



Recommendations on Accountability, Enforcement, and Public Interests Provisions

by the Joint Accountability Review Committee (JARC)

to the Minister of Alberta Aboriginal Relations and the Metis General Council



June 30, 2014

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Executive Summary

The 2013 revisions to the *Metis Settlements Act (MSA)* included the defined roles and responsibilities of Administrators compared to Councils, the requirement to complete business plans and provide standardized reporting, changes to the budget bylaw approval process, and requirements for new Metis Settlements General Council (MSGC) Policies. These revisions, along with the Long-Term Governance and Funding Arrangements (LTA Agreement), created the need for the MSGC and the Government of Alberta to examine the ways in which Settlements could strengthen and enhance their governance and accountability. The Joint Accountability Review Committee (JARC or the Committee) was a requirement that arose from the LTA Agreement and included three MSGC appointments and two Government of Alberta appointments. The JARC's purpose was outlined in the *MSA* section 246.1 and included:

- The requirement for JARC to consider measures that should be provided for to protect the public interest with respect to matters dealt with in the *MSA* and MSGC Policies;
- Consider measures that should be provided for to ensure that Settlement Councils and Councillors are accountable to settlement members with respect to matters dealt with in the *MSA* and MSGC Policies;
- Review the enforcement provisions of the *MSA* and consider any additional measures; and
- Provide a report to the Minister of Aboriginal Relations (Minister) and MSGC including recommendations of the Committee regarding amendments to the *MSA* or MSGC Policies.

The JARC considered, discussed, and made recommendations impacting accountability the roles, responsibilities, authorities, and accountabilities of the following:

- Council and Settlements to members;
- Members to Settlements;
- Administrators to Council;
- Member and stakeholder dispute resolution;
- Metis Settlements General Council;
- Metis Settlements Appeal Tribunal (MSAT or Appeal Tribunal); and

- Settlements to the Minister of Aboriginal Relations.

The following recommendations were made by the Committee:

Accountability of Councils and Settlements to Members

1. MSGC establish, through Policy, minimum standards for the disclosure of key documents which support transparency.
2. Settlements independently establish guidelines for document disclosure through policy which establishes the content of key documents and the timing of their release.
3. MSGC support transparency through the development of document templates and training on their use.
4. MSGC support Settlement transparency by initiating a project to create a standardized website available for use by all Settlements.
5. Settlement Councils receive supplemental governance training on the principles of transparency and the use of meetings open to the public.
6. Settlement administrations address capacity issues related to records management and *FOIPP* training to ensure Settlement documents are accessible and complete. The potential exists for Settlements to have a shared or centralized *FOIPP* resource.
7. Settlements post all key documents relating to transparency on the Settlement's website, and that they are made available at the front counter.
8. Each Settlement adopts a Council Code of Conduct and Procedural Bylaw which outlines the requirements for public deliberation and decision-making.
9. Settlement Councillors or Council discontinue the practice of making decisions at a governance level in response to the requests or complaints of individual members.
10. Settlement Councils adopt a Code of Conduct which defines role separation.
11. MSGC support Settlements by providing a sample Code of Conduct that can be amended or adopted by Councils.
12. Settlement Councillors receive supplemental training on responding to member inquiries, the role of a Councillor, and role separation.
13. Settlement Administrator and staff receive supplemental training on responding to member inquiries and role separation.

14. Settlements engage in a process of member communication and education to reinforce the understanding of roles on the Settlement.
15. Settlement Councils ensure that a policy framework is in place that supports administrative decision-making.
16. Settlements engage in capacity development for administration on bylaw development, and guidelines for the use of bylaws versus policies.
17. Settlements are required to post bylaws on Settlement websites and to maintain an updated bylaw register which is accessible to members.
18. Settlements engage in a regular schedule of bylaw reviews so that bylaws are updated and affirmed on an ongoing basis.
19. That MSGC adopt a bylaw Policy, supported by bylaw templates, which enforces a sunset provision.
20. MSGC provide capacity to Settlements by developing and maintaining sample bylaws and bylaw templates that are accessible to Settlements.
21. Member involvement in budget bylaw development through consultation and posting of the budget bylaw prior to enactment is clarified. Further, it is recommended that the *MSA* be amended to include a consultation requirement, as well as a requirement to post budget bylaws in a timely and easily accessible manner.
22. Amend the *MSA* to place full bylaw making authority with Settlement Councils, removing the requirement for approval by the Membership.
23. In the event that recommendation 22 is not supported, complete a review of all bylaw authorities set in Schedule 1 of the *Metis Settlements Act* be completed to identify potential existing bylaw authorities which would not require adoption by members.
24. Settlements adopt a process to ensure an acceptable standard of consultation is in place for cases where bylaws may be adopted by Councils without member approval by creating a statutory duty to consult.
25. Settlements and MSGC adopt a strategy to address bylaw enforcement capacity, which may include: shared resources between Settlements, capacity support from MSGC, contracted resources from neighbouring municipalities, or expanded use of RCMP.

26. Settlement administrations engage in capacity development on bylaw enforcement, including: responding to infractions, enforcement, and the requirements of the *Provincial Offences Procedures Act*.
27. Settlements collaborate to harmonize bylaws to support the development of enforcement capacity.
28. Settlements impose operating requirements on their entities to require disclosure of planning and financial documents.
29. All governance costs associated with entities be paid by entities. In the event that Councillors serve as directors on entities, the remuneration received from the Settlement should be reduced to reflect the time spent working for entities.
30. Subject to the constraints of *FOIPP*, there should be disclosure of all remuneration for Councillors who are also Directors of the Boards of Settlement-owned entities that are directly or indirectly controlled by the Settlement. This may require an amendment to the *MSA* or *MSGC* Policies.
31. All administrative and operational costs of entities be paid by the entities. Settlements charge entities for all operational or administrative support.
32. *MSGC* set Policy to guide the operation of entities which reflects the recommendations in this section.

Accountability of Administrators to Settlement Council

33. Capacity is developed within Administrators in the following key areas of knowledge and awareness as outlined: Human Resources, planning, financial, policy and bylaw, economic development, clarity of roles and responsibilities as compared to Council, and legislative awareness and knowledge.
34. Longer term and sustainable funding resources be established within *MSGC* and Settlements to ensure sustainable capacity training and development for Administrators and Settlement Councillors.
35. A legislative amendment be considered to the *MSA* that addresses the need for an annual performance appraisal of the Administrator, along with the requirement to communicate the results of the appraisal to the Administrator.
36. Capacity is developed within Councillors and Councils in the following key areas of knowledge and awareness as outlined in this report: planning, financial, policy and bylaw,

economic development, clarity of roles and responsibilities as compared to Administrators, legislative awareness and knowledge, and council knowledge succession.

Accountability of Settlement Councils, MSGC, and MSAT in Member Complaints and Dispute Resolution

37. Effective communication be provided to members and stakeholders about the appropriate process to bring forward a complaint or issue.
38. MSAT act as a single point of contact and referral point to direct complaints or issues to the appropriate dispute resolution mechanism.
39. Disputes related to the application and interpretation of Settlement policies are addressed locally by using Council as an appeal body.
40. Settlements establish documented service levels and supporting policies to guide administrative decision-making.
41. Councils receive additional governance training to reinforce the decision-making model.
42. Councils receive training in administrative law and acting as an appeal body.
43. MSGC acquire the capacity to engage in oversight of Policy compliance and to investigate complaints related to Policy non-compliance.
44. MSGC's investigatory process be collaborative in nature, with the potential for escalation to another body in the event of Settlements not participating in good faith.
45. MSGC's compliance enforcement process be collaborative in nature, with the potential for escalation to another body in the event of Settlements not participating in good faith.
46. MSGC address Policy communication and capacity development on Settlements to implement MSGC Policies.
47. Legislation and MSGC Policies are reviewed to ensure that the authority exists to investigate and enforce Policies.

Enhancing MSAT Accountability as an Investigatory and Enforcement Body

48. The powers to investigate matters relating to Settlement operations or governance be placed within MSAT.

49. The structure and capacity of MSAT be reviewed in order to align MSAT's capacity to this new function, including separation of the investigatory and decision functions to ensure no conflicts of interest exist and the process is free from political interference.
50. The appointment process to MSAT be reviewed to ensure that MSAT have required qualifications and political independence.
51. MSAT act as a receiving point for issues or complaints brought forward by members or interested parties, including MSGC and/or the Minister.
52. MSAT be granted the authority to review issues or complaints, maintain files on these matters, and determine if sufficient cause exists to initiate an investigation.
53. MSAT make rulings on the findings of investigations and impose the most appropriate form of remediation, or refer the matter to the Minister with recommended directives.
54. A review of the *MSA* legislation is conducted on those sections that may be impacted by the structural changes or expanded roles recommended in this report. At a minimum, review sections 187.1 and 189, including aligning with the powers of an investigator under the *Public Enquires Act*.
55. Adequate financial resources are provided to MSAT to develop its expanded roles and responsibilities and the necessary staffing to support these.

Enhancing MSGC Accountability

56. The role of the MSGC is expanded to include the responsibilities and authorities of an investigator of violations of its own Policies.
57. The MSGC develop a Procedural Policy that addresses the complaint and enforcement process for all MSGC Policies.
58. A review is conducted of the terms used within MSGC ensuring that there is consistency and clarity by all those that are used (e.g., within *MSA*, MSGC, and elsewhere). Some examples of terms that were referred to by the Committee include: use of "Policy" and changing this to legislation, enactment or statute; use of Executive or Officers of MSGC, and use of Board.
59. A review is conducted within MSGC of its Policy to address the process for nomination, election, Officer removal or recall, as well as the use of MSAT as an appeal body for Policy non-compliance investigations.
60. The governing decision-making body of the MSGC is restructured to address the key objectives of the Committee: decreased legislative costs and political interference,

increased decision-making efficiencies, member accountability, member trust in Metis Settlement government, removing barriers to MSGC motivation to create and enforce Policies, and overall promotion of membership accountability. Consider the alternatives proposed by the JARC within this report.

61. The *MSA* legislation be reviewed that may be impacted by the structural changes or expanded roles recommended in this report. Specifically, review sections 214, 216, 218, 219, 220, 221, and 221.1.
62. The MSGC administrative body is restructured to develop the capacity to support a central record keeping, records management, and information management function for MSGC and all Metis Settlements.
63. Sufficient financial resources are provided to MSGC to develop its expanded roles and responsibilities and the necessary staffing to support these.

Implementation Phasing of MSGC and MSAT Changes

64. All parties engage in a review of the capacity requirements of meeting the recommendations in this report relating to issue and dispute investigation and resolution.
65. All parties agree to an implementation timeline for establishing the oversight systems recommended in this report, including a trial period for a “proof of concept” prior to a full transition.
66. Existing legislation be reviewed to determine if the recommended model can be implemented under existing legislation.

Accountability of Settlements to the Minister of Aboriginal Relations – The Role of the Minister of the Aboriginal Relations

67. Adopt a process of consultation and communication which engages the Minister, the respective Settlement and MSGC on appointments of inspectors, comptrollers, and official managers by the Minister.
68. Section 222 of the *MSA* be reviewed to determine whether there are subsets of Policies to which a veto may or may not apply.
69. A joint process be undertaken by MSGC and the Government of Alberta to identify potential circumstances when veto could or should be used.

70. A process for consultation be developed for Policy development. This should include a clear consultation process purpose, language, process steps, uses, and roles and responsibilities of those involved.

Background

The *Metis Settlements Act (MSA)* underwent revisions in 2013. These revisions, among other things, clarified and better defined the roles and responsibilities of Administrators compared with those of Councils. Specifically, under section 47.2(3) Councils are prohibited from exercising powers or performing duties or functions of an Administrator. The roles and responsibilities of Administrators are provided for in section 48 (2) and the roles and responsibilities of Councils are provided for in section 47.1. Further, the revisions included the requirement to complete business plans (s.156.1), changes to the budget bylaw approval process (s.55.1), standardized financial reports (s.159.1), and changes for the Metis Settlements General Council (MSGC or General Council) in sections 217.1 and section 222(5). With these amendments to the *MSA*, along with additional activities such as the Long-Term Governance and Funding Arrangements (LTA or LTA Agreement), there was an identified need for MSGC and the Government of Alberta to examine the ways in which Settlements could strengthen and enhance their governance and accountability. As part of this transition, both the MSGC and the Government of Alberta, through the LTA Agreement, agreed to undertake specific initiatives to increase the effectiveness, efficiency, and accountability of Settlement Governments. One component of this requirement is a legislated review of the accountability, enforcement, and public interest provisions in the *Metis Settlements Act* and the MSGC Policies.

The LTA Agreement required a jointly appointed committee by the MSGC and the Government of Alberta: the Joint Accountability Review Committee (JARC or the Committee). The Committee's purpose, as stated in section 246.1 of the *MSA* is to:

- Consider measures that should be provided for to protect the public interest with respect to matters dealt with in the *MSA* and MSGC Policies;
- Consider measures that should be provided for to ensure that Settlement Councils and Councillors are accountable to settlement members with respect to matters dealt with in the *MSA* and MSGC Policies;
- Review the enforcement provisions of the *MSA* and consider any additional measures; and

- Provide a report to the Minister of Aboriginal Relations (Minister) and MSGC including recommendations of the Committee regarding amendments to the *MSA* or MSGC Policies.

Further, the JARC is responsible for analyzing and making recommendations on gaps in the provisions of the *MSA* and MSGC Policies, and determining and making recommendations on the potential legislative amendments and Policies.

The representatives of the Committee included three MSGC appointments and two Government of Alberta appointments. The appointments, effective February 27, 2014, included the following:

- Harold Blyan, Buffalo Lake Metis Settlement;
- Floyd Thompson, Kikino Metis Settlement;
- Iner Gauchier, Peavine Metis Settlement;
- Cameron Henry, Alberta Aboriginal Relations; and
- David Wismer, Wismer Workplace Consulting.

Methodology

In order to accomplish its roles and responsibilities, the JARC considered a number of inputs:

- *Accountability Framework* report provided to Alberta Aboriginal Relations and the Metis Settlements General Council.¹ This report was presented to the JARC for their meetings and was reviewed within the first several meetings to guide the discussions of the Committee.
- *Metis Settlements Act* and MSGC Policy provisions that impact the protection of the public interest, accountability of Settlement Councils to their membership, and enforcement provisions within each.

The Committee agreed to a facilitator-led process to assist their discussions. The Committee agreed that any points of agreement would be presented as recommendations within this report. Further, the Committee agreed that where there were points where consensus could not be reached, that these would be captured within their final report through the discussion leading up to recommendations.

¹ This report was authored by Russell Farmer and Associates with contributions by Mel Garbe for the LTA Technical Implementation Team.

The Committee meetings were held weekly from March 14, 2014 to the Committee's last meeting on June 26, 2014. During these facilitated discussions, the JARC discussed and considered existing provisions and conditions within the *MSA*, *MSGC* Policies, the collective Metis Settlements (8), and the LTA Agreement.

The JARC meetings were considered open meetings. This process allowed observers, for example *MSGC*, Settlement Councils and Administrations, Government of Alberta Metis Relations, to attend the meeting and provide comment on areas being discussed. Where there was observer participation, the Committee considered the input or questions in light of their Terms of Reference and the work accomplished to that point.

The Committee's report documents their discussions and considerations on the issues as well as their recommendations. The core issues for discussion that the Committee considered included reviewing the roles, responsibilities, authorities, and accountabilities of the following:

- Council and Settlements to members;
- Members to Settlements;
- Administrators to Council;
- Member and stakeholder dispute resolution;
- Metis Settlements General Council;
- Metis Settlements Appeal Tribunal (MSAT or Appeal Tribunal); and
- Settlements to the Minister of Aboriginal Relations.

The Committee considered and discussed each of these core issues within their weekly meetings. The sections were written by the facilitators and were based on the discussions and recommendations of the Committee. The draft sections were presented to the Committee for their consideration and approval prior to being incorporated into the final report. The above bulleted sections are provided in more detail below.

Accountability of Councils and Settlements to Members

The JARC explored mechanisms to support accountability of Settlement Councils to members. It was agreed that accountability to members has a strong foundation in the traditional Metis Settlement governance model. The Committee discussed several key areas of accountability:

- Transparency of Council and Settlement activities;

- The relationship between individual Councillors and members; and
- Member involvement in bylaw approval.

Each of these key areas is discussed in the sections that follow.

Transparency of Council and Settlement Activities

The JARC supports the governance principle of transparency as a means to enhance oversight by and accountability of Council to members. The Committee identified two key areas in which direction is required. First, what types of materials should Settlement Councils be required to make available, and second, in what manner these materials should be made available. There is currently very little consistency between different Settlements, or over time within the same Settlement. The JARC agreed that minimum standards for disclosure should be established.²

The Committee identified the following materials which Settlements should be required to provide to members:

- Council’s planning documents, including:
 - Strategic plans, business plans, and budgets.
- Financial disclosure documents, including:
 - Budgets, audited financial statements, Council expense claim reports, Councillor remuneration (inclusive of remuneration for sitting on boards of directors for Settlement-owned entities), investments and debt reports, and contracts or agreements entered into by the Settlement.
- Records of Council decisions and business, including:
 - Minutes and policies.
- Documents to support access to programs and services, including:

² The Committee discussed the need for Councils to be effective financial and environmental stewards of Settlement resources, which reinforced the need to manage these resources through responsible policy decisions. Based on the need for Council stewardship, administration is responsible for carrying out the stewardship set by Council (administration is managed by the Administrator).

The Committee discussed that there was a possibility of including more member consultation prior to land development, as well as a broader public/member consultation on a Settlement Development Plan (similar to Municipal Development Plans). Further, there was a feeling that MSGC could play a more central role in developing Environmental Policies that addressed land development, land use planning, and the broader resource of land.

- Documented service levels, bylaws or policies related to programs or services, and application procedures.
- Annual reports detailing Settlement activities.

Many of these documents are not currently created, or where created, are not easily accessible to members. For example, in most cases Councillor expense claims would currently only be available through a *Freedom of Information and the Protection of Privacy Act (FOIPP)* request. The JARC identified that there are currently a number of challenges for Settlements with respect to generating these documents in a timely fashion, especially in the area of capacity. First, Settlements may lack the staffing resources required to generate the required documents in a timely fashion. Second, Settlements may lack the training and templates to develop documents like annual reports effectively. Third, Settlements may lack the records management systems and *FOIPP* training to easily disclose information and to determine the types of information which may be disclosed. Fourth, Settlements may lack the political support for full disclosure.

A second issue discussed by the JARC is the format and the timing of release of key documents. The Committee agreed that minimum standards are required to ensure that Settlements have some level of similarity and are meeting the requirements of transparency. Specific discussion points around the format and timing of document release included:

- Settlements should place all key documents on their respective websites in a PDF format.
- Settlements should place all key documents in binders at a front counter which is accessible to members. This includes a bylaw register, a policy binder, and minutes binder.
- Councils should establish a policy for providing copies of key documents to members. This may include setting an appropriate copying fee.
- Minimum standards for the release of documents should be set. A suggested guideline is that documents must be posted within two weeks of their adoption by Council.

It is, once again, acknowledged by the JARC that capacity is an issue with respect to the release of key documents. At this time, many Settlements lack templates and samples of acceptable formats for key documents. Once developed, many Settlements lack the technology or capacity that would allow documents to be posted to a webpage.

It is anticipated that MSGC can play a significant role in supporting Settlements with respect to the development and release of key documents. Some suggestions from the JARC include:

- MSGC can develop and impose minimum standards for transparency through an MSGC Policy. Settlement Councils may choose to exceed the standards, but would be required to adhere to the established minimum.
- MSGC can provide templates for documents, including: policies, annual reports, minutes, Councillor expense reports, and Councillor remuneration.
- MSGC can provide training on the development of key documents and the use of recommended templates.
- MSGC can support disclosure by assisting in the development of website capacity. The Committee discussed the redundancy of having each Settlement independently contract for the development of websites with the capacity for a document library. MSGC could support a collaborative effort among the Settlements to jointly develop a website template that could be adopted by all Settlements.

MSGC currently lacks the capacity to support Settlements through the initiatives or roles described. It is anticipated that capacity issues for MSGC will be addressed to meet the requirements of an expanded role. Changes to the structure and role of MSGC are addressed elsewhere in this report.

A final, fundamental component of transparency to members is decision-making at regular meetings of Council that are open to the public.³ As minimum governance guidelines, the Committee agreed that Settlement Councils are required to:

- Make their meetings open to the public;
- Advertise the time and location of regular meetings in advance, at a minimum one week in advance. In this case, the Committee agreed to this as an important concept for Settlement Councils as members should know when the regularly scheduled meetings are. This information needs to be posted in the office and on the Settlement websites and should be outlined in Settlement bylaws;
- Make minimal use of Special Meetings of Council, acknowledging that they are used only for emergencies as they violate the principle of fair notice;

³ The Committee has noted a definition distinction between meetings that are “open to the public”, which includes all public and refers to regular meetings of Council, and those that are “public meetings”. Public meetings are specifically referred to in the *MSA* under various sections and are intended for specific purposes as related to those sections, including the general meetings.

- Make use of in camera only when discussing issues that qualify as exceptions to disclosure in Division 2 of Part 1 of the *Freedom of Information and Protection of Privacy Act*; and
- Ensure that all deliberation and decision-making activities of the Council occur in meetings that are open to the public and that deliberation or discussions are not happening in private meetings, over the telephone, or through emails.

Although the requirement for Council meetings to be held in public is well established in legislation, Settlement Councils would benefit from supplemental training on the role of these open to the public meetings as a tool to support transparency. The JARC recommends that the principles of public deliberation and transparency be contained within both a Council Code of Conduct and a procedural bylaw. A sample Code of Conduct and procedural bylaw may be developed by MSGC for Settlements to amend or adopt.

It is recommended that:

1. MSGC establish, through Policy, minimum standards for the disclosure of key documents which support transparency.
2. Settlements independently establish guidelines for document disclosure through policy which establishes the content of key documents and the timing of their release.
3. MSGC support transparency through the development of document templates and training on their use.
4. MSGC support Settlement transparency by initiating a project to create a standardized website available for use by all Settlements.
5. Settlement Councils receive supplemental governance training on the principles of transparency and the use of meetings open to the public.
6. Settlement administrations address capacity issues related to records management and *FOIPP* training to ensure Settlement documents are accessible and complete. The potential exists for Settlements to have a shared or centralized *FOIPP* resource.
7. Settlements post all key documents relating to transparency on the Settlement's website, and that they are made available at the front counter.
8. Each Settlement adopts a Council Code of Conduct and Procedural Bylaw which outlines the requirements for public deliberation and decision-making.

The Relationship between Individual Councillors and Members

The history and culture of Settlements has made it an established practice that Settlement members contact their Councillors directly when they have inquiries, complaints or requests for services. The current standard of full-time Councils has supported this by ensuring that Councillors are available to fill this role. The JARC discussed this model in light of the 2013 revisions to the *MSA*. It is expected that a higher level of role separation will be established on Settlements which separates Councillors from day-to-day decision-making. The traditional model whereby Councillors become involved with decisions related to individual members has a number of governance issues:

- Members contact Councillors, not representatives of administration when they have inquiries or issues. This does not respect the role of administration in service delivery and as experts in policies and services.
- In order for administration to respond to member inquiries, Settlements require a comprehensive policy framework that directs administrative decisions. In the absence of policy, administration will defer to Council.
- Individual Councillors cannot be directing administration, or committing the Settlement to any course of action.⁴ However, this may be difficult when responding to inquiries from members.
- If Councillors, or Council as a whole, respond to member requests by making a decision related to programs or services, they remove themselves as an impartial dispute resolution appeal body should issues arise. It is noteworthy that the *MSA* defines areas where Council is required to be the decision-making body. In these cases, MSAT is the appeal body.
- Councillors bring administrative matters to Council meetings. Administrative matters, or matters related to individual members, should not form the business of a governance body. Addressing these matters at Council meetings involves Council in operations.

A preferred practice when Councillors are contacted with issues or inquiries that are administrative is that Councillors re-direct the inquiry to administration. However, it was discussed by the Committee that Councillors may be concerned that they will lose the confidence of members and lose political support. Under the current model, members may lack trust in administration's capacity to respond to issues or requests. It is acknowledged by the JARC that some administrations may currently lack the capacity to take on a larger role in responding to member requests.

⁴ Section 47.2(3) of the *MSA*.

The JARC discussed the appropriate location for policy or guidelines relating to role separation. The JARC recommends that these matters be contained within a Council Code of Conduct. A sample Code of Conduct may be developed by MSGC for Settlements to amend or adopt.

Education of members in proper role separation and the appropriate point of contact when directing inquiries will be a significant issue. Councillors and administration will be required to continually communicate their roles. Front-line staff requires additional training on responding to member inquiries, and not directing matters back to Council. In addition, information may be provided to members through public presentations, and on the Settlement's website. The Settlement's website or email system can support an improved separation of roles by directing matters to administration. This system will work most effectively if members see it as providing a positive and timely response.

It is recommended that:

9. Settlement Councillors or Council discontinue the practice of making decisions at a governance level in response to the requests or complaints of individual members.
10. Settlement Councils adopt a Code of Conduct which defines role separation.
11. MSGC support Settlements by providing a sample Code of Conduct that can be amended or adopted by Councils.
12. Settlement Councillors receive supplemental training on responding to member inquiries, the role of a Councillor, and role separation.
13. Settlement Administrator and staff receive supplemental training on responding to member inquiries and role separation.
14. Settlements engage in a process of member communication and education to reinforce the understanding of roles on the Settlement.
15. Settlement Councils ensure that a policy framework is in place that supports administrative decision-making.

Bylaws

The JARC discussed bylaw development, approval, and enforcement as a component of ensuring accountability of members and stakeholders to the Settlements. Within the area of bylaws, three key issues emerged:

- Bylaw development;

- Bylaw adoption; and
- Bylaw enforcement.

The sections that follow capture the Committee's discussion and recommendations relating to Settlement bylaws.

Bylaw Development

The Committee agreed that Settlements require a clearly defined, comprehensive, and legally enforceable bylaw framework. There is currently a capacity issue on Settlements with respect to drafting legally enforceable bylaws. Many Settlements lack the knowledge and resources to develop bylaws that are of an acceptable standard to be enforceable. There have been circumstances in the past where Settlements have pursued enforcement of bylaws through the courts, and had it ruled that their bylaws were not of an acceptable standard for enforcement.

The Committee discussed the possibility of a centralized function within MSGC where Settlements could access sample bylaws and bylaw templates. This service would allow Settlements to avoid duplication of activity in cases where all Settlements require the same or similar bylaws, and would be a more efficient and effective means to create bylaws. This is especially true where MSGC or other bodies make decisions that require Settlements to develop bylaws. A situation of this type occurred with the implementation of the LTA. Settlements were required to begin collecting member fees to cover a portion of the cost of core services. Some of the problems that occurred included:

- Settlements were unclear if this should be done by bylaw or by policy;
- Settlements were unclear if a fees bylaw could be adopted without approval by members, or as a schedule to budgets;
- Each Settlement adopted their own bylaws and policies with duplication of effort and, in some cases, legal fees.

This process could have been significantly simplified if MSGC or the LTA Technical Team had provided centralized support on bylaw development and implementation guidelines.

The Committee discussed the importance of finding a balance between a centralized function and ownership at the local Settlement level. The Committee concluded that the Settlements should have autonomy to use the centralized templates or to write up a bylaw or policy on their own.

The Committee discussed bylaw accessibility to members. This topic was previously discussed under the section on Transparency. At the Settlement level, it is critical to have the most

recent version of all adopted bylaws and policies on the websites for the Settlement and in a binder at the front desk.

Questions have arisen on Settlements regarding the use of bylaws versus the use of policies. This was the case with Settlements collecting member fees or fees for services. Settlements have had questions on whether there was a requirement for bylaws which would enable Settlements to collect outstanding debts, or a requirement for bylaws to enable Settlements to borrow money.

Finally, the JARC discussed bylaw updates. Settlements should have a regular schedule of bylaw reviews so that bylaws are updated and affirmed on an ongoing basis. It was noted that many Settlements have bylaws that are outdated, misplaced, or not enforced. A process of updating required bylaws, and rescinding outdated bylaws should be implemented. The JARC discussed options for ensuring that bylaw updates occur, including:

- An amendment to local Settlement bylaws to include a sunset clause that requires the review and renewal⁵ by Settlement Council of each bylaw within a defined time period of the bylaw being passed. The bylaw would become inactive if not reviewed and renewed within the required time period. The Committee discussed the option of a four year cycle to coincide with the length of a council term. This time period may be too short; however, a longer cycle for review could result in a Council not reviewing a bylaw during its term in office.
- An amendment to the *MSA* to mandate a sunset provision on bylaws, or a requirement for bylaws to be reviewed on a fixed schedule.
- An amendment to *MSGC Policy* to mandate a sunset provision on bylaws, or a requirement for bylaws to be reviewed on a fixed schedule.
- The development of *MSGC* model bylaws, which could include sunset clauses.
- Allowing Councils to establish local Settlement policies that define a review schedule.

The Committee identified a question related to bylaw reviews. In the event that bylaw reviews were required, by any mechanism, would Settlement members have to re-adopt the amended or affirmed bylaws at a general meeting? It is the suggestion of the Committee that Councils have the power to re-affirm bylaws or make (non-substantive) amendments to bylaws without member approval. The Committee agreed that there will need to be capacity development

⁵ Bylaw renewal would include a review at least once during a set period of time (a certain number of years, possibly 3 or 4 years). The review would, at a minimum, require a vote of a quorum of Councillors in order for the bylaw renewal to pass.

within Settlement administrations and Councils to adequately review and renew/revise bylaws. This capacity development would include ensuring that there were adequate processes, practices, policies, and skill sets in place.

It is recommended that:

16. Settlements engage in capacity development for administration on bylaw development, and guidelines for the use of bylaws versus policies.
17. Settlements are required to post bylaws on Settlement websites and to maintain an updated bylaw register which is accessible to members.
18. Settlements engage in a regular schedule of bylaw reviews so that bylaws are updated and affirmed on an ongoing basis.
19. That MSGC adopt a bylaw Policy, supported by bylaw templates, which enforces a sunset provision.
20. MSGC provide capacity to Settlements by developing and maintaining sample bylaws and bylaw templates that are accessible to Settlements.

Member Involvement in Bylaw Approval

A major component of ensuring accountability of the Settlement Council to members has been the requirement for members to approve bylaws at public meetings and/or secret ballot. Metis Settlements are unique among public sector bodies in Alberta in requiring member approval for bylaws. In the 2013 revisions to the *MSA*, one category of bylaws was removed from this process. Settlements are no longer required to have their budget approved by members. This change occurred as a result of challenges Settlements experienced attempting to pass financially responsible and sustainable budgets. Councils were concerned that Settlement members would not support program cuts, budget cuts, or changes to user fees. As a result, over time, budgets often began to have very little connection with true Settlement expenditures. Councils may pass budget bylaws without member approval. The JARC discussed the current process of member adoption of bylaws and raised a number of questions:

- Although Councils can pass budgets without member adoption, is there a duty to consult members or to post the budget prior to adoption? The *MSA* appears silent on these matters.
- Once budgets are adopted, can members block supporting bylaws required for the budget to be implemented? This may include: borrowing bylaws, lending bylaws, or member fee bylaws.

- Are there categories of bylaws which are inherently governance process based (such as procedural bylaws), or administrative in nature, which should not require adoption by members?

The Committee discussed the importance of involvement of members in bylaw development. Mechanisms are required to ensure more member involvement to identify any issues or options on a bylaw prior to its first reading. Settlements should have a well-developed consultation process for bylaw development. It is noted that any input received on bylaws would be non-binding. The JARC discussed the possibility of including this consultation phase into the *MSA* through a legislative amendment creating a statutory duty to consult. The Committee discussed a current gap in the development of Settlement budget bylaws. Although Councils may adopt budget bylaws without member approval, the Committee felt that there should still be a statutory duty to consult with members during the budget development process.

The question of which bylaws should be approved by members and which should be considered for consultation was discussed. The Committee discussed two options:

- There may be additional categories of bylaws that are inherently governance process based, such as procedural bylaws, or administrative in nature, which could be excluded from the requirement of adoption by members. The Committee considered a complete review of all bylaw authorities set in Schedule 1 of the *Metis Settlements Act* to identify potential additional bylaw authorities which would not require adoption by members.
- The requirement for member approval for bylaws to be removed for all bylaws. With a statutory duty to consult in place, the Committee discussed placing full bylaw-making authority with Councils as a mechanism to support effective and timely governance along with role clarity. This would align the powers of Settlement Councils with those of other public sector bodies.

It is recommended that:

21. Member involvement in budget bylaw development through consultation and posting of the budget bylaw prior to enactment is clarified. Further, it is recommended that the *MSA* be amended to include a consultation requirement, as well as a requirement to post budget bylaws in a timely and easily accessible manner.
22. Amend the *MSA* to place full bylaw making authority with Settlement Councils, removing the requirement for approval by the Membership.
23. In the event that recommendation 22 is not supported, complete a review of all bylaw

authorities set in Schedule 1 of the *Metis Settlements Act* be completed to identify potential existing bylaw authorities which would not require adoption by members.

24. Settlements adopt a process to ensure an acceptable standard of consultation is in place for cases where bylaws may be adopted by Councils without member approval by creating a statutory duty to consult.

Bylaw Enforcement

Even in cases where bylaws are in place, Settlements have challenges with enforcing them. The JARC discussed several potential causes of non-enforcement:

- Bylaws lack enforcement provisions with clearly defined penalties for non-compliance. This may be the result of the current requirement for member approval of bylaws.
- Settlements lack the capacity to investigate bylaw infractions and issue tickets or take corrective actions.
- Settlements are unaware of the enforcement process and the manner in which a Settlement would engage in enforcement activity.

Settlements lack access to bylaw officers or peace officers who could support enforcement. The JARC discussed several options to address this capacity gap:

- Consider consolidating the Bylaw Officer with Environmental Officer at the MSGC level, if this made sense.
- Having a jointly contracted Bylaw Enforcement Officer shared between Settlements or contracted under MSGC.
- Consider exploring an expanded role of the RCMP to enforce bylaws.
- Explore contracting community peace officers from neighbouring municipalities.
- Provide training to a member of administration on investigating and documenting bylaw infractions and issuing citations.

Additional issues of capacity were discussed by JARC. Settlements appear to be unaware of:

- The process and powers of a Settlement for issuing citations or engaging in other enforcement action;
- The process of enforcing an unpaid ticket or unresolved bylaw infraction; and

- The process of appeal for a member or other party identified to be in violation of a bylaw.

These issues are addressed within the *Provincial Offences Procedures Act* which addresses the process a local authority would use. Metis Settlements must be compliant with this legislation. Training and capacity development with respect to bylaw enforcement are required.

Settlement Councils and administrations have raised questions regarding the power of Settlements to collect debts from members. Some individuals have expressed the belief that Settlements require a “debt collections bylaw” to empower the Settlements to collect debts owed. Further, there is a belief among some that members would be unwilling to pass such a bylaw. It is the understanding of the Committee that Settlements have the same powers as any legal entity to collect debts owed. While this may be guided by policy, it does not require a specialized bylaw to enable debt collections. This is an area where capacity development may be required.

With the recommendation for MSGC to support bylaw development capacity, it would become possible for Settlements to harmonize their bylaws, including harmonized penalties and enforcement components. This would, in turn, support the use of shared bylaw enforcement resources.

It is recommended that:

25. Settlements and MSGC adopt a strategy to address bylaw enforcement capacity, which may include: shared bylaw enforcement resources between Settlements, capacity support from MSGC, contracted bylaw enforcement resources from neighbouring municipalities, or expanded use of RCMP.
26. Settlement administrations engage in capacity development on bylaw enforcement, including: responding to infractions, enforcement, and the requirements of the *Provincial Offences Procedures Act*.
27. Settlements collaborate to harmonize bylaws to support the development of enforcement capacity.

The Role of Councillors and Settlements on Entities

The term “entities” refers to independent legal entities which are either created as corporations under the *Business Corporations Act*, or as Societies under the *Societies Act*. While Settlements may not technically own a society, to the extent that a Settlement Councillor is on the board, or the Council appoints someone to the board, or the Settlement is responsible for

any administration of the society, then the society is subject to the same level of transparency as any other directly or indirectly controlled entity of the Settlement. The JARC discussed the operation of Settlement-owned entities including Councillors acting in the role of Directors, and Settlement administration providing administrative support. The Committee agreed with the importance of creating appropriate governance and operational separation in order to enhance governance and transparency. In this discussion, members of the Committee wished to stress that:

- Settlements are encouraged to engage in economic development as a means to enhance financial sustainability;
- Issues with current practices should not be interpreted as an inability of Councillors to run businesses or to engage in effective economic development;
- Entities may serve multiple functions, including economic development and providing employment opportunities; and
- There are positive examples across Settlements where entities are effectively supporting financial sustainability and employment.

The goal of the Committee is to enhance existing practices in a manner that respects the role of Councillors, the role of administration, and the expectations of members.

The Role of Council on Entities

Where Settlements have elected to establish entities, they are governed by a Board of Directors. The majority of entities on Settlements are governed by Boards composed of Settlement Councillors. Although there are historical examples where Settlements have attempted to install Boards composed of non-Councillors, this is not a common structure. The JARC discussed some commonly cited challenges with Councillors serving the dual role of Councillor and Director. These include:

- *Conflicting priorities* – Councillors are expected to make decisions in the best interest of the Settlement as a whole, whereas directors are expected to make decisions in the best interest of the entity. These interests are not necessarily aligned.
- *Skill set* – Councillors may lack the required skill set to act in the role of corporate director. This may be especially true where the entity acts in a specialized industry. It should be noted that there are positive examples of Settlement Councillors acting effectively in director roles. However, this can change as Councillors change.

- *Confused governance practices* – Councillors are required to act according to the requirements of the *Metis Settlements Act* and the *Freedom of Information and Protection of Privacy Act*, whereas entities act under the *Business Corporations Act*, *Societies Act*, and the *Personal Information Protection Act*. There are examples where Councillors are addressing entity business during regular Council meetings and where agendas and minutes have been mixed.
- *Focus* – On most Settlements, a Councillor is a full-time position. When Councillors are acting on entity boards they are expending paid time working for a different legal entity.
- *Cost allocation* – The cost associated with governance by a Board should be the responsibility of an entity. In many cases, the meeting costs, travel costs, and other expenses associated with board governance are being absorbed as part of the legislative expenses of the Settlements. This inflates Settlement legislative costs, and under-represents the cost of operating the entity.

Although these issues may exist, the JARC wished to acknowledge that positive examples of successful entities governed by Settlement Councillors exist. JARC also acknowledged that:

- Identifying members capable of governing Settlement entities may not be possible. Often, Councillors are the most capable members of the Settlement.
- Council has a significant role in economic development on the Settlement. Given that entities are expected, in part, to fulfill an economic development function, Councillors feel that they have a duty to ensure they operate effectively.
- Settlement members see economic development and entity operation as a Council role, and may not support role separation.

The JARC discussed a number of potential options in terms of governance models. Some of these models include:

- *Councillor-controlled Boards* – Settlement Councillors continue to act in the dual role of Councillor and Board member.
- *Complete separation of roles* – Settlement Councils may appoint fully independent Boards without Councillor representation.
- *Blended Boards* – Council appoints Boards that have a mix of Councillors and non-Councillor directors. Councillors may form either a majority or a minority of the composition of the Board.

It should be noted that non-Councillor directors may be either members of the Settlements, or non-members appointed for their knowledge or experience.

The JARC explored options for standardized governance models, and potential mechanisms for enforcing governance models. During the Committee's discussions, there were members of the Committee who strongly supported a statutory requirement to separate governance functions, and members who strongly supported retaining the power with Settlement Councils to select a governance model. Maintaining the status quo would enable Settlements to retain the flexibility to select an entity governance model based on each Settlement's unique circumstances. The Committee did consider the importance of standardized linkages and practices that should guide entity operations. These included:

- Councils should require entities to provide: strategic plans, budgets, and audited financial statements. All financial statements for the entities should be made public.
- All governance costs associated with the operation of entities, including per diems and travel costs for Board members, should be paid by the entities.
- Councils should impose operating guidelines defining the business of the entities and reporting requirements.

However, as a consensus could not be reached, the Committee chose to not make a recommendation in this area. It was agreed that the overriding governance principles of transparency and accountability should apply to entities in the same manner that it applies to other Settlement activities.

Subject to the constraints of *FOIPP*, the Committee discussed the need for disclosure of all remuneration for Councillors who are also Directors of the Boards of Settlement-owned entities that are directly or indirectly controlled by the Settlement. This may require an amendment to the *MSA* or *MSGC* Policies. There were some Committee members who felt that complete disclosure of all remuneration of Directors when Council is appointing Board members to an entity was required. However, there was not consensus within the Committee on this issue.

Entities Operations

The JARC discussed operational practices for Settlement-owned entities. In many cases, entity and Settlement finances and operations have not met a reasonable standard of separation. The Committee agreed that a key guideline for entity operations is that there should be separation in order to allow accurate reporting of both Settlement and entity finances.

In discussing the separation of Settlement and entity operations it was agreed by the Committee that:

- All costs associated with the operation of entities should be paid by the entities. This includes (but is not limited to): utilities, insurance, legal counsel, accounting, audit, printing, promotion, and office space.
- Where Settlement administration provides operational support to entities, the entities should pay fair market cost for the support.
- In the event that the entity cannot afford to pay operating costs, and the Settlement elects to cover the costs, the Settlement should record a shareholder loan to the entity.
- All loans to entities, or costs associated with the operation of entities, should be fully disclosed by the Settlement.

At its core, the Committee agreed that Settlement operations should support the principles of transparency and accountability.

The Committee noted an important distinction between the role of Councillors/Council as a director of a Settlement-owned entity Board and the role of Council or the Settlement as a shareholder of the Settlement-owned entities. Specifically, there is no responsibility for administration to support the Board of Director role any Councillor has within an entity. This must be supported through the entity and not through the Settlement. However, there is a role for administration to support the Settlement as a shareholder. This would include, among other things, review of the financial statements, and support in drafting communication or communicating with the entity.

It is recommended that:

28. Settlements impose operating requirements on their entities to require disclosure of planning and financial documents.
29. All governance costs associated with entities be paid by entities. In the event that Councillors serve as Directors on entities, the remuneration received from the Settlement should be reduced to reflect the time spent working for entities.
30. Subject to the constraints of *FOIPP*, there should be disclosure of all remuneration for Councillors who are also Directors of the Boards of Settlement-owned entities that are directly or indirectly controlled by the Settlement. This may require an amendment to the *MSA* or *MSGC* Policies.
31. All administrative and operational costs of entities be paid by the entities. Settlements charge entities for all operational or administrative support.

32. MSGC set Policy to guide the operation of entities which reflects the recommendations in this section.

Accountability of Administrators to Settlement Council

The Committee discussed the major areas of accountability for Administrators to Settlement Council. However, given the nature of the roles and responsibilities of both Council and Administrators, the Committee felt that in order to address accountability of Administrators, the means and manner in how a Settlement Council conducts its business with and through their Administrator was also of importance. The specific areas that the Committee discussed and explored included:

- Development of sustainable capacity and training for Administrators;
- Development of a relationship between Administrators and Councils; and
- Development of capacity in Council to support the unique Council and Administrator roles, responsibilities, and relationship.

The Committee stressed the need for sustainable options and solutions for two main reasons:

- There is a need for a different approach in how the work is conducted within the administration of the Metis Settlements. Specifically, there need to be adequately clear roles, responsibilities, and authorities supported by adequate training and mentoring of senior administration staff (Administrators and their senior management staff in people and financial management); there is a greater likelihood of longer term and meaningful approach to how Settlements support capacity building and accountability.
- The Committee acknowledged the funding and resources provided through the LTA Implementation processes, specifically in the area of Capacity Building. However, it was felt that a longer term strategy would need to be in place in order to ensure sustainable capacity building practices and processes for Settlement Administrators, Councils, members, and MSGC. There is an opportunity with the LTA to lay a foundation that will initiate this different approach so that these practices will have an establishment beyond the life of the LTA.

Development of Sustainable Capacity and Training for Administrators

Recognizing the work contained within the LTA Capacity Building report, the Committee stressed the importance of the following needing to be addressed when building capacity and training for Administrators:

- *Human Resources Capacity and Knowledge* – Administrators are responsible for the broader Settlement organization, its staff and the Human Resources policies and practices that are undertaken by and within the Settlement. Training and experience in Human Resources, including effective organization design, documenting job accountabilities, hiring staff, disciplining staff, managing the performance of staff and the performance feedback to staff, administering equitable compensation, providing effective supervision and effective work delegation along with follow-up is critical for Administrators. This capacity needs to be developed through courses, but should also be supported through programs that support the Administrator as she/he is developing these skills. Programs that support mentorship, apprenticeships, or secondments would be beneficial, for example, the “Administrator’s group” that was established in support of the LTA process.

Additionally, having central support through MSGC, which has been explored elsewhere in this report, will ensure that Human Resources issues are not seen as isolated within a single Settlement. The common issues, such as recruitment of skilled resources to work on Settlements, information and training for staff responsible for bylaw enforcement, and templates for policies and documents, could then become a shared learning experience that assists in the longer term sustainability of Administrator capacity.

- *Planning Knowledge* – It is important that the role separation of the Council (planners and governors of the Settlement) and the Administrators (implementers of the policy and direction of Council) be reinforced with the capacity development of Administrators. Specifically, the Administrators should have the knowledge of what is involved in developing a business plan as required under section 156.1 for Council and what the roles, responsibilities, and authorities of the Administrator are in support of the plan once approved (i.e., what is necessary to operationalize the plan, what are the implications for Settlement resourcing and policy, and what performance measures need to be set). MSGC could play a central training role in building sustainable capacity after the LTA process has expired, including providing a storehouse for Settlements on what practices or approaches have worked; document templates or guidelines on setting performance measures and reporting templates; and document templates or guidelines on creating operational plans from Council business or strategic plans.

With the requirement to provide annual reports, the Administrators will need to have the training, knowledge, and skills to complete this process. Administrators will also need to be able to establish these plans and to be able to present these effectively to members. MSGC can play a central role in supporting Administrators in this process with central templates and guidelines.

- *Financial Knowledge* – As the Administrators are responsible for establishing and maintaining the financial management systems for the Settlement (in accordance with MSGC Policy), it is critical that Administrators understand and can demonstrate proficiency with preparing budgets, managing within a budget, adjusting to variances when they arise, and can read and prepare financial statements and results as required by financial institutions, auditors, and MSGC or the Minister. Although the Directors of Finance will typically be responsible for details in these processes, the Administrator is accountable under the *MSA* and needs to manage these actions appropriately. This training and development could be supported through MSGC in terms of templates and central communication, as well as externally through courses or mentorship, apprenticeship, or secondments.
- *Policy and Bylaw Knowledge* – This includes the ability to draft policy and bylaw effectively, including use of member consultation, approval processes, as well as scheduled reviews and renewals of bylaws. This can be supported through external training and/or centralized support through MSGC by templates, being a “best practices” storehouse, and training on bylaw enforcement and effective policy enforcement. Understanding what is required and what are better practices in establishing a comprehensive bylaw and policy framework is a critical skill for Administrators.
- *Economic Development Knowledge* – As Settlements engage in economic development, it is essential that Administrators understand what their roles, responsibilities, and authorities are or should be, especially in relation to Council and in relation to Settlement-owned business entities. Training and development through MSGC would be an option, including guidelines on documents that can be created and processes used to manage public input. Additionally, mentorship, apprenticeship, or secondments with other local authorities may provide guidance on better management practices.
- *Roles and Responsibilities Compared to Council* – The Committee supports continued capacity development in the clarity of roles and responsibilities of Administrators and Councils, including governance versus administration, and how and when to respond to member requests in order to act effectively on behalf of the Settlement. JARC felt that reinforcement of governance compared to administration is necessary through MSGC training, including orientations offered by MSGC to Councils. Formalized training through external agencies, such as the Certificate in Local Authority Administration (CLAA) as a modified Metis Settlement Administrator program or the Certificate in Local Government Administration (CLGA), again modified for the Metis Settlement context, are both potential options. Both of these certificates would be intended to have the

traditional content for local authorities, with additional content for the Metis Settlements added as needed.

- *Legislative Awareness* – Legislative awareness refers to the ability for Administrators to understand and be able to anticipate the impacts that other legislation has on the work that they do and are responsible for. Examples considered by the JARC included the *Business Corporations Act* (for Settlement-owned entities), *Employment Standards Code*, and *Occupational Health and Safety Act*, as well as any other legislation that could have an impact on Settlements. Centrally, MSGC could develop awareness courses for Settlement Administrators and/or provide communication on institutions that offer these courses.

In all of the above considerations, longer term sustainable funding and resources for MSGC and Settlements will need to be a consideration.

Development of a Relationship between Administrators and Councils

The Committee discussed that the role of a Settlement Council is to govern in accordance with sections 47.1 and 47.2 of the *MSA*; the role of the Administrator is also established under section 48(2). The Committee felt that the role of the Administrator was critical in safeguarding the accountability of the Settlement's financial and operational well-being. As the Administrator is the sole employee of the Settlement Council, she/he is the primary communication channel between Council and the administration staff. Therefore, the relationship that exists between the Administrator and her/his Council is important. However, the Committee felt that the question of how a Council or an Administrator can know whether what they have achieved is what they wanted to achieve had not been sufficiently addressed.

The Committee discussed the need for the following:

- Clear and agreed on expectations of Council to the Administrator through business plans and motions of Council;
- Clear and regular updates by the Administrator to Council reporting on, at a minimum, the following: programs and services targets (as outlined in the business plan); status of Council requests; budget status and variances; policy and bylaw enforcement status; and bylaw review and renewal schedule;
- Appropriate capacity of the Administrator to function satisfactorily within her/his role, including identification of training and development needs and ensuring that these are followed through on; and

- Effective annual performance reviews of the Administrator that is based in the business plans of Council, motions of Council, and contains objectives that are within the control of the Administrator. The Committee noted that in the case of performance reviews, there may be a need to consider legislative amendments to the *MSA* to ensure annual performance reviews and communication of the performance review results to the Administrators by Councils.

Development of Capacity in Council

As addressed above, the success of an Administrator in being effective and accountable lies, in part, with the effectiveness of Council. Therefore, a discussion developing sustainable capacity in Council has been included and is meant as a supplement to the similar discussion on capacity development for Administrators earlier in this section. The following were the primary areas raised by the Committee:

- *Planning Knowledge* – Much like for Administrators, it is important that the role separation of the Council (planners and governors of the Settlement) and the Administrators (implementers of the policy and direction of Council) be reinforced with the capacity development of Councils. Specifically, Councils must be able to sustain the requirement under section 156.1 in developing a business plan. Further, they should be aware of the roles and responsibilities of their Administrator in support of the plan once approved (i.e., what is necessary to operationalize the plan, what are the implications for Settlement resourcing and policy, and what performance measures need to be set). This is important as Council is responsible for managing the performance of the Administrator. MSGC’s role would be considered as providing central templates, guidelines, and training to Councillors.
- *Financial Knowledge* – As Councils are responsible for establishing and maintaining the budget bylaw and for the oversight of the financial management systems for the Settlement as conducted by the Administrator, it is critical that Councillors and Councils understand and can demonstrate the necessary financial awareness (e.g., budget, variances, and financial statements). The central support through MSGC in terms of templates and central communication, as well as externally through courses or mentorship, apprenticeship, or secondments would be similar as proposed with the Administrators.
- *Policy and Bylaw Knowledge* – As Councils are responsible for participating “generally in developing and evaluating settlement bylaws”⁶ and in approving Settlement policies, it is important they understand this process and can support their accountabilities and

⁶ *MSA* section 47.1(1)(b).

provide adequate direction and approval to the Administrator. Further, it is important that Councils understand the processes involved in the scheduled review and renewal of bylaws. MSGC could provide a centralized support to Councils as needed in order to develop this capacity, and more specifically through Council orientations.

- *Economic Development Knowledge* – As Settlements engage in economic development, it is essential that Councillors understand what their roles, responsibilities, and authorities are or should be, including in relation to Settlement-owned entities. This relates to their roles as Councillors and could be addressed through an MSGC Policy on Councillor Code of Conduct as well as legislative amendments under the *MSA* as necessary.
- *Roles and Responsibilities Compared to Administrators* – Similarly for Administrators, the Committee supports continued capacity development in the clarity of roles and responsibilities of Administrators and Councils, including governance versus administration, and how and when to respond to member requests in order to act effectively on behalf of the Settlement. JARC felt that reinforcement of governance compared to administration is necessary through MSGC training, including orientations offered by MSGC to Councils. Formalized training for Councillors through external agencies, such as through the Certificates in Local Authority Administration (CLAA) or Local Government Administration (CLGA), both modified for the Metis Settlement context, are potential options. Both of these certificates would be intended to have the traditional content for local authorities, with additional content for the Metis Settlements added as needed.
- *Legislative Awareness* – Similarly to Administrators, the Committee feels that legislative awareness, or the ability for Councillors to understand and be able to anticipate the impacts that other legislation has on the work that they do and are responsible for is important. MSGC could provide a central training role under Council governance. Alternatively, modified certificate programs such as CLAA or CLGA could offer this as a component of the training.
- *Council Knowledge Succession* – The Committee discussed the challenges that Councils face after an election where there has been a changeover of some or all of the Councillors. Specifically, it was discussed that new Councils needed to appreciate the history or context of the decisions made by a prior Council that impacted policy or bylaws. It was agreed that a new Council's role effectiveness as a governing body is enhanced when policy and bylaw decisions made by a prior Council are understood. This better ensures that Council's understand what they are bound to and what

changes, if any, may need to be made going forward. It further ensures that they build an effective relationship with their Administrator in the role of governance versus administration. Administrators have a responsibility to provide this knowledge succession through a transition process and orientation for the new Councillors. MSGC could have a role in coordinating this with Administrators during this transition.

It is recommended that:

33. Capacity is developed within Administrators in the following key areas of knowledge and awareness as outlined: Human Resources, planning, financial, policy and bylaw, economic development, clarity of roles and responsibilities as compared to Council, and legislative awareness and knowledge.
34. Longer term and sustainable funding resources be established within MSGC and Settlements to ensure sustainable capacity training and development for Administrators and Settlement Councillors.
35. A legislative amendment be considered to the *MSA* that addresses the need for an annual performance appraisal of the Administrator, along with the requirement to communicate the results of the appraisal to the Administrator.
36. Capacity is developed within Councillors and Councils in the following key areas of knowledge and awareness as outlined in this report: planning, financial, policy and bylaw, economic development, clarity of roles and responsibilities as compared to Administrators, legislative awareness and knowledge, and council knowledge succession.

Accountability of Settlement Councils, MSGC, and MSAT in Member Complaints and Dispute Resolution

The JARC discussed the mechanisms historically and currently in place to address member complaints and oversight functions. This role had been assigned to the Metis Settlement's Ombudsman (the Ombudsman), which was established in 2003 and subsequently disbanded in 2013. The Ombudsman function was a delegation of the Minister's authority under the *Metis Settlements Act*. This delegation of authority allowed the Ombudsman to investigate complaints, make findings, and issue recommendations on matters under investigation. It was agreed by the Committee that a framework needs to be in place that provides for oversight and investigation of matters, but that the Office of the Ombudsman should not return. The Office of the Ombudsman had a number of historical challenges:

- Its investigations were not completed in a timely fashion. As a result, findings and recommendations were often too far removed from the events being investigated.
- Reports were long, often poorly written, and were not provided in whole to the Settlements being investigated. This lack of disclosure created a lack of transparency and lack of confidence in members and to those being investigated.
- The Ombudsman's Office was not a Metis-created or managed entity, and was therefore inconsistent with self-governance.
- Complaints were raised from a position of anonymity, with no accountability placed upon those initiating the complaint.

The current practice is for member complaints to be communicated to a representative of Alberta Aboriginal Relations. This was also viewed by the JARC as being an undesirable model which must be addressed. JARC discussed multiple options to address the dispute investigation and resolution process. It was agreed that an effective complaint or dispute resolution process requires:

- A clear mechanism for members and concerned stakeholders to bring forward concerns;
- Involved bodies to have the capacity to investigate matters; and
- Involved bodies to have the capacity to make rulings that are enforceable and have real consequences.

In discussing available options, the Committee agreed to a number of guiding principles. These included that dispute resolution:

- Should be consistent with Metis cultural and historical practices;
- Should be within control of the Metis Settlement members and residents;
- Should be addressed locally wherever possible;
- Should be free from political interference and/or conflict of interest; and
- Mechanisms should consider the time frame in which a complaint can be brought forward.

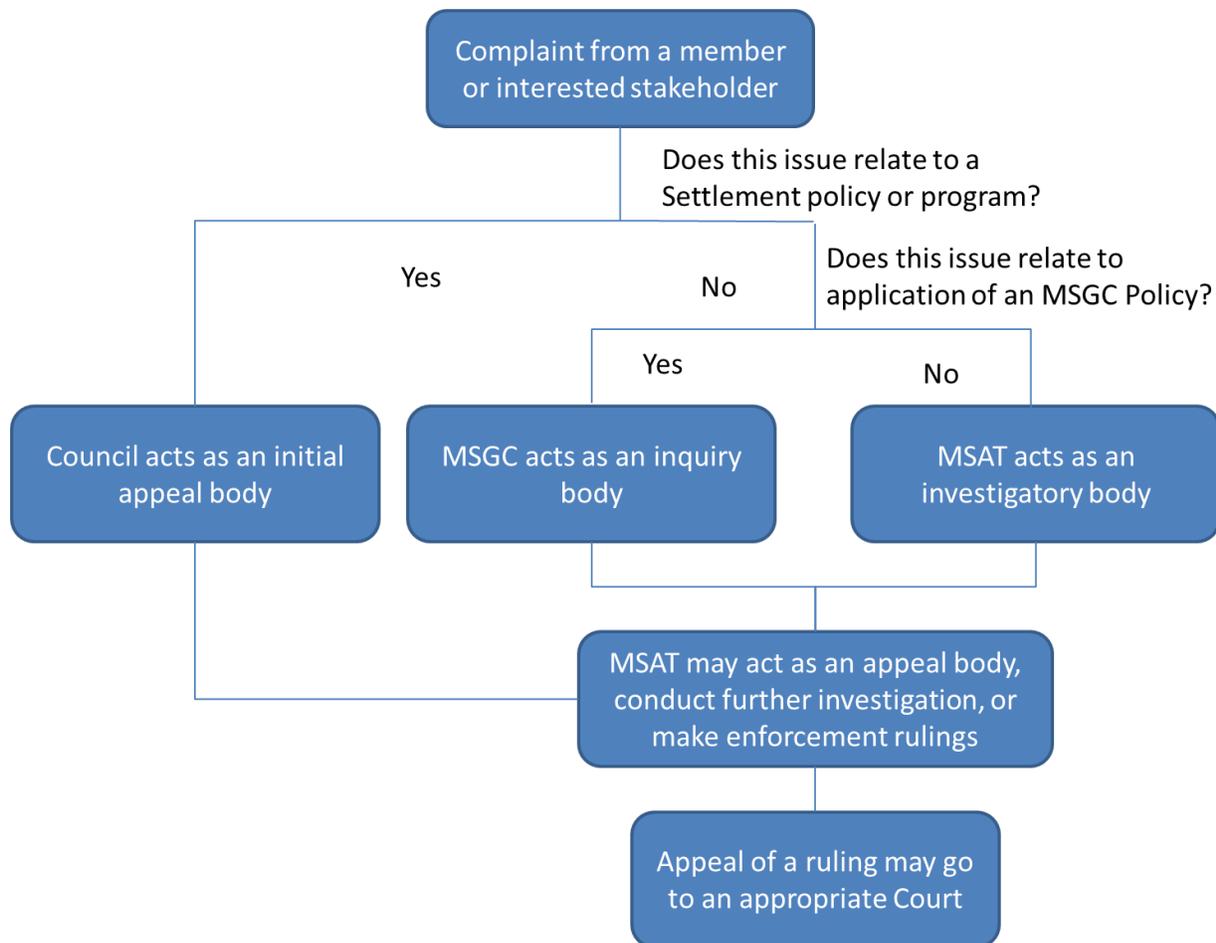
The process for dispute resolution recommended by the JARC is divided between three bodies:

- Settlement Councils,

- Metis Settlement General Council (MSGC), and
- Metis Settlement Appeal Tribunal (MSAT).

This recommended model is summarized in the following flow chart. The primary considerations when implementing this process are discussed below, specifically:

- The need for clarity on where complaints are directed and for what purpose;
- The need for a clear and improved governance model with role separation between Council and administration;
- The need for MSGC Policies to have clearly documented enforcement provisions for Settlements to follow; and
- The need for MSGC and MSAT to have the capacity to address the enhanced roles and authorities within this dispute resolution process.



The process is discussed in more detail within the Enhancing MSAT Accountability and Enhancing MSGC Accountability sections of this report.

Appropriate Direction of Complaints

The first component of a revised dispute resolution process is to ensure that members and interested stakeholders are escalating disputes to an appropriate point of contact. All parties involved in the dispute resolution process must understand the operation of the system, and refer complaints accordingly. A point of contact for complaints must be established, and should be within the system of Metis Settlement governance.

Within the flowchart above, the JARC has recommended the following points of contact and/or resolution:

- Complaints related to a Settlement policy or program would be directed to the local Settlement Council for resolution;

- Complaints related to the application of an MSGC Policy would be directed to MSGC to function as a body of inquiry into the application or compliance of the Policy at a Settlement level;
- Complaints related to all other matters would be referred to MSAT to function as an investigatory body on the complaint⁷; and
- MSAT is the body that makes rulings on and enforces the rulings on investigations made by MSGC on Policy non-compliance as well as all other matters that come before it.

In all of the above scenarios, the complainants have the recourse of an appeal to the appropriate Court. These responsibilities are explored further in the sections that follow.

To make the process more accessible, the dispute resolution process is intended to have an additional layer of appeal to MSAT, subsequent to the member going to the Settlement Council, and prior to the option of resolving a complaint within the Courts. This would reduce the initial costs for a member. The intention would be for MSAT to have the ability to review the appeal decision of a Settlement Council, specifically for whether the Council operated effectively within its role as an appeal body. This would include the review of proper process, documentation, consideration of evidentiary support, and decision writing, among other items. This would require an amendment to the *MSA*.

The JARC discussed placing the point of contact for complaints or issues within MSAT for all issues that are not related to Settlement policy/program infractions or MSGC Policy non-compliance as MSAT is likely viewed as being more impartial or independent than other bodies. However, at this time the JARC acknowledges that this capacity does not exist within MSAT and would need to be developed. The Committee has addressed the issue of capacity development within the section on Enhancing MSAT Accountability, as well as additional recommendations.

The Committee had engaged in discussions on who should be considered accountable for investigating Policy or *MSA* infractions against a Settlement. Specifically, the individuals or agencies that were suggested included:

- The Minister of Aboriginal Relations;
- MSAT; and
- MSGC.

⁷ Examples of complaints could include, but would not be limited to, complaints against: a Councillor, Councillor misconduct and/or removal, Council as whole, repayments of funds, and Métis membership status.

The JARC acknowledged that the Minister would retain primary power to investigate a complaint or concern. Specifically, there is a responsibility for the Minister to retain the right to investigate a concern that impacted the public interest (e.g., members, Albertans). If a Settlement and/or MSGC were to do something that was injurious to the public, then the Minister could exercise this right to investigate.

However, the Committee also recognized that MSGC and MSAT have an obligation to protect the public interest as well. Specifically, where the MSGC or MSAT exercise the obligation to protect the public interest through investigations of complaints or concerns, it is less likely that the Minister would need to exercise his/her investigatory powers. It is recommended that one of either MSGC or MSAT is chosen, as there is limited value in duplicating investigatory powers in both MSAT and MSGC.

The Committee noted that as the whole system of accountability within the Metis Settlements system of government continues to evolve, there would be merit in looking at the potential role for MSGC in investigations in the future. The underlying desire would be the protection of the public interest. It was further noted by the Committee that any future changes to the role of MSGC in investigations and enforcement would have funding, resource, and capacity implications for MSGC.

It is recommended that:

37. Effective communication be provided to members and stakeholders about the appropriate process to bring forward a complaint or issue.
38. MSAT act as a single point of contact and referral point to direct complaints or issues to the appropriate dispute resolution mechanism.

Issues Related to Settlement Policy or Programs

Arising from amendments to the *Metis Settlements Act* in 2013, the roles of Settlement Council and administration are now more clearly defined. It is expected that Settlements will operate under an improved governance model.

Within this model, Council establishes defined program and service levels, budgets programs appropriately, and establishes policies to guide the administration of programs or services. Once guiding policies are established, it is expected that all decisions relating to the application of policies and decisions relating to individual members will be made by administration. It is the role of administration to interpret and apply policy.

This governance model has an important component. By removing Council from decisions relating to program decisions for individual members, Council may act as an appeal body. A principle of natural justice is that bodies may not hear appeals of their own decisions. By creating separation in the decision-making process, disputes relating to the application of programs or policies may be addressed locally using Council as an appeal body. Council, when hearing an appeal of an administrative decision, is only making a ruling on the correct interpretation of policy by administration, not on the outcome itself. This governance model allows many local disputes over Settlement decisions to be addressed locally, without being escalated outside of the Settlement. However, for this system to work, a significant amount of work is required:

- Settlements must have documented service levels and supporting policies to guide administrative decision-making;
- Councils must respect a governance model that separates Council from decision-making at the level of individuals;
- Administration must have the capacity to interpret and apply policy;
- Records management systems must be in place to support tracking of administrative decisions with an appropriate paper-trail; and
- Councils must receive training in administrative law and acting as an appeal body.

In the event that Council makes a ruling on an appeal by a member, and the member wishes to escalate the dispute, the next point of escalation would be to MSAT. The ultimate point of resolution if a member wished to escalate further would be through an appropriate Provincial Court.

It is recommended that:

39. Disputes related to the application and interpretation of Settlement policies are addressed locally by using Council as an appeal body.
40. Settlements establish documented service levels and supporting policies to guide administrative decision-making.
41. Councils receive additional governance training to reinforce the decision-making model.
42. Councils receive training in administrative law and acting as an appeal body.

The JARC discussed the capacity of Settlements to investigate and address other matters locally. It would be consistent with a model of self-governance that Settlements could address complaints from members directed at individual Councillors, members of administration, or more generally at Settlement operations. Further, these complaints could be dealt with by the Settlement under direction from Council. Such a process could involve the contracting of independent third parties to investigate matters and make recommendation to Council. This is a common practice of public sector bodies. This model of dispute or issues resolution raised the following concerns by the JARC:

- The degree to which Settlement members would trust the process and see it as impartial;
- The cost to Settlements of conducting investigations using independent contractors;
- The ability of Settlements to ensure that the process is free from political interference; and
- The power or authority of Councils to address issues locally.

The Committee saw the opportunity for directing additional issues to Settlements to address as a long term-term goal that may not be feasible in the short-term.

Issues Related to MSGC Policies

The JARC identified that issues exist with the interpretation, application, oversight, and enforcement of MSGC Policies. Many of these issues are discussed elsewhere in this document. The JARC agreed that MSGC Policy compliance is an issue for the following reasons:

- Policies are not well known, communicated, or understood;
- There is no oversight mechanism to audit MSGC Policy compliance; and
- There is no enforcement mechanism to address non-compliance.

It was agreed by the Committee that MSGC requires the capacity to address Policy compliance. This capacity must allow MSGC to:

- Ensure that a comprehensive Policy framework is in place;
- Effectively communicate MSGC Policies, and to ensure that they are accessible;
- Provide capacity support to Settlements with training on MSGC Policies, and model Settlement level bylaws, policies or processes to support MSGC Policy implementation;

- Regularly engage in oversight of Settlements to ensure MSGC Policy compliance;
- Investigate complaints of non-compliance with MSGC Policies and to provide findings; and
- Escalate unresolved non-compliance issues.

In addition to capacity considerations, MSGC must address structural issues to ensure that matters of Policy compliance are separated from political interference. MSGC structure and capacity issues are addressed later in this report within the section on Enhancing MSGC Accountability.

It was agreed by the JARC that the review of MSGC Policy compliance does not require the powers of the Ombudsman to conduct investigations under the *Public Inquiries Act*, as this power would rest with MSAT (to be discussed in more detail in the section of Enhancing MSAT Accountability). It is recommended that audits and investigations of Policy compliance by MSGC be a voluntary process. Failure of a Settlement to reasonably participate in this process may result in matters being escalated to a body with full investigatory powers.

It is anticipated by the JARC that findings arising from MSGC reviews will be provided to the Settlement(s) being reviewed. MSGC will work collaboratively with Settlements to reach resolution on Policy compliance matters, and to address future compliance. Failure to participate in this collaborative process or ongoing failure to comply with MSGC Policies will result in escalation to a body with full investigatory powers and enforcement ability.

It is recommended that:

43. MSGC acquire the capacity to engage in oversight of Policy compliance and to investigate complaints related to Policy non-compliance.
44. MSGC's investigatory process be collaborative in nature, with the potential for escalation to another body in the event of Settlements not participating in good faith.
45. MSGC's compliance enforcement process be collaborative in nature, with the potential for escalation to another body in the event of Settlements not participating in good faith.
46. MSGC address Policy communication and capacity development on Settlements to implement MSGC Policies.
47. Legislation and MSGC Policies are reviewed to ensure that the authority exists to investigate and enforce Policies.

Enhancing MSAT Accountability as an Investigatory and Enforcement Body

With a clarified and more effective dispute resolution process, the Committee identified a new or expanded role, responsibility, and authority for MSAT. The JARC is putting forward the recommendation that MSAT be empowered with an investigatory role, comparable to that previously held by the Metis Settlement Ombudsman. This expanded role would require commensurate capacity. The implications for organizational design capacity are addressed within this section.

Authority and Capacity of MSAT to Address Disputes

Under section 189(1) of the *MSA*, the Appeal Tribunal must hear appeals, and settle disputes involving members, Settlements and/or MSGC. Currently, all parties must agree in writing for the matter to go forward. At this time, MSAT's powers are restricted to conducting hearings and making rulings.

Under current legislation MSAT has significant scope to make rulings relating to Settlements, and to enforce those rulings. This includes the power to⁸:

- Amend, make or repeal a settlement bylaw to conform with General Council Policy;
- Make any decisions that the Settlement Council could have made;
- Reverse the Settlement Council's decision;
- Confirm, reverse or vary a General Council Policy; and
- Provide any remedy that, in all the circumstances, fairness requires.

It is the belief of the JARC that these powers provide MSAT sufficient authority to address disputes or issues with Settlement operations or governance. In the event that these powers were not sufficient to resolve an issue or to address the findings of an investigation, the ability exists to refer a matter to the Minister of Aboriginal Relations to issue directives.

MSAT does not currently possess the power under legislation, or the capacity in practice, to conduct investigations. However, the JARC has concluded that MSAT is the best location for investigatory powers because:

- MSAT is viewed by members and interested parties as being relatively objective;

⁸ Section 190 (1)(i)(j)(k)(l)(o) of the *MSA*.

- MSAT has the potential to be structured in such a manner that political interference in the investigatory process can be prevented; and
- MSAT can be provided with the power to conduct hearings on matters arising from an investigation, and to make rulings on these matters.

Currently, section 171(1) of the *MSA* provides the Minister with the authority to appoint an investigator or inspector to investigate a Settlement. An appointed investigator has the same powers as a commissioner under the *Public Inquiries Act*. Prior to being disbanded, the Office of the Ombudsman was provided with these powers through a ministerial appointment. For MSAT to exercise the power to investigate matters brought forward, either MSAT or a representative of MSAT would require these powers. It was noted by the JARC that the power to investigate matters under the *Public Inquiries Act* should not be extended to the existing dispute resolution functions of MSAT. Separation of these functions must be considered when assessing the organizational design of MSAT. Delegation of the Minister's authority to investigate would require either a legislative amendment, or a ministerial appointment. A ministerial appointment could be to:

- MSAT as a whole;
- A unit or Committee body appointed by MSAT;
- An individual designated by MSAT on an ongoing basis;
- An individual designated by MSAT on a case-by-case basis; or
- A third party investigator contracted by MSAT.

The manner in which this can best be accomplished will need to be determined. The Committee identified the need to address capacity within MSAT, including:

- *Legislative Amendments* – At a minimum, sections 187.1 and 189 within the *MSA* will need to be reviewed. The powers granted under section 189 will need to be changed to grant MSAT the authority to unilaterally initiate investigations and make rulings without the consent of all parties to a dispute. Further amendments to ensure that MSAT has the necessary authorities under the *Public Inquiries Act* will also be necessary.
- *Budget and Skilled Resource Capacity* – With the expanded role of MSAT, it will be critical for MSAT to have the necessary budget, skilled staff, supporting policies, and well-defined processes, as well as the ability to establish and maintain these systems and processes. This will be important so that credibility and impartiality to investigate matters in a manner that meets the requirements of procedural fairness and further

ensures that results are provided in well-constructed findings based on appropriate evidentiary support are both achieved.

- *Communication and Education of Changes* – All members, Settlement Councils, MSGC (governance and administration), and MSAT will need to be aware of the proposed changes. This communication and education process would need to ensure that all impacted individuals were aware of the revised roles, responsibilities, processes, and Policies, including their individual and collective roles and responsibilities within any revisions.

Expanded Role of the MSAT

As addressed in the section on Dispute Resolution and within this section on MSAT's expanded role, the Committee is recommending that MSAT be the point of contact for member or stakeholder issues or complaints. Specifically, the Committee discussed the following:

- MSAT is the primary point of contact for members, Settlement Councillors, or Settlement Administrators for complaints that relate to any issue that is not related to a Settlement policy or program and does not relate to the application of an MSGC Policy. Examples include, but are not limited to: a complaint against a Councillor or Council as a whole, repayments of funds, Councillor misconduct and/or removal, and Métis Settlement membership .
- MSAT conducts a preliminary review or assessment of documentation to determine whether there is enough merit in pursuing the complaint investigation.
- Where the complaint warrants additional investigation, MSAT appoints an external investigator (e.g., through an approved list).
- After conducting the investigation, the external investigator provides a report with findings and recommendations to MSAT. MSAT reviews the report and prepares a final decision.

Additionally, the Committee felt that where the role of MSGC has been expanded to investigate its own Policy violations or non-compliance (addressed in Enhancing MSGC Accountability), it is anticipated that the MSAT will be the appeals hearing body for these concerns.

Organizational Design of MSAT

The Committee acknowledges that in order for these changes to be effective, there is a need to address the organizational design of MSAT. Specifically, it was identified by the Committee that MSAT will need an organizational review, including the following:

- Review and revise the MSAT appointment process to better ensure credibility of those on the Appeal Tribunal.
 - The Committee considered options that built on a competency-based interview and selection process through a joint MSGC and Government of Alberta appointment panel, and revised MSGC Policy and legislative amendments on appointments to MSAT.
- Review and separate the investigatory and decision functions to ensure no conflicts of interest exist, creating the necessary supportive management and administrative roles.

It is recommended that:

48. The powers to investigate matters relating to Settlement operations or governance be placed within MSAT.
49. The structure and capacity of MSAT be reviewed in order to align MSAT's capacity to this new function, including separation of the investigatory and decision functions to ensure no conflicts of interest exist and the process is free from political interference.
50. The appointment process to MSAT be reviewed to ensure that MSAT have required qualifications and political independence.
51. MSAT act as a receiving point for issues or complaints brought forward by members or interested parties, including MSGC and/or the Minister.
52. MSAT be granted the authority to review issues or complaints, maintain files on these matters, and determine if sufficient cause exists to initiate an investigation.
53. MSAT make rulings on the findings of investigations and impose the most appropriate form of remediation, or refer the matter to the Minister with recommended directives.
54. A review of the *MSA* legislation is conducted on those sections that may be impacted by the structural changes or expanded roles recommended in this report. At a minimum, review sections 187.1 and 189, including aligning with the powers of an investigator under the *Public Enquires Act*.
55. Adequate financial resources are provided to MSAT to develop its expanded roles and responsibilities and the necessary staffing to support these.

Enhancing MSGC Accountability

Throughout this report, the Committee has referred to or identified a number of new roles and responsibilities for MSGC. These changes are intended to address the current limitations within MSGC to function as an effective government or leadership for the collective Metis Settlements. This includes the obligation under section 222 of the *MSA* for MSGC to enact Policy, as well as the accountability of MSGC to the Minister through the veto established in section 224 of the *MSA*. It further includes the ability for MSGC to appropriately and effectively enforce those Policies.

The Committee agreed that the roles of MSGC include being the law maker and enforcer of the laws related to the preservation of land and resources, preservation of culture and identity, and preservation of the credibility of Metis Settlements as a whole through the creation and enforcement of its Policies. Within its current structure, the MSGC has legislative and non-legislative functions that support these broader roles. In the legislative functions, MSGC is responsible and accountable for resource protection, land administration, Policy development and enforcement, MSAT appointments, and has financial responsibilities such as the management of the future fund and co-management agreements. Within the non-legislative or elective functions, the Committee identified roles and responsibilities for advocacy, program administration, asset management, and the LTA implementation.

In order to support the roles and responsibilities of the MSGC, specifically the legislative components, it was agreed that MSGC required clear and relevant Policies with clear consequences for failure to follow the Policies, and mechanisms for penalization when there was failure to comply with the Policies. Further, it was agreed that the capacity of the MSGC must be in place to support these existing roles and responsibilities, both legislative and non-legislative.

It was noted by the Committee that the use of the terminology of MSGC Policy or Policies caused confusion when in discussion relative to Settlement policies (“big P” Policies compared to “little p” policies). It further did not reinforce the legal standing of these Policies within the Metis Settlement system of government. Therefore, it was the JARC’s recommendation that the reference could be changed from MSGC Policy to another legislative-type term (e.g., enactment, legislation, statute).

Issues Identified with the Current Organizational Structure of MSGC

The following issues linked to the current organizational structure of MSGC were identified by the Committee:

- General inefficiencies and lack of clarity related to MSGC structure, roles, process, and decision-making, including delegation of financial authority. Specifically:

- The “MSGC” which is made up of 40 Settlement Councillors (General Assembly) *plus* 4 non-voting “Officers” (President, Vice President, Secretary, and Treasurer);
 - The “Board” which is made up of 8 Settlement Council Chairs *plus* 4 Officers, all who have delegated decision authority by “MSGC” and act as a sounding board for the General Assembly on Policy changes or amendments; and
 - The 4 “Officers” who have a delegated authority to manage the central administration and MSGC office, as well as a role as spokesperson and the implementers of General Council decisions.
- Legislative costs borne by Settlements given the large number of members within the General Assembly (40 Settlement Councillors) and the associated travel costs.
 - Legislative costs borne by MSGC given the expense associated with the General Assembly and the Officers.
 - Potential for political interference in decision-making process by Settlement Councils, including inter-Settlement conflicts on decisions and Policies, pressure by a majority of Settlements on the minority, a lack of capacity and/or incentive or motivation by Settlement Councils to comply with MSGC Policies, and a conflict of roles and responsibilities between Settlement Councillors and their MSGC responsibilities.
 - Lack of capacity and/or incentive or motivation within MSGC to create or enforce Policies (e.g., Councillor Code of Conduct).
 - Lack of enforceability of MSGC Policies, specifically through a lack of enforcement provisions within the Policies.
 - Limited time or resources allocated for Council capacity training (e.g., governance training), thereby leaving this responsibility to Settlement Councils.

Expanded and/or Clarified Role for MSGC

The Committee is recommending the following as an expanded and/or clarified role for the MSGC:

- *MSGC Policy Enforcement and Investigatory Role on Non-Compliance to a MSGC Policy* – In order for enforcement to occur, Settlements must understand that where there is a concern or a complaint regarding non-compliance to a MSGC Policy, there will be an investigation into the matter. In order to fully develop the MSGC’s role as an enforcement body of its own Policy or legislation, it is the Committee’s shared perspective that the MSGC requires an expanded role as an investigator of the concerns

or complaints identified. Section 222 of the *MSA* provides for a substantial amount of Policy making powers for the MSGC, but it was identified by the Committee that the MSGC lacks enforcement responsibilities and authorities.

The complaint process is outlined in a prior section of the report.

- *Central Administration Function* – This would include developing a central records keeping, records management, and information management function, such as developing a database of model bylaws, Policies, and templates for documents (e.g., annual reports, financial statements, minutes, Councillor expense reports and remuneration). Further, MSGC could provide a central repository or storehouse for Settlement Council policies and bylaws, which would allow for knowledge sharing amongst Settlements. The MSGC would need a function to review the draft bylaws to ensure that these are properly drafted. Once the bylaws are drafted and passed, the bylaws would be posted in a central area for Settlements. The policies, while not necessarily posted, could reside within MSGC for Settlements to use this as sharing of best practices.

Bylaw and environmental officer enforcement may also be included in this central administration function. The Committee discussed the option for the MSGC to consider a consolidated Bylaw Officer and Environmental Officer to address the collective Settlement bylaw and environmental issues, either contained in an existing or future Policy. This Bylaw and Environmental Officer could then be shared and used by the collective Settlements as needed under the *Provincial Offences Procedures Act* and bylaw and environmental enforcement under MSGC Policy.

- *Capacity Development for Settlements* – The MSGC has an opportunity to provide a centralized training and development role for Settlements. For example, the MSGC could take on a training coordination role that supports the capacity development identified in this report and the Capacity Building report under the LTA. Further, the MSGC could contract for training and development for Administrators, Directors of Finance, Councils, and MSGC staff. To best support this role, the longer term funding available for MSGC would need to be considered.

The Committee is generally supportive of the direction of the Capacity Building report, which is another process underway within the LTA. The Committee wished to stress the importance of ensuring that each Settlement, as well as MSGC, make the necessary changes to their local policies and collective Policies to better guarantee the longer term success and effectiveness of the training proposed in the report. Additionally, the JARC identified the need for capacity training for all senior administration of a Settlement,

Councillors, Council as a whole, and MSGC elected officials (Councillors within General Assembly), officers, and staff. Where this was not already identified by the Capacity Building report, the Committee emphasizes the importance of ensuring these groups are not forgotten.

Organizational Design of MSGC

The Committee acknowledges that in order for these changes to be effective, there is a need to address the organizational design of MSGC, specifically:

- *MSGC Restructuring* – The objectives that the Committee felt would be important in the restructuring of MSGC included the following. These objectives are intended to support the removal of the issues that were identified above as well as increase the overall accountability of Settlements to MSGC:
 - Greater likelihood of a decrease in legislative costs and potential for political interference at Settlement level;
 - Greater likelihood of an increase in the motivation within MSGC to create and enforce Policies;
 - Attain a better balance between the overall collective interest of the 8 Settlements and individual Settlement interest;
 - Increased Settlement membership confidence in MSGC (e.g., reduced pressure of MSGC to be beholden to Settlement Councils, reduced political pressure, and increase in confidence for such processes as the MSAT appointment process); and
 - Better awareness and promotion of membership accountability to and within MSGC (i.e., increase public confidence as members have a say on who their government is).

To better ensure overall accountability of MSGC to members, Settlements, and the Minister of Aboriginal Relations, the current complexity of the MSGC organizational structure⁹ needs clarity of purpose, roles, responsibilities and authorities. In order to meet these objectives, the Committee acknowledged that the following would likely be necessary:¹⁰

⁹ The General Assembly has a decision-making role, the Board has the delegated authority to make decisions, and the Officers who have additional delegated administrative and spokesperson responsibilities.

¹⁰ The Committee acknowledged the need for legislative amendments to the *MSA* as a result of these suggestions.

- *Executive* – To simplify the governing structure of the MSGC, as well as increase the overall governing effectiveness, the Committee is recommending the following:
 - Change the focus of the MSGC executive roles and responsibilities to be governing and decision-making (both through Policy). Remove the administrative role of the MSGC executive and pass this to a newly redefined and restructured MSGC administration.
 - Reduce the current executive from 4 (President, Vice President, Treasurer, Secretary) to 1: a President.
 - The President, as the primary executive of the MSGC, would either be nominated and elected at large by the members or would be nominated and elected by the General Assembly. In either case, the President would be an external individual who is not already affiliated with a Settlement Council or the General Assembly.
 - The President would have one employee within the MSGC administration (i.e., chief administrative officer or chief executive officer or executive director) who would be responsible for the administration or implementation of the MSGC Policies and enforcement.
 - The President must have the responsibility to ensure Settlement compliance with MSGC Policy.
 - The President must have the capacity to Chair the MSGC political body.

The Committee proposes in the table below, a number of different options that would address the make-up of the remaining governing or decision-making MSGC body. The President would need to be provided with independent voting powers on resolutions to increase accountability on Policies. The President would use the vote to break a tie.

The Committee felt that continuing to maintain a larger executive had the following negative implications for MSGC and the development and enforcement of MSGC Policy:

- Undermines the MSGC administration, as the executive become less of a governing body and more of an administrative body;
- Increases legislative and associated costs;

- Creates the potential for political infighting and decision-making inefficiencies; and
- Reduces the effectiveness of the oversight and enforcement of Policies.

It was felt that in the event of a President becoming unable to fulfil his/her duties on MSGC, that a system or rules could be created that would allow for the roles and responsibilities of the President to be temporarily addressed from within the MSGC political body.

- *MSGC Administration* – The Committee felt it was important to ensure that the administration of MSGC is organized in a way that will allow it to be successful in its roles of Policy implementation, oversight, and enforcement. By establishing a senior administrative officer (e.g., Chief Administrative Officer or CAO) who is accountable to the President of MSGC, the Committee felt that this will increase the separation of roles and responsibilities between the governing body of MSGC and the implementing or administration body of the MSGC. The necessary management and support staff for the expanded roles of MSGC would then report into the senior administrative officer.
- *General Assembly* – The Committee acknowledges that there needs to be a clear and meaningful role for the General Assembly. It was commonly agreed that there was a need for the General Assembly to meet less frequently if the concerns of reducing legislative costs to Settlement Councils and MSGC was to be addressed. The Committee acknowledges that any changes would need to be made with sensitivities to the perception by Settlement Councils who may feel that their perspectives are less valued. None of the recommended options below are made with this intention in mind.¹¹

¹¹ The Committee looked at options that facilitated accountability of MSGC to Settlements, to members, and to the Minister of Aboriginal Relations.

Options	Decrease in Potential for Political Interference	Removes Barriers to MSGC Authority to Create and Enforce Policies	Represent Collective Interests of 8 Settlements	Increase Settlement Membership Confidence in Government	Promotion of Accountability to Membership
<p>The MSGC political body remains the same – 40 General Assembly members – with the addition of a General Assembly elected President. The President would be elected with an open vote by 40 individuals rather than 8 Settlements.</p> <p>(Amendments would be needed to the MSGC Policy on elections and the MSA.)</p>	●	◐	●	●	
<p>The MSGC political body is made up of a representation of the Settlement Councils. Each Council would provide a Representative who would have the authority to vote independently of the Council that appointed them. The President is elected at large by members.</p> <p>(Amendments would be needed to MSGC Policy on elections and the MSA.)</p>	◐	◐	●	●	●
<p>The MSGC political body is made up of a member-elected President and 8 Settlement representatives (all member-nominated and elected).</p> <p>(Amendments would be needed to MSGC Policy on elections and the MSA.)</p>	●	●	●	●	●

- MSGC Administrative Roles and Responsibilities* – Based on the expanded roles and responsibilities of the MSGC, along with redesign of the MSGC elected decision-making body, the organizational structure of the MSGC administration will need to be reviewed and revised to align with the expanded roles and responsibilities of the MSGC (reviewed based on the workflow and work volume needs of the administration, with full-time,

part-time, or contracted work force applied as needed). For instance, the following may be required:

- Senior Administrative Officer which reports into the President and has the following and other administrative positions reporting into it;
- Enforcement officers;
- Management and administrative staff in charge of record keeping, records management, and information management;
- Investigators and investigation administrative staff to address Policy non-compliance concerns by Settlements;
- Management and/or administrative staff in charge of central training coordination for Settlements; and
- *FOIPP* staff.

The above is written on the assumption that these address the newer or expanded role, and the regular business of the MSGC, including Policy development would continue to be supported by administrative staffing levels as appropriate.

Capacity Development within MSGC

In order to support these changes organizationally, as well as the changed roles and responsibilities of MSGC, the Committee has identified the requirement to address capacity within MSGC. Capacity includes the time, training, budget, and resources to meet the defined expectations of the roles and responsibilities assigned. Additionally, capacity includes the legislative rights and responsibilities bestowed on MSGC through the *MSA*. Once capacity has been established, it is further supported by the capability or skills, knowledge, and experience that each individual responsible for carrying out the assigned roles and responsibilities brings to those roles and responsibilities. The capacity issues for MSGC are as follows:

- *Procedural Policy Addressing Complaint and Enforcement Process* – Developing an overriding Policy that clarifies the complaint and enforcement process for Settlements who are suspected of non-compliance with a MSGC Policy should reduce the complexities of amending each individual MSGC Policy. The development of such an overriding Policy should, ideally, be conducted during a time when there is currently no complaint on non-compliance. The JARC suggested the following in consideration of a complaint and enforcement process:

- MSGC, as a Policy making body, must have the capacity to investigate a compliance issue within all of its Policies.
- Where there was a concern of lack of compliance, there would need to be a determination on whether an investigation was warranted. The Committee acknowledges that a responsible role would need to be identified for this decision. It would be recommended that if a further investigation was warranted, that this investigation would be conducted by a third party position (contractor/consultant) and/or employee and not an elected position under the current structure of the MSGC. Subsequent to that investigation, the MSGC would provide a letter to the Settlement outlining its concerns and necessary steps to address the non-compliance issue.
- Where a Settlement fails to address the non-compliance, the MSGC would forward its complaint to MSAT (proposed changes are addressed later in the report) for a ruling. MSAT, under its expanded role, must have the authority and capacity to make a ruling on the MSGC Policy compliance concern.

The Committee felt that this process was a culturally appropriate response, and would alleviate the pressure on MSAT to resolve first level concerns between MSGC and a Settlement. However, it was noted that there may need to be legislative amendments within the *MSA*, specifically as it relates to the authority of MSGC to conduct investigations and the ability for the MSGC to refer the investigation and/or decision to MSAT without the parties involved having to agree *in writing* as provided for in section 189 of the *MSA*.

- The roles and responsibilities relative to investigation and enforcement of MSGC and MSAT will need to be clarified, including substantial amendments on the expanded role of MSAT (MSAT's expanded roles and responsibilities are discussed in another section of this report). An option would be an overall MSGC Policy that prescribes the process for investigation and enforcement and giving MSAT jurisdiction for investigation.
- Within their expanded roles, they must have the ability to carry out investigations and to unilaterally initiate and investigate under the authority of the *Public Inquiries Act*.
- *Budget and Skilled Resource Capacity* – With the expanded role of MSGC (centralized record keeping/records management/information systems (website, databases), enforcement, investigations, and a centralized training and development role) the MSGC

will need to have the budget and skilled staff to establish and maintain these systems and processes, including the review of Settlement policies and bylaws for compliance with MSGC Policy and model bylaws. The JARC acknowledged that there will be a need for a greater level of funding from source(s), including the Settlements to support this expanded role and the subsequent capacity required within the MSGC.

The MSGC will need to consider when capacity will need to be developed internally within MSGC and when it may need to be “brought in”. Where the capacity is externally focused, there will be a need to develop a plan for the Settlement staff or MSGC staff or Settlement Councils to acquire the longer term skills, experience, and knowledge. There may be the need for a mentorship or apprenticeship model, where the infrastructure (templates, policies, processes, etc.) were developed by experienced individuals, with the knowledge transfer to those internally gained through hands on experience, mentoring, and coaching.

- *MSGC Policy Amendments* – MSGC procedural, nomination and election, and Officer removal or recall Policies and processes would need to be reviewed to ensure that any restructuring of the elected decision-making body of the MSGC would be sufficiently supported. Further, MSGC Policy would need to be constructed on the use of MSAT as an appeal body of the MSGC Policy non-compliance investigations.
- *Communication and Education of Changes* – All members, Settlement Councils, and those within the MSGC (governance and administration) would need to be aware of the changes. This communication and education process would need to ensure that all impacted individuals were aware of the revised roles, responsibilities, processes, and Policies, including their individual and collective roles and responsibilities within any revisions.
- *Legislative Amendments* – At a minimum, the Committee recognizes the need to review and make the necessary amendments to the MSA in sections 214, 216, 218, 219, 220, 221, and 221.1.
- *Potential Implications for Settlement Councils* – The Committee acknowledges that there likely will be two key impacts to Settlement Councils: (1) governance knowledge and development in light of any MSGC organizational revisions, and (2) the number of Councillors and whether they are full-time or part-time in light of any MSGC organizational restructuring. In the case of Council organization, legislative amendments may be required to support any changes and individual Settlements will need to consider how these changes may impact them.

In addition to the recommendations that address MSGC throughout this report, the following are recommended by the Committee.

It is recommended that:

56. The role of the MSGC is expanded to include the responsibilities and authorities of an investigator of violations of its own Policies.
57. The MSGC develop a Procedural Policy that addresses the complaint and enforcement process for all MSGC Policies.
58. A review is conducted of the terms used within MSGC ensuring that there is consistency and clarity by all those that are used (e.g., within *MSA*, *MSGC*, and elsewhere). Some examples of terms that were referred to by the Committee include: use of “Policy” and changing this to legislation, enactment or statute; use of Executive or Officers of *MSGC*, and use of Board.
59. A review is conducted within *MSGC* of its Policy to address the process for nomination, election, Officer removal or recall, as well as the use of *MSAT* as an appeal body for Policy non-compliance investigations.
60. The governing decision-making body of the *MSGC* is restructured to address the key objectives of the Committee: decreased legislative costs and political interference, increased decision-making efficiencies, member accountability, member trust in Metis Settlement government, removing barriers to *MSGC* motivation to create and enforce Policies, and overall promotion of membership accountability. Consider the alternatives proposed by the *JARC* within this report.
61. The *MSA* legislation be reviewed that may be impacted by the structural changes or expanded roles recommended in this report. Specifically, review sections 214, 216, 218, 219, 220, 221, and 221.1.
62. The *MSGC* administrative body is restructured to develop the capacity to support a central record keeping, records management, and information management function for *MSGC* and all Metis Settlements.
63. Sufficient financial resources are provided to *MSGC* to develop its expanded roles and responsibilities and the necessary staffing to support these.

Implementation Phasing of MSGC and MSAT Changes

It is acknowledged by the JARC that the staffing, training, policies, and processes are not currently in place to support the enhanced or revised MSAT and MSGC systems being recommended. As a result, it is recommended by the Committee that this be viewed as a long-term process of capacity development and confidence building to demonstrate that this enhanced system of self-governance and oversight can be effective.

It is recommended that:

64. All parties engage in a review of the capacity requirements of meeting the recommendations in this report relating to issue and dispute investigation and resolution.
65. All parties agree to an implementation timeline for establishing the oversight systems recommended in this report, including a trial period for a “proof of concept” prior to a full transition.
66. Existing legislation be reviewed to determine if the recommended model can be implemented under existing legislation.

Accountability of Settlements to the Minister of Aboriginal Relations – The Role of the Minister of Aboriginal Relations

The JARC discussed the role of the minister with respect to Settlement accountability. The members of the Committee identified a number of fundamental powers of the Minister with respect to Accountability. These are:

The power to appointment investigators, comptrollers, and official managers

MSA Section 170 – The Minister may appoint a person to inspect or investigate a Settlement, the General Council, or an entity that is directly or indirectly controlled by a Settlement Council. An investigator or inspector has the same powers as a Commissioner under the *Public Inquiries Act*.

MSA Section 178 – The Minister may appoint a comptroller of a Settlement. A comptroller has the power to supervise the Settlement Council in the management or administration of the affairs and business of the settlement. While the appointment of the comptroller continues, no Settlement bylaw or resolution that imposes a liability or disposes of the money or property of the settlement has any effect unless it is approved in writing by the comptroller.

MSA Section 31 – The Minister has the power to dismiss a Settlement Council and appoint an official manager. An official manager has all the powers and duties of a Settlement Council and Settlement, including the power to hold an election to fill all or some of the vacancies on the council.

The power to inspect records and compel disclosure

MSA Sections 160, 161, and 175 – The Minister has the power to inspect any records prepared or kept by or on behalf of a Settlement or the General Council, regardless of whose possession they are in. The Minister may require bank accounts and records maintained in connection with the operation of the Consolidated Fund and settlement funds to be produced for inspection at any time. Any bank, credit union, treasury branch or trust company carrying on business in Alberta must, at the request of the Minister, give the Minister a statement showing the balance or condition of the accounts, with any particulars of the accounts that may be required, of a settlement, the General Council, or an entity that is directly or indirectly controlled by a settlement council or the General Council.

The power to issue directives

MSA Section 176(1b) – The minister has the power to issue directives to any Settlement or General Council relating to their governance, management or operation. These directives are binding. Failure to comply with a directive of the Minister could result in the appointment of a Comptroller or the dismissal of Council and the appointment of an Official Manager.

These powers of the Minister in relation to Accountability provide broad authority to investigate and direct Settlement and General Council activities. Their intent is to ensure that Settlements and General Council are being managed in a manner consistent with the requirements of Legislation, and in the best interests of the Members.

The JARC discussed these powers of the Minister. It was agreed that no recommendation would or could be made by the Committee that would significantly limit or amend these powers. The powers of the Minister of Aboriginal Relations with respect to Settlements and General Council are not significantly different from the powers of other provincial government ministers with respect to local government bodies and provincial government created entities.

The JARC did discuss the importance of transparency and consultation with respect to the appointment of inspectors, investigators or comptrollers to a Settlement. This is an area where the Committee sees a role of General Council as an advocate on behalf of the impacted Settlement(s) and in the collective interests of all Settlements and their members. Where the interests of individual Settlements and collective interests are not aligned, MSGC would be

involved to advocate ensuring a fair and transparent process occurred to resolve the matter. Prior to and during an appointment, it is recommended that the Minister should:

- Clearly disclose to the Settlement and General Council the reason(s) for considering an appointment;
- Engage in a process of consultation between the Minister and the Settlement supported by MSGC. The purpose of this consultation would be to identify the best course of action recommended. It was acknowledged that this consultation process would need to consider the time-sensitivity of issues that were being consulted on.
- In the case of a Comptroller, identify the steps or outcomes required for the appointment to be removed on an ongoing basis throughout the appointment; and
- Provide active reporting to the Settlement and General Council on the status of the appointment and in the case of a Comptroller, the progress of Council and administration towards required outcomes.

It is recommended that:

67. Adopt a process of consultation and communication which engages the Minister, the respective Settlement and MSGC on appointments of inspectors, comptrollers, and official managers by the Minister.

The Veto Power of the Minister on MSGC Policies

The JARC considered the power of the Minister with respect to the Policies of MSGC. The Minister has the power, as defined in the *MSA* section 222, to veto the Policies of MSGC. The committee discussed a number of items with respect to the veto power of the Minister including: the reason the power exists, the potential to develop guidelines for its use, and improvements to the current process.

Some Committee members expressed the viewpoint that the veto power is inherently paternalistic, and provides the Minister with powers that undermine self-governance. Other members view it as necessary within the system. Those who view it as necessary see it as a component of the accountability of the Minister for protecting the public interest. Some additional comments in this area included:

- The Minister's power over MSGC Policies has a relationship to other legislation. For example, Settlements were excluded from the requirements of the Land Stewardship Act on the basis that the Minister has the authority to veto MSGC Policies regarding land use.

- The Minister may exercise a veto if a MSGC Policy is *ultra vires* or inconsistent with provincial law.

The process is seen by some members of the Committee to lack transparency. The Minister could, potentially, veto a Policy for reasons that are arbitrary, as there are currently no guidelines on the types of circumstances that could result in a veto. Some Committee members felt that there would need to be substantive changes in legislation to address every potential circumstance; however, other Committee members saw this as too onerous, as it could not anticipate every potential circumstance for exercising a veto.

If it is known on what circumstances a veto can be used, it will lessen the perception that the veto is arbitrary. While acknowledged that it was not possible to anticipate every possible use of a veto, the Committee agreed that the following were appropriate circumstances for its use:

- Where the potential exists for a Settlement to be unfairly disadvantaged or suffer some harm through the implementation of a MSGC “Policy”;
- If the MSGC Policy is inconsistent with an existing law that supersedes it;
- If there was non-compliance with a Policy making process;
- If there were concerns regarding the financial sustainability or viability of a Settlement or Settlements given the unique nature of the relationship with the Metis to the Province of Alberta; or
- Protection of public interest.

The JARC considered that the veto power may only apply to specific types of policies. The Committee recommends that the *MSA* section 222 be reviewed to determine whether there are subsets of Policies to which a veto would apply.

The JARC discussed perceived issues with the current process for the Minister’s veto, and identified opportunities to improve the existing process. The current veto period is seen to be too long. The Committee considered the need for a well-defined Policy-making process. The intent would be to provide sufficient lead time, with sufficient opportunities for discussion prior to a Policy being introduced. There is a need to be clear on the processes that are agreed to by the Minister and MSGC on passing Policy such that there is a limited likelihood for the veto to be used. The Committee considered the following as potential guidelines for this process:

- Define the purpose of a consultation process; and
- Define in clear and plain language the process of consultation

The Committee acknowledged that where improvements can be achieved by using a more clearly defined consultation process, there should be gains in efficiency and effectiveness. The Committee shared a common perspective that the time period for approval could be shortened with proper process improvements.

The Committee believed that the implementation of the recommendations in this report will support a level of transparency, accountability, and process effectiveness which will make the veto power of the Minister less likely to be applied in the future.¹²

It is recommended that:

68. Section 222 of the *MSA* be reviewed to determine whether there are subsets of Policies to which a veto may or may not apply.

69. A joint process be undertaken by MSGC and the Government of Alberta to identify potential circumstances when veto could or should be used.

70. A process for consultation be developed for Policy development. This should include a clear consultation process purpose, language, process steps, uses, and roles and responsibilities of those involved.

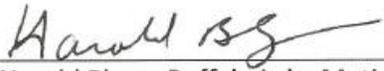
Concluding Statements

The Joint Accountability Review Committee considered the interactions, gaps, and intended/unintended consequences within the current complex system of Metis Settlement governance and accountability. The recommendations of the Committee throughout this report have been thoroughly discussed and considered in light of its mandate and terms of reference. Further, the discussions that come before each of the recommendations are intended to provide context to the deliberations of the Committee. The members of the JARC are optimistic that the recommendations within this report will, if properly supported and resourced, greatly aid in the accountability of Settlement Councils, Councillors, Administrators and administration to the *Metis Settlements Act*, Metis Settlements General Council, Metis Settlements Appeal Tribunal, the Minister of Aboriginal Relations, and to their members and the public at large.

¹² It was discussed at the Committee meetings that the Minister has exercised veto in a limited manner, using it only once in the last 24 years.

Joint Accountability Review Committee (JARC) Member Signatures

We, the JARC members jointly provide this report on recommendations to the Minister of Aboriginal Relations and the Metis Settlements General Council.



Harold Blyan, Buffalo Lake Metis Settlement



Cameron Henry, Alberta Aboriginal Relations



Floyd Thompson, Kikino Metis Settlement



David Wismer, Wismer Workplace Consulting

Iner Gauchier, Peavine Metis Settlement

July 23, 2014

Honourable Frank Oberle
Minister of Aboriginal Relations
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10800 97 Avenue
Edmonton, AB T5K 2B6

Mr. Randy Hardy
President, Metis Settlements General Council
101 10335 172 Street
Edmonton, AB T5S 1K9

Dear Minister Oberle and Mr. Hardy:

We are pleased to present the enclosed report: *Recommendations on Accountability, Enforcement, and Public Interests Provisions* (the "JARC Report") prepared by the Joint Accountability Review Committee ("JARC").

The JARC Report is submitted in accordance with s. 246.1(1) of the *Metis Settlements Act* (the "Act")

The JARC is comprised of representatives from the Government of Alberta and the Metis Settlements General Council. The JARC Report is the result of months of meetings during which the accountability, enforcement and public interest provisions of the Act and related legislation, including General Council Policies, were carefully considered.

We are optimistic that the recommendations in the JARC Report will be of significant value in strengthening the governance of the Metis Settlements.

Sincerely,

Members of the Joint Accountability Review Committee


Floyd Thompson

Iner Gauchier


Harold Blyan


David Wismer


Cameron Henry

Encl.