

MODEL MEMORANDUM OF UNDERSTANDING

April 6, 2006

A Memorandum of Understanding (MOU) can be used by a chair of an administrative tribunal and the responsible minister as the basis to discuss and agree upon their mutual expectations. An MOU does not create legal or binding obligations on the chair or the minister, but is intended to provide a framework for a positive and co-operative working relationship between them. A primary goal should be a balance between tribunal independence and ministerial accountability, leading to effective administrative justice.

The Administrative Justice Office (AJO), with the input and advice of many others, has developed a model MOU that may be used as a starting point. Ministers and chairs may adapt it to reflect the unique circumstances of the particular ministry and tribunal for which they are responsible. The model MOU includes a variety of provisions, not all of which will be applicable to each tribunal/ministry relationship and, in some cases, provides options to reflect the wide range of possible arrangements. While comprehensive, the model MOU is not intended to be exhaustive, as it is impossible to conceive and reflect all possible variations and unique circumstances.

You can use the following link to the .PDF file for the current draft of the model MOU:

[Model MOU \(Version 5 - April 6, 2006\)](#)

If you require the model MOU in a Word file, please contact either of the following:

Richard Rogers (Richard.Rogers@gov.bc.ca, 250/387-1712)

Robin Abbott (Robin.S.Abbott@gov.bc.ca, 250/387-0058).

The AJO appreciates any comments and suggestions you may have on the model MOU. The AJO anticipates that the model MOU will be revised from time to time, to include any additional, common provisions and to update terminology and references that have been identified and are considered necessary or desirable.

If you have any comments, suggestions, questions or concerns regarding the model MOU, please contact Richard Rogers (Richard.Rogers@gov.bc.ca, 250/387-1712).

Using the model MOU

Readers should remember that the MOU is intended to provide a framework for the relationship, not the details or mechanics of that relationship. Those details and mechanics are to be worked out between the tribunal and the supporting ministry, according to the spirit and intent of the MOU, either concurrently with, or subsequent to the execution of the MOU.

The MOU anticipates that the Chair will complete a Service Plan for the tribunal annually and provides a general indication of the topics the Service Plan should address. However, the MOU does not provide details for those topics, such as specific goals, objectives, performance measures and performance targets. Although those specifics can be added, it is not normally recommended because of the frequently fluid and evolutionary nature of those Plans.

To adapt the model MOU to meet the needs of a particular tribunal and ministry, the following should be kept in mind:

- The wording suggested in the model MOU should be reviewed carefully, to determine which provisions are:
 - consistent with the tribunal's enabling legislation and regulations; and,
 - appropriate for the actual relationship intended for the minister/ministry and the chair/tribunal.

- For some areas, the model MOU includes alternatives that are intended to reflect the most common options for ministry/tribunal service and support arrangements. The applicable option will be determined by the structure and statutory mandate of the subject tribunal. The options are either indicated as such by italicized headings or the options themselves are italicized.
- The AJO suggests that, as a first step in drafting a MOU, users review the model MOU and remove all optional wording that clearly does not apply to the subject tribunal. This should significantly reduce the size of the document and make it easier to manage the subsequent drafting process and focus on the critical aspects of the MOU.
- As a next step, the AJO suggests the parties choose which option they wish to use for Part 4 (Board Finance and Administration). Option 1 provides guidance for determining who is responsible for all aspects of tribunal administration, how the administrative services will be delivered and, where the service will be provided by the host ministry or another agency, what level of service the tribunal is entitled to. Option 2 provides only general principles and is simpler and, therefore, shorter. Option 2 is probably more appropriate for situations where there are already detailed service level agreements in place or under negotiation.
- It is up to the parties to agree on the terms of their MOU. None of the provisions of the model MOU are mandatory. However, prior to simply deleting a provision that appears to be unworkable, tribunals and ministries should give consideration to developing an alternative that will work for them and reflect their circumstances.
- References to legislation, government organizations and service providers should be checked, to verify that they apply to the specific tribunal and that the references are still current.
- The terms defined in the Definitions and Acronyms section of the model MOU are highlighted and include hyperlinks in the rest of the document. To remove the hyperlinks from the Word version of the document, for each defined word, users must:
 - copy the word without a hyperlink;
 - use the Find function (Ctrl + F) to find each occurrence; and
 - paste the copied word in place of the hyperlinked word.
- Comments that are intended to assist users of the document can be viewed by moving the mouse pointer over the yellow page symbols in the document. To print the document with the comments:
 - depress “CTL” & “P” to display the Print dialogue box;
 - Use the drop-down list next to the “What to Print” (bottom left of dialogue box);
 - Select “Document and comments” (Adobe Acrobat .PDF files); and,
 - Depress the “OK” button.