

Employment Insurance Appeals Pilot Evaluation Study

Final Report

**Evaluation and Data Development
Strategic Policy
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Executive Summary

I. Background

This report presents the results of a pilot project designed to assess the impacts and effects of in-person representation of the Employment Insurance Commission in response to third-party representation of appellants at hearings into appeals against Departmental rulings. The project commenced in 1995 and produced both qualitative and quantitative data for nine selected sites in Canada. The pilot was initiated at the request of the Commission following field reports of a substantial increase in the incidence of third-party paralegal representation of claimants at hearings before Boards of Referees (BOR).

II. Evaluation Issues and Questions

The pilot project covered a range of issues and questions designed to assess:

- effects of Commission in-person representation on outcomes of BOR hearings;
- advantages and disadvantages of Commission representation;
- effects of Commission representation on the level of understanding of the issues of a case and the Commission's position;
- effects of Commission representation on hearing proceedings; and
- effects of attendance at hearings on the agents' understanding of the process.

III. Methodology

The pilot project featured random assignment of cases to a treatment group (with in-person Commission representation) and a control group (without Commission representation). The evaluation was divided into two distinct phases. A qualitative component consisted of focus groups, debriefing sessions and key informant interviews with various groups including BOR members and clerks, appellants, appellants' representatives, and Commission agents and managers. A quantitative component used survey forms and questionnaires to gather objective measures of activity as well as subjective ratings of opinions from the various groups involved in the appeal process.

IV. Findings and Conclusions

Overall, the study found that the outcomes of the hearings, in terms of cases dismissed, cases adjourned, and claims allowed, were not substantially affected by Commission in-person representation. Responses on most issues varied among the groups involved in the study. For the most part, evidence arising from the qualitative data collection was corroborated by that gleaned from the quantitative data analysis.

BOR members found the presence of a Commission representative enhanced their understanding of the Commission's position. At the same time, BOR members, together with appellants' representatives, indicated that Commission representation rendered the atmosphere of hearings more stressful, formal and confrontational.

HRDC participants felt that representation was effective in influencing the outcomes of cases and the quality of Board decisions. The perceived impact on outcomes was not supported by the statistical analysis, however.

A substantial degree of consensus was found for the view that the largest impact may relate to the edification and enlightenment of agents representing the Commission at hearings. The agents received valuable experiences relating to the decisions process and how to better present relevant facts in written submissions before the Boards of Referees.

Impacts on workload and morale varied among the participating sites. Potential resource implications depend upon the volume of activity and the internal organisation of resources. Roles for Commission representatives and for BOR members need to be more clearly defined.

The study found that representation should depend upon the type of case involved and would be most effective using dedicated resources with the necessary skills, aptitude, and training.

Management Response

The Insurance Branch has reviewed the evaluation of the impacts and effects of in-person HRDC representation at hearings into appeals against Departmental rulings. Management feels that this document provides important information that will assist in improving the procedures at appeal hearings.

The Insurance Branch notes that the evaluation demonstrated that the results do not substantiate the premise upon which the pilot was first initiated that a large number of claimants were represented by legal or paralegal representatives at Board of Referees (BOR) hearings.

The findings indicate that outcomes of the hearings were not shown to have been affected by the presence of an in-person HRDC representative. As a result, management feels that HRDC representation at appeal hearings should be limited to special cases involving complex issues but not necessarily limited to labour disputes, major fraud and undeclared earnings. The Appeals Directorate will draft and issue guidelines relating to the types of cases warranting such representation.

The evaluation notes there were mixed responses from participants on the value of HRDC representation. For instance, members of the BOR concluded that the level of openness and honesty had improved due to the presence of HRDC representatives. Some HRDC staff indicated it was a good training vehicle; while others expressed the view that some hearings were more stressful and confrontational. This feedback will be helpful in developing a better framework for the implementation of HRDC in-person representation at appeal hearings.

Evidence showed that claimants were unsure of the role and responsibilities of HRDC representation. The training program for agents will now include a section relating to respective roles and responsibilities when attending hearings, and will also enable board members to better explain the role and responsibilities of HRDC representatives when attending hearings.

The results on the outcomes of hearings also show that the number of adjournments was high during the pilot. Management also acknowledges these results and has initiated a pilot project to identify reasons underlying the large numbers and intends to initiate corrective measures as required.

Management recognises that the experimental pilot was a valuable vehicle for assessing the impacts and effects of the requests for in-person HRDC representation at appeal hearings. It was also helpful to obtain the views of HRDC staff, Members of the Boards of Referees and claimants on the appeal process. These informative results will be useful in developing and implementing a more effective system of in-person HRDC representation in special cases.

1.0 Introduction

This report documents and analyses the findings of a pilot project designed to evaluate the impacts and effects of in-person representation of the Employment Insurance Commission in response to third-party representation at hearings into appeals against Departmental rulings.

The report begins with a brief description of the background of the project followed by a summary of the issues and methodology. A presentation of the findings of the evaluation is followed by conclusions based on the evidence derived from the study.

2.0 Project Description

2.1 Background

Employment Insurance is intended to assist unemployed individuals by providing temporary income support, subject to specific rules and regulations, when earnings are interrupted. Claims are sometimes disallowed due to perceived infractions of the rules and regulations and, in those cases, claimants have the right to appeal the rulings. The appeal process is potentially four-tiered beginning with a Board of Referees followed by an Umpire, the Federal Court, and, ultimately, the Supreme Court of Canada. The evaluation pilot project dealt with the initial level of hearings before a Board of Referees.

The project had its genesis in field reports of a substantial increase in the number of rulings being appealed to Boards of Referees and, more specifically, the incidence of third-party representation of appellants. The Commission wished to explore the question of whether or not in-person representation on the part of the Commission would significantly affect the process and outcomes of these hearings before the Board of Referees.

In initiating the study, the Commission took into consideration the existence of a backlog of appeals together with a history of field requests for Commission representation. In order to assess the impacts and effects of Commission representation at Board of Referees appeal hearings, the Commission requested that an evaluation be undertaken. Recognising that a full benefit/cost analysis would not be feasible, the Commission and evaluators decided to proceed with an experimental pilot project. In 1995, Evaluation and Data Development developed an experimental project to be implemented in selected sites in order to test the impact of Commission in-person representation in terms of the appeal process, outcomes, various parties involved, and, to a limited extent, potential costs and benefits. The pilot comprised two distinct phases, a quantitative component based on the development of a statistical data base and a qualitative component based on focus groups, debriefing sessions, and key informant interviews intended to assess the non-quantitative aspects of the appeal procedures.

2.2 Evaluation Issues and Questions

The purpose of the pilot was to determine the feasibility and efficacy of implementing in-person representation of the Commission in appeal cases where the appellant is represented by a legal/paralegal third party. The evaluation was designed to address a range of issues and questions pertaining to the potential effects, intended and unintended, of in-person representation. The broad study issues encompassed the questions of the positive and negative effects of in-person Commission representation, whether representation would make the appeal process more legalistic, and whether representation would rationalise the appeal process by bringing more information to the Board of Referees and enlightening judgements.

Specifically, the pilot was intended to determine:

- the direct effects Commission representation may have on the outcomes of Board of Referees' hearings;
- the possible costs and benefits of Commission representation, although it was recognised that a limited pilot project would not produce a full benefit/cost analysis;
- whether the presence of a Commission agent would affect the level of understanding of issues and the Commission's position;
- whether the presence of a Commission agent at the hearings would affect the proceedings themselves; and
- whether attendance at the hearings would affect the agents' understanding of the hearing process.

2.3 Methodology

The EI Appeals pilot project featured random assignment of cases to treatment and control groups. With sufficiently large sample sizes, random assignment makes it possible to draw reliable inferences regarding effects on the target population.

In the pilot project, the target population included all appeals with legal/paralegal third party appellant representation in selected sites representing a cross section of the total number of potential sites. The sites originally identified to participate in the pilot project were Bathurst, Longueuil, Laval, Toronto (North York and Newmarket), Winnipeg, and Vancouver. Due to administrative difficulties, Bathurst did not participate and other sites were added, namely, Mississauga, Brampton, Victoria, and Prince George. However, the Prince George site did not submit data. Thus, nine sites effectively participated in the project as implemented.

The reference period was to consist of 12 months starting in late November, 1995. However, the sites that came on stream later, as well as the original sites, needed a longer period to organise the required activities. In an attempt to preserve the integrity of sample sizes and the resulting inferences, time frames were adjusted to ensure a minimum of one-year participation in each site.

Cases entered the sample as soon as the Commission received notification that the appellant was to be represented by a legal/paralegal third party. Considerable flexibility was afforded sites in adapting the implementation to their own requirements and circumstances. Based on a formula applied to the Social Insurance Number of the appellant, cases were assigned to either the treatment group (i.e. in-person Commission representation) or the control group (no in-person Commission representation). The one exception to this methodology was Vancouver, where, because of the logistics regarding the location of HRCC offices and hearing venues, the decision was made to assign cases to treatment and control groups according to the day of the week that the hearing was scheduled.

Other variations in implementation were also evident. For example, some sites chose to implement in-person representation on a voluntary basis, while, in other instances, representation was undertaken on a rotational basis. In Toronto, representation was handled by a specialised EI Appeals unit, while, in Montreal, one agent per site was responsible for in-person representation.

These variations in implementation influenced the observed impacts and made it more difficult to generalise results.

2.4 Data Collection

In the pilot project, evaluators collected data that could be used to contrast outcomes for the treatment group with those of the control group. One of the major considerations for the data collection was to not unduly increase the workload of operational staff and other involved parties. Both quantitative data and qualitative data were collected in the course of the investigation.

2.4.1 Quantitative Data

The quantitative data base comprised objective measures of events, dates, and duration as well as scaled ratings of more subjective measures such as opinions and impressions. These quantitative data were derived from multiple forms and survey questionnaires completed by all parties to the appeal process, including appellants, appellants' representatives, Commission managers and agents, and members of Boards of Referees. Forms were provided to respondents by the Clerks of Boards of Referees and were collected immediately after the hearing in order to minimise problems of non-response and recall.

2.4.2 Qualitative Data

In addition to the collection of quantitative data through survey questionnaires, evaluators incorporated an extensive qualitative component designed to provide broader and more in-depth insight into the potential impact of Commission in-person representation. This information was based on a series of focus groups, debriefing sessions, and one-on-one key informant interviews conducted in the sites participating in the pilot project. These sessions provided information on the perceptions of participants regarding the advantages and disadvantages of Commission in-person representation. Participants in the qualitative data collection sessions comprised Boards of Referees and their clerks; agents representing the Commission at hearings; agents who had made the original rulings and/or had prepared written submissions to hearings; appellants in both treatment and control groups; appellants' representatives; and CEC/HRCC managers and agents in participating sites.

2.5 Analytical Approach

The quantitative database was analysed, subject to the limitations imposed by sample sizes, in order to ascertain where significant differences occurred between the treatment group and the control group. Information from the qualitative data collection was compiled through detailed summaries of each focus group, debriefing session, and interview. A matrix of issues was prepared and each individual comment was recorded under the appropriate study issue. Finally, with careful attention to gauging the level of consensus and/or contradiction among respondent groups and participating centres, the information in the matrix was synthesised, issue by issue, into a report of the findings.

Findings from both the quantitative and qualitative analyses were examined to determine the degree to which one corroborated the other. Conclusions were based on a synthesis of findings.

3.0 Findings

Evaluation findings cast some doubt upon the initial impetus for the project, namely, that there had been a “large” increase in the number of appeals and, specifically, the incidence of third-party representation of appellants. Administrative statistics suggest that only about 5 to 10 percent of appealed cases have paralegal claimant representation. After running the pilot in the nine selected sites for one full year, relatively small numbers of appeals were identified belonging to the target population.

3.1 Statistical Data and Analysis

Table 1 shows the total number of cases included in the pilot study. The total numbers involved are not sufficiently large to allow for detailed statistical analysis of individual sites. In order to provide reliable information, the minimum number of cases would have to be 80 in each of the treatment and control groups.

Table 1
Cases Completed by Site

Site	Treatment	Control	Total
Vancouver	44	38	82
Victoria	6	3	9
Winnipeg	35	30	65
York	12	12	24
Newmarket	10	4	14
Mississauga	12	3	15
Brampton	9	14	23
Laval	11	27	38
Longueuil	52	65	117
Total	191	196	387

Source: EI Appeals Pilot Project Data Base

For the purpose of analysing the results, data were aggregated into four areas, namely, Vancouver, Winnipeg, Toronto, and Montreal. Overall aggregate data were weighted to reflect the level of response in the individual centres in order to provide a more valid overview of the likely impact of in-person Commission representation.

3.1.1 Impacts on Hearing Process

In order to assess the impact of treatment on the hearing process, a series of questions were developed which rated respondents' opinions according to the following scales:

1. Atmosphere of hearing -5 (very tense) to +5 (very relaxed)
2. Understanding of Commission's position 0 (not at all) to 10 (very well)
3. How presence affected understanding of Commission's position -5 (confused) to +5 (clarified)
4. How presence affected understanding of relevant legislation -5 (confused) to +5 (clarified)
5. How presence affected understanding of facts of case -5 (confused) to +5 (clarified)
6. How presence helped focus on issues of case -5 (confused) to +5 (clarified)

These factors were addressed by appellants, appellants' representatives, and members of Boards of Referees. Table 2 presents the findings of the data collection.

Table 2
Impact of In-person Commission Representation
on Hearing Process

Factor	Scale	Appellants		Appellants' Reps.		BOR Members	
		Treat.	Cont.	Treat.	Cont.	Treat.	Cont.
Atmosphere of hearings	-5 to +5	1.8	2.4	2.4*	3.3*	2.7*	3.2*
Understanding of Commission's position	0 to 10	5.8	5.8	8.5	7.3	7.7*	7.2*
Effect of representation on Understanding of Commission's position	-5 to +5	1.1	N/A.	1.6	N/A.	2.6	N/A.
Effect on Understanding of legislation	-5 to +5	0.9	N/A.	0.7	N/A.	2.1	N/A.
Effect on Understanding of Facts of Case	0 to 10	0.9	N/A.	0.7	N/A.	2.2	N/A.
Help to Focus on Issues	-5 to +5	1.0	N/A.	0.8	N/A.	2.4	N/A.

N/A. Not applicable

* Statistically significant at 95% confidence level.

Source: EI Appeals Pilot Data Base

Comparisons between the control and treatment groups revealed that appellants experienced no significant difference in the degree of tension at the hearings or in their level of

understanding of the Commission’s position as a result of the presence of in-person Commission representation at hearings . In the opinions of appellants’ representatives and of BOR members, the presence of an in-person Commission representative resulted in slightly greater levels of tension at board hearings. BOR members also indicated a slightly improved understanding of the Commission’s position in hearings with in-person Commission representation.

Among the treatment cases, appellants and their representatives indicated, at best, marginal effects in terms of the level of understanding of the Commission’s position and focusing the hearing on the issues of the case. As well, these groups perceived virtually no effects on the understanding of relevant legislation and the facts of the case. In at least two participating sites, appellants’ representatives were very knowledgeable about the legislation as they are involved in a very large percentage of the appeals undertaken.

Members of the Boards of Referees saw the effects of Commission in-person representation to be slightly more positive on all factors than did appellants and their representatives.

3.1.2 Impacts on Resources

The evaluation collected data, shown in Table 3, to shed light on the likely impact on resource requirements of Commission in-person representation. The impact was assessed in terms of the duration of hearings as well as the amount of time required for preparation and verification of information.

**Table 3
Duration of Hearings, Average Preparation and
Verification Time**

	Treatment Cases	Control Cases
Duration of Hearings	59 min.*	52 min.*
Preparation and Verification Time	245 min.	235 min.

* Statistically significant at the 95% confidence level.

In cases featuring in-person Commission representation, the average duration of hearings and the average preparation and verification times were only slightly longer than in cases without Commission in-person representation. Analysis showed that the slight increase in hearing duration was statistically significant while the apparently longer preparation and verification time was not. This suggests in-person representation may require more resources although the impact is not likely to be large.

Further evidence was collected from Commission representatives regarding the length of time required of them to prepare for in-person representation and to actually attend the hearings.

The average time estimated for Commission representatives' involvement in hearings was close to 2.5 hours. Extrapolating from this, it could be estimated that handling approximately 400 such cases might require approximately .5 of a person/year.

3.1.3 Impacts on Hearing Results

The evaluation sought to ascertain the impact of in-person Commission representation on the actual outcomes or results of hearings. The measures indicative of these outcomes were whether there was a significant difference between control and treatment groups in terms of the number of appeals allowed in whole or in part, as illustrated in Table 4.

Table 4
Proportion of Claims Allowed
Relative to Claims Dismissed

Claims Allowed or Dismissed	Treatment	Control
Claims Allowed		
Totally	44%	42%
Partially	6%	15%
Claims Dismissed	50%	43%

Overall, 50% of the claimants in the treatment group had their appeals dismissed. This compares with 43% in the control group. In the treatment group, 44% of appeals were allowed totally, while 6% of claims were allowed in part. In the non-treatment group, 42% of appeals were allowed totally and 15% were partially allowed. The apparent differences between the control and treatment in the outcomes of hearings were not found to be statistically significant. In other words, outcomes of the hearings were not shown to have been materially affected by the presence of an in-person Commission representative.

Similarly, overall statistics revealed no significant difference in the incidence of adjournments between control and treatment groups. Adjournments with representation occurred in 110 cases and without representation in 111 cases. There was, however, variation among sites with one site in particular experiencing a relatively large proportion of adjournments among control cases relative to treatment cases.

Reasons for the number of adjournments were varied. The Toronto Commission representatives observed that one of the benefits of agent representation was the opportunity to ask for an adjournment. If the claimant had new information relating to the appeal, Commission representatives asked for an adjournment. Evidence from another site indicated that appellant representatives asked for adjournments if their case was scheduled for a particular day of the week when there would be Commission representation. The evidence

suggests that appellant representatives preferred appearing before the BOR when the Commission was without representation. Also, appellant representatives are more aware than the average claimant of the advantages of requesting an adjournment. Adjournments provide more preparation time of the case material without negative consequences.

3.1.4 Opinions of Commission Representatives

Finally, Commission representatives were canvassed regarding their views regarding the perceived impact of representation and satisfaction with hearing results. Table 5 presents the findings.

**Table 5
Opinions of Commission Representatives Regarding Effects of In-Person
Commission Representation**

	Treatment Cases
Atmosphere of Hearings (Scale -5 to +5)	1.8
Extent representative felt “heard” (Scale 0 to 10)	7.6
Est. impact of representation (Scale -5 to +5)	2.0
Satisfaction with hearing results (Scale -5 to +5)	1.8

Commission representatives in treatment cases noted a fairly relaxed atmosphere at the hearings with no significant level of tension. Clearly, the representatives felt that they had been effective in communicating their positions before the Boards. They felt that their impact was positive but moderate and they were not overwhelmingly satisfied with the outcomes of the hearings.

3.2 Qualitative Results

Not unexpectedly, opinions and positions on most issues varied widely among the different groups of participants in the focus groups, debriefing sessions and interviews.

Expectations at the outset ranged from ambivalence to optimism. Members of Boards of Referees could not see a compelling motive for instituting the pilot project. Agents and supervisors on the Commission side expected that representation would impact positively on the appeal process and on outcomes.

Claimants indicated that they obtained third-party representation for three main reasons:

- Concern or lack of understanding about their case;
- Complexity of their case; or
- Concern about their ability to communicate in English or French.

Appellant views of the subsequent worth of third-party representation depended upon whether they won or lost their appeal. In at least one site, appellants held the view, corroborated by appellants' representatives, that the Board of Referees had permitted only minimal input from their representatives, preferring to hear from the appellant directly.

3.2.1 Perceived Impacts on Hearing Process and Outcomes

The agents who represented the Commission in the appeal process generally believed that Commission representation had influenced the outcomes of at least some cases and the quality of Board decisions. Most other study participants, however, felt that the impact had been relatively minor. A significant degree of consensus was found for the view that the largest impact may reside in the edification and enlightenment of agents participating in the process.

The extent to which learning was imparted to other HRCC staff varied greatly as no formal mechanisms were in place to disseminate information. However, representing agents gained familiarity with the decisions process and learned how to better present relevant facts in written submissions. Moreover, in at least one location, agents who appeared before the Board of Referees seemed to have gained credibility which carried over to appeals in which the Commission was not represented in person.

The impact upon the actual outcomes of appeals was difficult to gauge from the qualitative findings. All non-HRDC participants felt that decisions were in no way affected by Commission representation. Conversely, most HRDC staff believed that at least some outcomes were affected and, more frequently, the quality of decisions was improved. These perceived benefits were attributed to the opportunity afforded Commission representatives to challenge statements made by claimants and to keep the Board of Referees focused on salient points of the case and relevant aspects of legislation. The perceived impact on outcomes was not borne out by the quantitative data that failed to detect a significant impact upon the incidence of cases dismissed, adjourned, or claims allowed, wholly or in part.

Commission representatives were able to provide an element of clarification regarding the facts of a case or points of law. Moreover, the consensus view of agents and BOR members suggested that the level of openness and honesty was improved by the presence of Commission representatives.

Generally, in-person Commission representation made the appeal process more formal and often made the atmosphere more stressful and intimidating for appellants.

With regard to impacts upon the duration of the appeal process, frequency of adjournments and the flow and pace of hearings, comments were limited and varied. Impacts on these aspects seemed to depend upon the personalities involved and the nature of the case. In addition, variations in implementation among the various sites may have exerted an impact upon observed results, particularly the numbers of adjournments.

Commission representation did not appear to help claimants gain a better understanding of their case or the Employment Insurance Act.

There appeared to be some question in the minds of appellants and their representatives regarding the objectivity of the Boards of Referees. In some cases, the BOR is housed in the same location as the HRCC, they are paid by the government, and trained by HRDC staff. There was confusion among claimants about the relationship between the Board and HRDC. Claimants did not know who BOR members represent. They did not realise that one BOR member represents workers. In some instances, BOR members were perceived as being ill prepared and the results were seen as being overwhelmingly influenced by the president of the Board.

3.2.2 Impacts on Workloads, Morale and the HRCC Organisation

The evaluation sought to address the issue of potential impacts upon workloads, morale, and the HRCC organisation. These factors were found to depend upon (a) the division of labour within the HRCC and the proximity of agents to the location of the BOR hearings, and (b) the way in which the pilot study was implemented in each site (e.g. whether representation was voluntary or not).

In most locations, the appeal process is handled by Agent IIs, a senior supervisory classification. In locations where all Agent IIs write appeals (and thus all participated in the pilot study as representatives), workloads were reported to be significantly increased with predictable adverse effects on morale and stress within the organisation. Where appeal writing and/or Commission representation were concentrated among a few or a single Agent II, (i.e. dedicated resources), positive impacts were noted on morale, workload and organisational stress.

In locations where agents were both preparing written submissions and representing the Commission at hearings, agents felt that they gained a better understanding of the Board of Referees and that the experience would enhance their ability to write effective submissions. In other locations, there was no formal process to share lessons and observations between Commission representatives and agents preparing written cases.

3.2.3 Types of Cases

Participants generally agreed that Commission representation should be based on the complexity and nature of an appeal case as opposed to whether or not the appellant is

represented by a third party. The Commission should be represented in cases such as misconduct, collusion between employer and employee, fraud or the suspicion of fraud, and cases involving large sums of money. Cases involving straightforward interpretations of legislation can be handled without in-person representation.

3.2.4 Commission Representation as National Policy

The evaluation addressed the issue of whether or not Commission representation should be adopted as national policy. Responses were sharply divided among the various groups participating in the study. Even those who felt representation should be adopted as policy expressed major qualifiers to their opinion.

Representing agents supported the concept but wanted to see workload issues addressed and the role of Commission representative filled on a voluntary basis. Managers, RHQ staff and supervisors saw some positive impacts but, in some sites, were concerned about impacts upon workload and staff morale.

BOR members were ambivalent but some felt Commission representation had been of some help. In two locations, BOR members would prefer that agents be available when needed. In another site, BOR members thought the policy should be adopted provided that HRDC agents had a clearly defined role and had received appropriate training. BOR clerks were concerned about potential increases to their own workload.

Appellants and their representatives, with some exceptions, were, for the most part, opposed to Commission representation. Those opposed felt it conveyed an unfair advantage to the Commission and would intimidate claimants. For many in these groups, the presence of a Commission representative made the process more tense and confrontational. Claimant representatives were mainly opposed because of the intimidation factor and, during the pilot, they did not see a constructive input from Commission representatives. Moreover, they expressed the view that in-person Commission representation, together with written submissions, gave the Commission two opportunities to make its case, whereas appellants were afforded only one such chance. In-person was considered by some to be redundant.

The overall findings suggest that most claimants would probably be intimidated by a Commission representative at their hearing or, at least, would find the process more stressful. However, the prospect would affect neither the appellant's decision to obtain representation nor the type of representation they would choose.

Participants were asked what changes should be made to current arrangements if Commission representation were to become national policy. Opinion was divided over whether the agent who writes the appeal should also represent the Commission at the hearing. However, other findings suggested that, in any event, representation should be voluntary and involve individuals with the skills and aptitude for the job.

There was agreement that the respective roles of the Commission representatives and BOR members need to be more clearly defined. Agents who are expected to represent the Commission at hearings should receive relevant training. There was strong support for the creation of dedicated resources for the purpose of Commission representation.

No consensus emerged on the question of the appropriate role for the Commission representatives. BOR members and appellants opposed to the idea of Commission representation as policy saw Commission representatives as resource persons to be called upon as needed to provide clarification. HRDC staff, especially representing agents, wanted to play a more active, assertive role in the appeal process.

4.0 Conclusions

This section presents the main conclusions which can be drawn from the quantitative and qualitative findings emerging from the EI Appeals Pilot Project. Evaluation findings indicated there had not been a large increase in the number of appeals and, specifically, the incidence of cases with third-party representation was low. Overall, the outcomes of hearings were not substantially affected by Commission in-person representation. However, other findings indicate marginally positive results. For the most part, evidence arising from the quantitative data analysis was corroborated by that gleaned from the qualitative data collection.

4.1 Impacts on Hearings

The findings suggest a marginally positive impact for in-person Commission representation. Quantitative findings suggest that BOR members found that the presence of a Commission representative positively influenced their understanding of the Commission's position. On the other hand, both BOR members and appellants' representatives felt that Commission in-person representation rendered the hearings more stressful than they would otherwise have been.

To some extent, agents were able to provide information and clarification on the spot to BOR members and to appellants and their representatives. The agents were relatively well versed in the legislation and able to present the most up-to-date jurisprudence. Commission representatives provided a counter-balance to assertions made by claimants and their representatives.

Qualitative findings suggest that perceived impacts may be attributable to the types of cases and personalities involved. The findings further suggest that in-person representation should not necessarily follow as a reaction to appellant third-party representation but, rather, should depend upon the circumstances of the case. For example, hearings, which involve the suspicion of fraud and/or where substantial amounts of money are at stake, would probably indicate a need for Commission representation.

In-person representation was probably useful in enhancing the experience and knowledge of representing agents. Representatives were able to provide some useful clarifications and keep the Board hearings focused on the issues. The level of honesty and openness in hearings was positively, if only slightly, raised by the presence of Commission representatives.

Overall, Commission in-person representation did not seem to positively influence claimants' understanding of their case or the EI Act.

4.2 Impacts on Resources

Impacts on workloads, morale, and the organisation depended upon the internal organisation of the particular HRCC involved. The qualitative findings suggest that impacts were positive in areas where representation was done willingly by personnel with the requisite skills and aptitude. The quantitative data produced a marginally significant increase in the duration of hearings but failed to detect a significant impact upon the preparation or verification time involved.

The study suggests that, where Commission representation is contemplated or is deemed necessary, it is more effective if undertaken voluntarily using dedicated staff who have the required skills, aptitude and training. Moreover, the respective roles of BOR members and of Commission representatives need to be more clearly defined so that individuals are unequivocally aware of the parameters within which they are expected to function.

The study also suggested that more time could be allowed to prepare for cases. The process of writing appeals could be reviewed in the light of feedback provided by agents who had represented the Commission at hearings. More effective research and communication at the investigative stage may serve to decrease the number of appeals launched.

Clearly the volume of appeals involving in-person Commission representation would be a crucial factor in determining resource implications. The data generated by the pilot project suggested that 400 such cases might require up to .5 person/years in additional resources.

Participants in the study suggested that the pilot project was a good way of testing the policy on Commission representation and provided an opportunity for observing its true effects.

Appellant representatives and Supervisors of Insurance Services suggested that an evaluation of the entire appeals process be undertaken. This was based on their view that there were weaknesses in the appeals process that were not addressed by the pilot project, and particularly with changes in the new EI system.