future care is
- h) many cannot predict how they will be feeling after the hearing and into the future
- i) many are not aware of resource options in the community
- j) for a variety of reasons, they may be incapable of following up on a referral to a doctor, nurse, health practitioner, community resource.

### **Suggested Approach**

- If a claimant requires assistance in completing their Future Care plan, they may be referred to their doctor, a psychologist or psychiatrist, specialist, therapist, mental health counsellor, Elder/Healer or family member. During such visits, it may be helpful for the claimant to bring Section 11 of the ADR form with them.
- Canada will pay up to \$150 for the development of a Future Care plan prepared by a recognized health professional, such as a psychologist, psychiatrist, doctor, therapist, health counsellor or traditional Elder/Healer. All others must be pre-approved by IRSRC. Health care providers can submit an invoice to IRSRC for payment when settlement is reached. Exceptions to this may be made on a case-by-case basis.
- HC HQ/Regions will work with partner organizations (e.g. IRSSS) to develop information on regional resources that can assist claimants further in developing their Future Care plans.

### **Form Filler**

- For all Model A applicants, the Future Care plan must be discussed at the time the form is filled. Section 11 of the application form should be explained to the claimant and appropriate referrals made as necessary.
- It is important for the Form Filler to understand and know how to access some of the counselling service options for claimants, within the Mental Health Support Program (MHSP) or elsewhere such as: Non-insured Health Benefits<sup>4</sup> (NIHB), the Aboriginal Healing Foundation (AHF), and/or other counselling services available in the claimant's home community, province or territory. Assistance in completing the plan can be given where a claimant simply requires support or travel be paid. A Future Care Plan should clearly show the costs that Canada will pay and does not have to pay.

---

<sup>4</sup> Only short-term crisis intervention counselling is covered under NIHB and it is limited to First Nations and Inuit (Métis and non-Status are not eligible under the NIHB Program)

### Resolution Health Support Worker (RHSW)

- The RHSW will most likely be meeting the claimant for the first time at the hearing and will have no knowledge of their specific needs. In such a case, if asked to speak to a claimant's Future Care needs, the RHSW will refer the claimant to an appropriate person in the claimant's community who may be able to assist them. If the RHSW is unfamiliar with available resources, they can ask the claimant what services they have in their own community or offer examples as listed in bullet one under Suggested Approach).
- It is important for the RHSW to understand and know how to access some of the counselling service options for claimants, within the Mental Health Support Program (MHSP) or elsewhere such as: Non-insured Health Benefits<sup>5</sup> (NIHB), the Aboriginal Healing Foundation (AHF), and/or other counselling services available in the claimant's home community, province or territory. Assistance in completing the plan can be given where a claimant simply requires support or travel be paid. A Future Care Plan should clearly show the costs that Canada will pay and does not have to pay.

### Resolution Manager

- The Resolution Manager must follow up with the claimant/counsel two weeks before the hearing to confirm that a Future Care plan has been submitted if applicable.
- Where a claimant initially declines a future care award, but after further consideration changes their mind prior to or during their hearing, the RM will respond to suggestions made by the Adjudicator and/or claimant in light of the actual evidence before the Adjudicator, or suggest that there be an adjournment so that a plan can be prepared.<sup>6</sup> The RM can also suggest to the Adjudicator that the hearing end with submissions by parties (the claimant or their counsel, Canada and the Church). The parties can then reconvene by teleconference or email, at a later date to discuss the Future Care Plan only.

---

<sup>5</sup> Only short-term crisis intervention counselling is covered under NIHB and it is limited to First Nations and Inuit (Métis and non-Status are not eligible under the NIHB Program)

<sup>6</sup> Email from Doug Ewart, Sr Advisor to the Deputy Minister, 2/14/2005

## Appendix F - Certificate of Independent Legal Advice

### CERTIFICATE OF INDEPENDENT LEGAL ADVICE

I, (*insert name of lawyer*), am a lawyer practicing in the City of, Province/Territory of and a member in good standing of the (*insert name of law society*).

I hereby certify that I have provided independent legal advice to the claimant (*insert name of claimant*) with respect to the signing of the Release in the Alternative Dispute Resolution process established by Indian Residential Schools Resolution of Canada.

I explained all of the clauses of the Release and the claimant indicated that s/he understood my advice. I explained to the claimant the nature and consequences of signing the Release, with particular reference to clause (xx), which deals with giving up the right to sue the government (*and church organization if applicable*) for claims relating to his/her residential school experience or the operation of residential schools generally, as well as that in signing the Release and accepting the award, the claimant agrees to end any residential school court claim against the government (*and church organization if applicable*) without paying costs to the government (*and church organization if applicable*).

I explained that the Release does not prevent the claimant from pursuing claims in the future against the government for loss of a specific aboriginal language and/or specific aboriginal culture related to his/her attendance at one or more residential schools should the courts so permit.

I satisfied myself that the claimant understood the nature of the Release and the consequences of signing it. I further satisfied myself that the claimant was not under any duress or undue influence, and that the claimant was signing the Release freely and voluntarily.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Lawyer

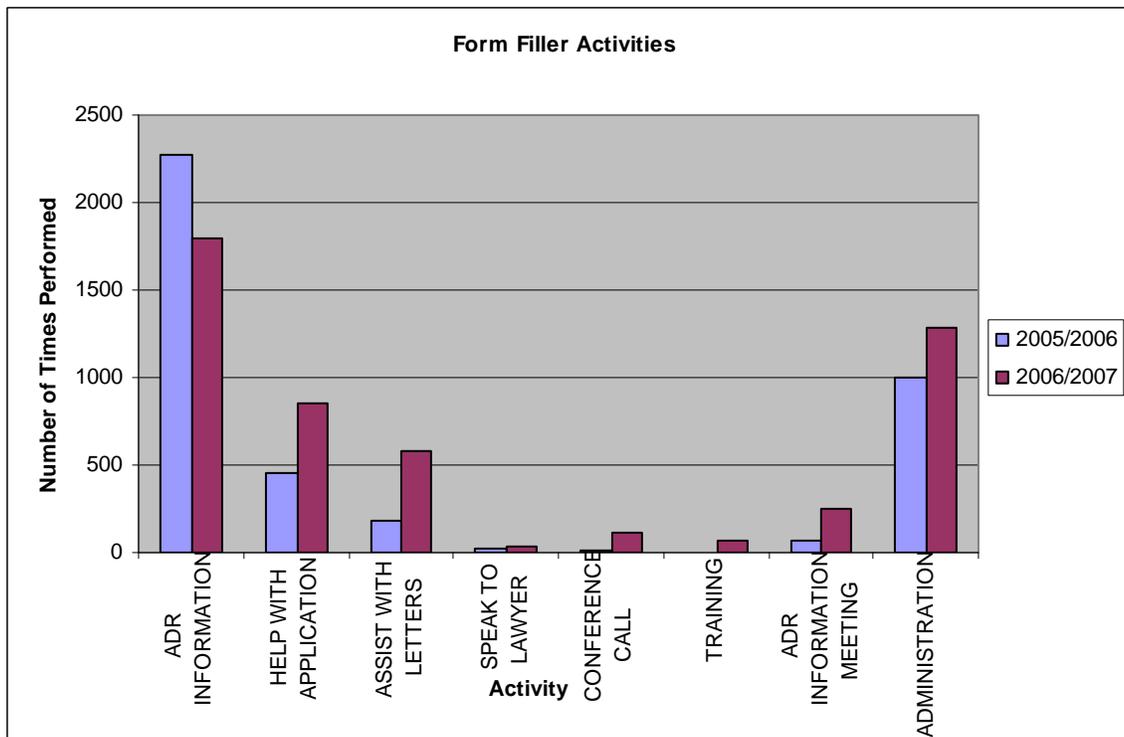
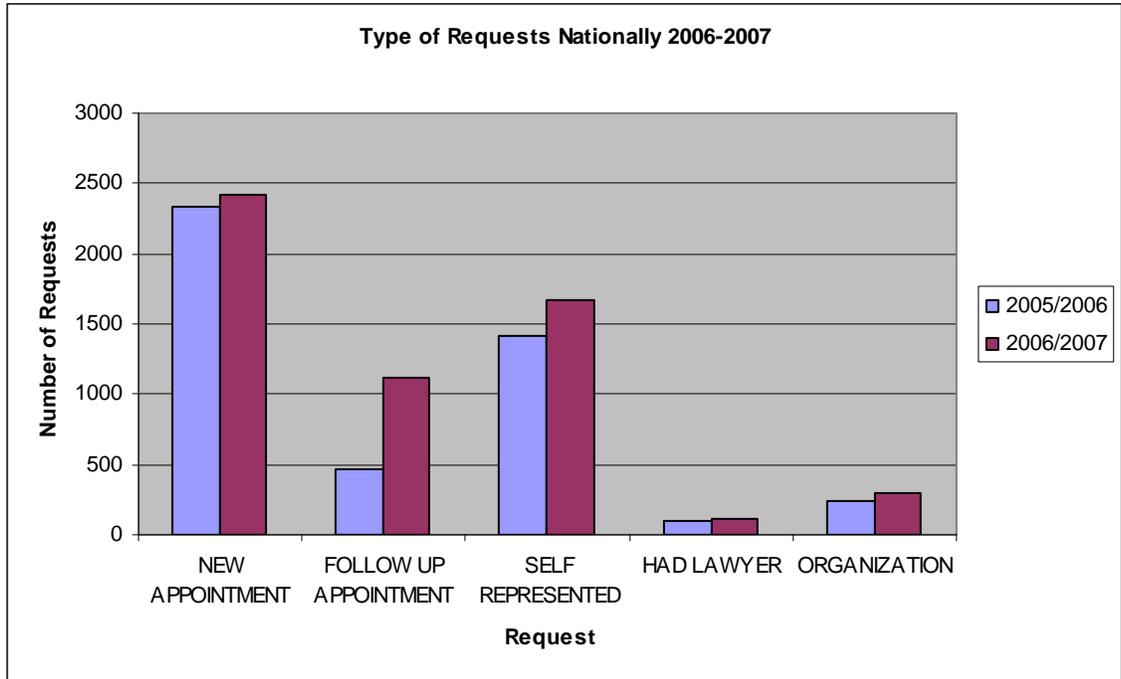
I HEREBY ACKNOWLEDGE AND DECLARE that all statements made in the foregoing Certificate are true and correct and that s/he, in advising me as stated, was consulted by me as my solicitor and in my interest and that I received the aforesaid advice before executing the Release.

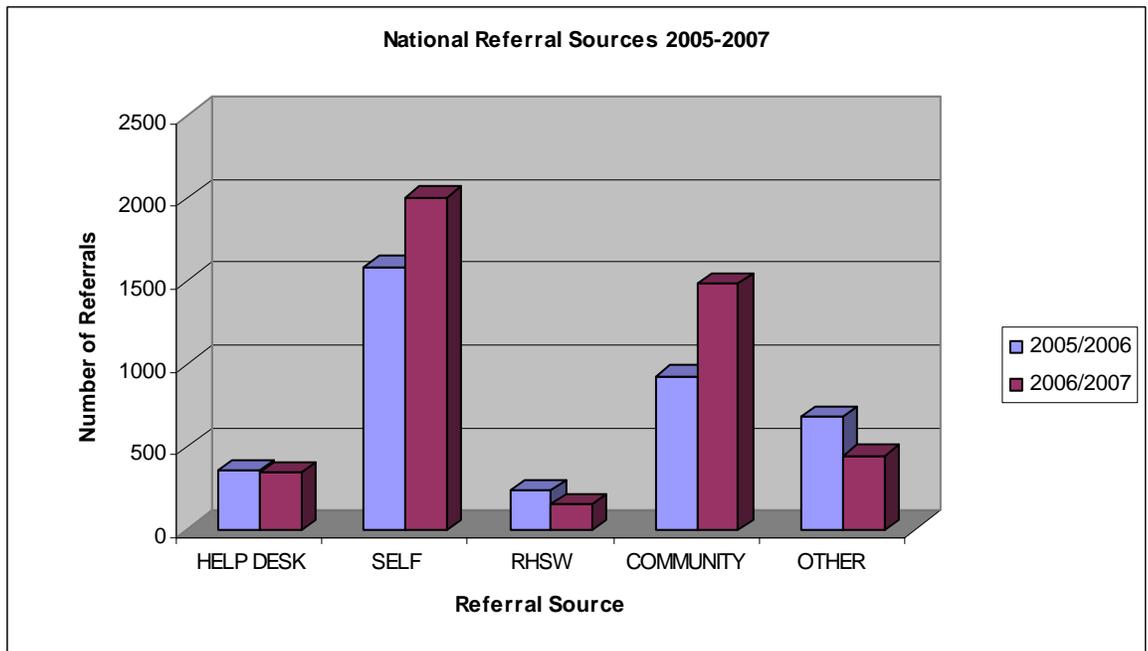
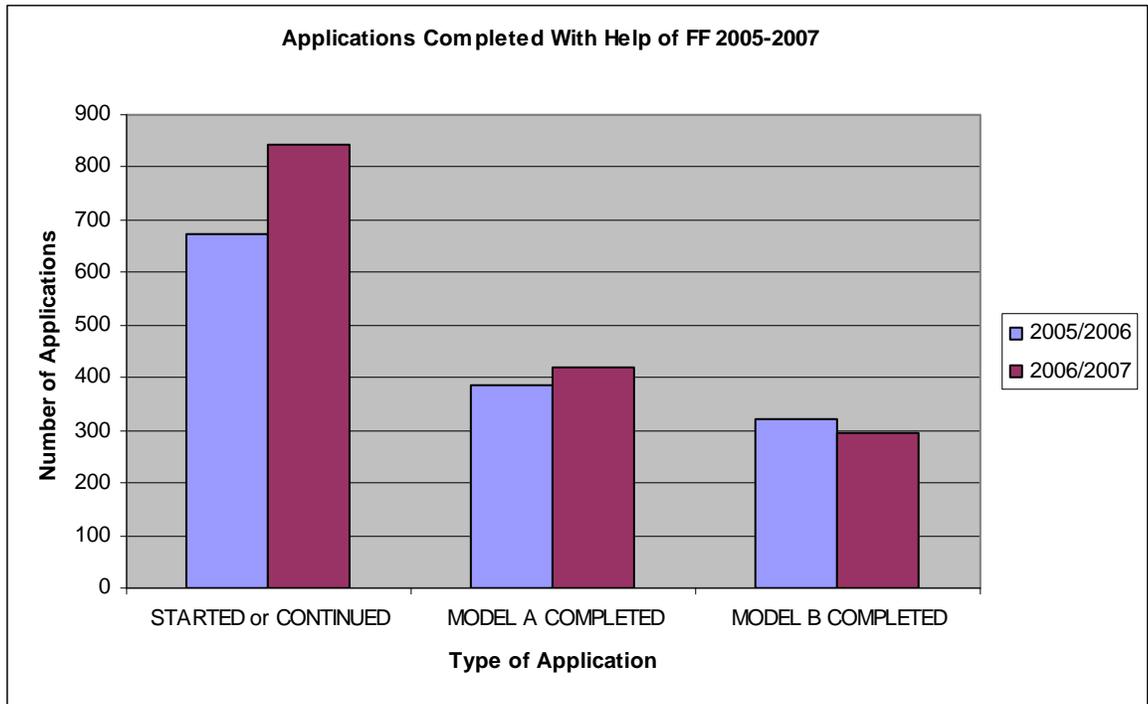
\_\_\_\_\_  
Claimant

\_\_\_\_\_  
Witness

Appendix H - Form Filler Statistics

**FORM FILLER STATISTICS**





Appendix I - ADR Flowchart

