**SOAR Annual Conference: Toronto - November 7, 2013**

**Session Summary: Concurrent Plenary B – Staff Issues Blast 2013: Does Anyone Have a Spark Plug?**

Moderator: **Grace Knakowski,** Law Society of Upper Canada

Speakers: **Lynn Norris,** Environment and Lands Tribunals Ontario, and Safety, Licensing Appeals and Standards Tribunals Ontario; **Victoria Peace,** Criminal Injuries and Compensation Board; **Gary Yee,** Safety, Licensing Appeals and Standards Tribunals Ontario – License Appeal Tribunal

*What do you do when you reach an impasse on a file and how do you work to ensure that the limited resources available are nimble enough to respond? Did you ever wish you had a magical spark that could ignite action in difficult circumstances? This session presented different perspectives and innovative ideas from across the agency sector, providing observations on how synergy between adjudicators can benefit process; how strategic policy and procedure can mitigate against delay; and how being ready for change and uncertainty results in service delivery that is predictable, accountable, and practical.*

The moderator, Grace Knakowski, started off the session by explaining that the name of the session, ‘does anyone have a spark plug?’ was meant to suggest a desire amongst staff and adjudicators to get things moving, keeping things on track, and getting a tribunal to run more smoothly. She indicated that the speakers would be sharing their knowledge, experiences and innovative ideas, which they certainly did. Three speakers spoke at this session about their insights gleaned from their various experiences in the context of administrative tribunals in Ontario.

**Victoria Peace**

Tori Peace from the Criminal Injuries and Compensation Board (CICB) spoke about the CICB triage model, which integrated staff and adjudicators in the operations of the board. Some background first: The CICB is committed to treating all victims who come before it with courtesy, compassion and respect for their personal dignity and privacy. In 2007, the Ombudsman released a report about the CICB, suggesting that clients felt they weren’t receiving appropriate customer service from the board. As a result of this report, the CICB developed a strategic business plan comprising both short and long-term goals. Some of these included the following: Improving access to the program, reducing barriers to accessing compensation, developing faster and more consistent decision-making, and providing more information to the public and stakeholders.

Previous to the introduction of the triage model, the CICB was a linear organization. It was set up in functional units, akin to an assembly line process. This model created lags because of blockages in files within the assembly line. This changed drastically with the introduction of the triage model. This model is often compared to an emergency room model – injuries are dealt with on a different priority basis depending on the severity. It involves clear boundaries and guidelines for front-line service delivery staff about what goes into assessing the level of priority a given case should have.

When the CICB introduced the triage model, it developed triage working groups based on the geographic region of the applicants. The creation of these teams promoted an understanding of the various roles that others in the CICB undertook to collectively reach the board’s mandate. Elements of CICB’s triage included: 1. Fast identification, 2. Focused efforts, 3. Early decisions, and 4. Better forecasting. These principles are largely reflective of the importance of managing expectations.

In implementing the triage model, there was a regionally-focused, team-based approach. The emphasis was on working together on a claim, with a focus on efficient and effective service delivery. Ms. Peace indicated that a re-focusing of objectives from that of just getting the job done to one of serving the client facilitated the Board’s re-organization tremendously. Communication was also especially important. The existence of cross-functional units helped everyone understand the different roles of staff and adjudicators. Communication was enhanced by the initiation of regional triage team meetings, focused on case management. Communication was also improved by physical re-location. When teams sit together, more dialogue can occur spontaneously. The outcome to date is a success story: The time from application to completion was reduced from 27 to 13 months.

**Lynn Norris**

Next, Lynn Norris of Environment and Lands Tribunals Ontario (ELTO) spoke about strategies to tackle delay. She provided context about delay, as well as her reflections on using policies and procedures to manage delay. She drew largely from her experiences with the Assessment Review Board’s (ARB) 2013 Streaming Strategy, and from her experience of more than twenty-five years with backlog delay in the civil and criminal law areas.

Ms. Norris noted that while case delays and backlogs are common in all types of systems in the field of justice, the impacts are not just felt with respect to process; the quality of substantive outcomes is affected as well. Another reality is that administrative boards and tribunals are operating in an environment of shrinking resources. This, combined with increasing caseloads, demands creativity and new ways of doing business in order to reduce delays in a resource-neutral manner. There is also a relatively new emphasis on transparency and accountability. The implication of this is that delay management should involve stakeholders in designing solutions.

Some context: In 1999, the ARB had 250,000 outstanding assessment appeals. In 2012, this had been reduced to 90,000. Since April 2013, the ARB implemented a number of measures to improve the resolution of appeals. Based on her experience, Ms. Norris identified 4 principles that should be incorporated into strategies to address delays and backlogs.

First, tribunals have a role in controlling their process. In fact, Ms. Norris said, it should be a leading role. It is tribunals, not parties, that ought to determine how a case will proceed. Secondly, awareness of culture is key in order to make changes that will work in practice. Ms. Norris noted the popular change management saying, “culture eats strategy for lunch.” There are two aspects to an organization’s culture: internal (including adjudicators and staff), and external (parties, user groups, other institutions, representatives and stakeholders). Thirdly, strong and committed leadership is required to achieve results. Fourthly, a decision about the resource impact needs to be made clear at the outset. Often, these strategies must occur in a resource-neutral manner, so ideas that are unaffordable are not real options.

Ms. Norris then outlined key elements for consideration in delay reduction strategies. They are as follows:

1. Consultation and collaboration: This involves gathering the collective wisdom of those around you, but must be balanced with the need to know when to make a decision and move on.
2. Systemic view: This involves deliberately identifying the problem you are trying to fix, and using a systemic approach to determine how the pieces will come together.
3. Proportionality: Ensuring the complexity of the design reflects the size of the problem you are trying to fix. For ARB, this involved having separate streams, and coming up with different solutions for different types of cases.
4. Documenting the plan: This involves clearly communicating the strategy. For ARB, this involved publishing a memo to all stakeholders about the streaming strategy.
5. Set expectations and targets for what you are trying to achieve: Clear performance measures are essential. For ARB, target measures were used for both individual cases, as well as for the overall assessment appeals system.
6. Monitoring and evaluation: This supports the determination of whether targets are met. These outcomes should be shared with stakeholders to generate further feedback.

Finally, Ms. Norris shared early results from the ARB streaming strategy. In October 2012, there were over 90,000 appeals outstanding. By February 2013, that number went down to 77,000 appeals, and in October 2013, it was further reduced to 72,000 appeals. Ms. Norris was optimistic that policies and procedures were moving the board in the right direction.

**Gary Yee**

Mr. Yee spoke last on the subject of how a tribunal can ready itself for change. The tribunal sector in Ontario has been going through great changes, especially in the past few years. Mr. Yee pointed to clustering, combined with some tribunals moving to a different home minitry. Mr. Yee set out three concepts for ensuring a tribunal is ready for change. These are: being accountable, predictable and proactive.

First, Mr. Yee raised the renewed public demand for accountability. For adjudicative tribunals, this means that each tribunal has to be involved in defining what accountability means in view of their unique character as independent decision-makers. From the perspective of the bigger picture, this involves being accountable for performance, which has two aspects—productivity and quality. Accountability can be enhanced by setting targets and developing standards. Importantly, accountability must extend to everyone involved with the tribunal, including managers and staff. Change involves setting goals, and developing plans to meet those objectives.

The second concept Mr. Yee highlighted was predictability. This concept is one that goes beyond consistency: it addresses certainty from a user’s point of view. With a more predictable system, first-level decision-makers will have more guidance and parties can better navigate the system. Enhanced predictability may allow parties to make better decisions as to when to appeal, and when to settle cases. Procedurally, predictability is a useful concept with respect to processing cases and scheduling hearings. Mr. Yee indicated that predictability must come from management as well. This involves communicating a consistent vision and values to staff, and letting staff know the rationale behind management decisions. Change can occur most smoothly when everyone involved feels secure throughout the transition; predictability helps to achieve this security.

Finally, the third concept highlighted by Mr. Yee was proactivity. A proactive tribunal is one that takes control of its processes, especially when it comes to case processing and case management. A more proactive organization involves anticipating issues, not just reacting to things as they happen. It may involve using information to stream or screen different types of cases, using alternative dispute resolution, and ensuring cases are ready for hearings.

Strong communication is at the core of all of these principles. When a tribunal is functioning well, it will be most ready for change. Mr. Yee stressed that managers and leaders are critical components in ensuring changes happen smoothly, and keep the core business going in new environments.