

Readability Assessment

Appeals Correspondence

1. Purpose of this report and key findings

The Social Security Tribunal of Canada hears appeals from people from all over Canada concerning their Canada Pension, Old Age Security, and Employment Insurance. Since a major review and the publication of a KPMG report in 2017, the tribunal has been seeking out and implementing new ways to speed up appeal processes and reduce the administrative burden on appellants.

One piece of this initiative involves improving the tribunal's correspondence so that it is clear, concise, and designed for readability. This helps people to get through the steps in a process more easily, making fewer errors, and spending less time trying to get guidance on what they are reading and what they should be doing.

The purpose of this initial report is to analyze communication problems in five sample letters to appellants and other parties and make recommendations on how to improve their readability. This report is accompanied by first drafts of the letters rewritten in clear-language.

The recommendations and sample rewrites will form the basis for redrafting a further 10 correspondence templates. These templates will in turn become models for in-house staff to use as they rewrite a much larger body of correspondence.

Clear Language and Design will provide a customized training to the team responsible for this redrafting initiative later in the spring.

Key findings in this report

- Although the sample letters make use of subject lines, they need to be reworded to reveal their true purposes – especially the actions they require of the recipient.
- The letters could make better use of subheadings to encapsulate key messages and help readers navigate through topic shifts in the letters.
- Using a standard readability formula, the letters tested well above the target Grade Reading Levels we identified for their audiences.
- The correspondence often contains repetitive, unnecessary, or distracting messaging.
- The Secretariat does a good job of avoiding unnecessary legal and quasi-judicial language, with few exceptions.

- The correspondence overuses the passive voice, giving a distant and vague tone that detracts from the transparency of the process.
- Our review brought up questions about how appellants agree to communicate by email and how effectively they are able to access and read correspondence from the tribunal in this medium.

This report discusses these issues in detail, makes recommendations on how to improve the correspondence, and explains the rationale for these recommendations from a readability perspective.

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2. Documents for review

The five letters selected for this assessment have the following file names:

- Acknowledgement of complete Notice of Appeal - Appears to be late
- Appeal filed on time
- Notice of Hearing - Teleconference
- Notice to Potential Added Parties
- Potential added party – Documents Filed

I forwarded these files and the first drafts of the rewritten versions with my interim report on March 19.

3. Audience and purpose of the letters

The first task in a readability assessment is to establish two things:

1. What is the purpose of each letter – what does the tribunal want the reader to **do** in response?
2. Who is the primary audience for the letter? Whom is it addressing?

Below are summaries of the purposes of each letter. We look at how effectively they present these purposes to the reader. We also flag areas where letters seem unclear about their audience.

Acknowledgement of complete Notice of Appeal - Appears to be late

This letter stems from a Notice of Appeal in the General Division - EI stream. It is the first point of contact between the tribunal and an appellant whose Notice of Appeal appears to be late. The tribunal sends the same letter to appellants who have supplied reasons for lateness and those who have not.

Audience

This letter has two audiences. It is addressed to both the appellant and the appellant's representative. It starts out speaking directly to the representative, referring to the appellant in the third person. The voice suddenly shifts, after the subheading Additional Information, to the second person 'you'. 'You' is intended to include both the applicant and the representative.

At this stage in the appeal process, according to data you have supplied me from the 2017/18 fiscal year, the great majority – 74% of EI appellants – are unrepresented. My recommendation is to speak directly to them throughout. This averts the danger that appellants, feeling that the

letter is not really addressing them, will not read very far. That could cause them to miss information that they will need in future.

To cover off appellants who are represented, we should add an optional “Copy: Representative” line at the end of the letter.

Purpose

The letter has the following purposes:

1. To acknowledge that the tribunal has received the Notice of Appeal and that it is ‘complete’ in the sense that the NoA form is not missing any required information
2. To tell them that the tribunal has to decide if the Notice of Appeal is really late or not, and if it really is late, whether or not to grant an extension
3. To confirm that the appellant has a representative and explain how the tribunal will communicate with them from this point forward
4. To tell them to include the tribunal’s file number on all documents they send
5. To tell them to keep all documents they receive and keep copies of what they send
6. To explain that they will receive copies of documents sent by other parties
7. To ask them to keep the documents confidential
8. To tell them to inform the tribunal of any change in contact information
9. To tell them how to contact the tribunal if they have questions

Stating the letter’s central purpose in the subject line

An initial heading or subject line is very useful in a letter because it can ‘telegraph’ the most crucial messaging in the letter. The subject line for this letter encapsulates its main purposes, but is not written in the active voice. In keeping with my recommendation to shift the voice to the second person, I suggest this main heading:

We have received your Notice of Appeal. The tribunal must now decide if it is late.

Removing misleading purposes

The letter does not really have any action item for the appellant or their representative. They are not supposed to send any more information unless the tribunal member requests it. The instructions in purposes 4 to 7 tell appellants and representatives how to do things you don’t want them to do yet. In literacy task analysis, that is what we call a ‘plausible distractor’.¹

I recommend removing the documentation instructions to keep the focus on the central purposes of this letter. Documentation instructions should be included in the letters that follow.

Removing distracting information

Plausible distractors are also at work in the detail given about the rules around late filing. As you have explained to me, a review for lateness is more complicated than it seems:

- The 30-day time limit is really 40 days because of an internally-allowed grace period.
- The member might decide it was not really filed late for a variety of reasons, such as a postal strike or CEIC mailing to the wrong address.
- The member might decide to grant an extension based on various reasons supplied by the applicant.
- If the NoA was filed later than a year after receiving the reconsideration decision, the member cannot grant an extension.
- The file might go right to a Notice of Hearing where the lateness issue would be discussed.

In the letter, there is information about the 30-day limit, the one-year limit, and extensions. This is distracting because for any given appellant, some of the information will not be relevant to their individual situation. For example, the one-year limit would be irrelevant to those who filed well within that time period. Extensions would be irrelevant to those who may end up being “not really late” for reasons such as a postal strike.

All that appellants and representatives really need to know at this point is:

- They may have filed late
- A tribunal member will decide whether or not this is the case
- Meanwhile, they should wait for further instructions.

The fact that the Notice of Appeal is “complete” is also not of interest to the appellant. This processing issue would only affect them if their Notice of Appeal were incomplete.

Using sub-headings to highlight other key messages

The other key messages in the letter would stand out better if they were set off with short sub-headings:

Purpose 3: **From now on, we will write only to your representative**

Purpose 8: **Has your contact information changed?**

Purpose 9: **How to contact us**

Appeal filed on time

This letter stems from a Notice of Appeal in the General Division – Income Security stream. The Tribunal sends this letter when a Member has reviewed the NoA for lateness and decided that it was in fact filed on time.

Audience

The letter is addressed to both the appellant and the respondent – that is, Employment and Social Development Canada. It goes to the appellant’s representative if they have one, and directly to the appellant if unrepresented. All of the information in the letter applies to both parties.

There is only one inconsistency in the ‘voice’. The opening paragraph talks about “your Notice of Appeal” being filed on time, addressing the appellant. It would be better to say “this Notice of Appeal,” thus including ESDC in the conversation.

Purpose

The letter has the following purposes:

1. To tell the appellant and respondent that this appeal was not late and give the reasons why
2. To explain the Notice of Readiness process to both parties
3. To explain the options for next steps to both parties
4. To tell them to include the tribunal’s file number on all documents they send
5. To tell them to keep all documents they receive and keep copies of what they send
6. To explain that they will receive copies of documents sent by other parties
7. To ask them to keep the documents confidential
8. To tell them to inform the tribunal of any change in contact information
9. To tell them how to contact the tribunal if they have questions

Stating the letter’s central purpose in the subject line

This letter’s subject line gives half of the central purpose – “Appeal Filed on Time.” However it does not signal to the reader that there is something they should do now, which is to take the next steps in the Notice of Readiness process.

A more complete subject heading would be:

The tribunal decided this appeal was filed on time. This letter explains what to do next.

Using sub-headings to highlight key messages

Here are some examples of how to set off the other key messages with sub-headings:

Purposes 2, 3, 4, 5, 6, & 7 (This information has been re-organized so that the purposes appear in a more logical order):

Next step: Send the Tribunal documents to support your case by [Date].

How to send documents to the Tribunal

Receiving documents from the Tribunal

The Notice of Readiness form

What happens after you send the form

Purpose 8: Has your contact information changed?

Purpose 9: How to contact us

Notice of Hearing - Teleconference

This letter goes to all parties involved in an appeal at the General Division level in both the EI and Income Security streams. It has the following purposes:

1. To inform all parties of the date and time of the hearing
2. To tell them how to get ready for the hearing and how to dial in
3. To explain why the hearing will be held by teleconference
4. To get them to contact you if they have witnesses
5. To get them to contact you if they need an interpreter
6. To get them to contact you if they need to change the hearing date
7. To tell them what happens if a party does not attend the hearing
8. To tell them to include the tribunal's file number on all documents they send
9. To tell them to keep all documents they receive and keep copies of what they send
10. To explain that they will receive copies of documents sent by other parties
11. To ask them to keep the documents confidential
12. To tell them to inform the tribunal of any change in contact information
13. To tell them how to contact the tribunal if they have questions

Stating the letter's central purpose in the subject line

The Notice of Hearing includes both of its key purposes in its subject line – the format of the hearing and the hearing date. In the sentence style I am recommending for subject headings, this would be:

Your hearing will take place by teleconference on [date].

Using sub-headings to highlight key messages

There are a great many other key messages in this letter, and they are not always sequenced in a way that is logical from the reader's point of view. Once they have been reorganized, they fall under these headings in this order:

Purpose 6: **Contact us right away if you need to reschedule the hearing.**

Purpose 2: **How to dial into the teleconference**

Purpose 3: **Why is the hearing by teleconference?**

Purpose 4: **Do you have witnesses?**

Purpose 5: **Do you need an interpreter?**

Purpose 7: **What happens if one of the parties fails to attend the hearing?**

Purpose 8: **How to send documents to the Tribunal**

Purposes 9, 10, and 11: **Receiving documents from the Tribunal**

Purpose 12: **Has your contact information changed?**

Purpose 13: **How to contact us**

You may decide to dispense with Purpose 3 if you find, after implementing the new directive to accommodate appellant's preferences for their hearing format, that this issue no longer generates appeals.

Notice to Potential Added Parties

The tribunal sends this letter to employers who may have a direct interest in the outcome of EI appeal to the General Division.

The letter has the following purposes:

1. To inform the employer of the appeal and how they are connected to it
2. To explain the role of an added party
3. To tell the employer how to file a request to be added as a party

4. To tell them NOT to send any documents until a Tribunal member decides to add them as a party and they are notified in writing
5. To tell them to forward this letter to the correct person if they are not the intended recipient
6. To tell them to include the tribunal's file number on all documents they send
7. To tell them to keep all documents they receive and keep copies of what they send
8. To explain that they will receive copies of documents sent by other parties
9. To ask them to keep the documents confidential
10. To tell them to inform the tribunal of any change in contact information
11. To tell them how to contact the tribunal if they have questions

Stating the letter's central purpose in the subject line

The subject line for this letter is "Notice to Potential Added Party." This does not get at the action you are requiring of the reader. A more action-oriented subject line would be:

Do you wish to be added as a party to this appeal?

Removing plausible distractors

As with the letter acknowledging a late Notice of Appeal, this letter says a great deal about how to handle documentation that you do not in fact want the reader to send yet. This will lead to inappropriate actions and more time spent sorting them out on where they are in the process.

To keep the focus on this letter's central purpose, I recommend sending information on documentation after the employer sends a request to be added as a party and a Tribunal member has accepted the request.

Using sub-headings to highlight other key messages

The remaining key messages would stand out better with these subheadings:

Purpose 2: **The role of added parties**

Purpose 3 & 4: **We must receive your request to be added as a party by [Date] and What happens after you file your request**

Purpose 10: **Has your contact information changed?**

Purpose 11: **How to contact us**

Potential added party – Documents Filed

This tribunal sends this letter to people and corporations who request to be added as parties to a General Division UI appeal. It is sent if they submit documents with their request, or before they have been approved as added parties.

It has these purposes:

1. To acknowledge receipt of the request to be added as a party
2. To explain the role of an added party
3. To acknowledge receipt of documents filed with the request
4. To tell them that, although the tribunal secretariat will retain the documents, it can do nothing with them until they are approved as an added party
5. To tell them that furthermore, the tribunal will not share documents from other parties with them until they are approved
6. To tell them to include the tribunal's file number on all documents they send
7. To tell them to keep all documents they receive and keep copies of what they send
8. To explain that they will receive copies of documents sent by other parties
9. To ask them to keep the documents confidential
10. To tell them to inform the tribunal of any change in contact information
11. To tell them how to contact the tribunal if they have questions

Stating the letter's central purpose in the subject line

The subject line for this letter is "Potential Added Party – Documents filed." This is a misnomer. These documents cannot be properly "filed" with the tribunal until the sender is approved as an added party. This subject line and the two paragraphs that follow could easily mislead a reader into concluding that they had already been added as a party.

A more effective subject line would be:

We are holding your documents until you are approved as an added party.

Removing plausible distractors

As with the Notice to Potential Added Parties we discussed above, this letter is full of plausible distractors on how to handle documentation that you do not in fact want them to send yet. This could easily lead to more inappropriately sent documents, more explanatory letters, more phone calls to sort things out, and so on.

To keep the focus on this letter's central purpose, my recommendation once again is to refrain from sending instructions about documentation until the tribunal member has accepted the request to be added as a party.

I also recommend deleting the information on the role of an added party. The recipient has already received that message in the Notice to Potential Added Parties and we know they understood it because they responded. There is no need to repeat it here, especially since we want to stress that they are not an added party yet.

Using sub-headings to highlight other key messages

Once we have removed unneeded or distracting information, the subheadings for the remaining key messages would be:

Purposes 4 & 5: **We can take no action until you are approved as an added party**

Purpose 10: **Has your contact information changed?**

Purpose 11: **How to contact us**

I think it is reasonable to expect that, if my recommendations for rewriting the Notice to Potential Added Parties are accepted, you will rarely have to use this follow-up letter at all.

4. Audience analysis

The next step in a readability assessment is to analyze the reading and comprehension skills of the audiences for each document. Clear writing is effective because it chooses language with a target audience in mind, and uses measurement tools to ensure that the writing is at an appropriate level.

The goal of an audience analysis is to identify a reading level that would enable the *greatest possible transparency* for the *greatest number* in the audiences *directly affected* by the communication.

Literacy and education levels in Canada

In the early 1990s, Statistics Canada, along with other developed nations, began to measure literacy levels in Canadian adults. The most recent survey involved more than 25,000 Canadians. Participants were evaluated on their ability to carry out typical daily literacy tasks.

The Programme for the International Assessment of Adult Competencies (PIAAC) measures literacy at five functional levels.

Literacy – Comparative distributions of proficiency levels of population aged 16 to 65, 2012

Level	Percentage of Population (rounded)	Skill Level	Education
1	16.5%	Poor	<ul style="list-style-type: none">• Most have not completed primary school.• Some have secondary or university education.
2	32%	Narrow readers	<ul style="list-style-type: none">• Most have some secondary education.• Some secondary school graduates.
3	37.6%	Read well	<ul style="list-style-type: none">• Largest number are community college graduates.• Some have secondary school only.
4 & 5	13.9%	Highest skills	<ul style="list-style-type: none">• Most are university graduates.• Some community college graduates.

Source: *The Programme for the International Assessment of Adult Competencies (PIAAC), 2012*

What do we know about reading proficiency in the audiences for Social Security appeals correspondence?

In our analysis of the five sample letters, we identified four audience categories:

- Appellants
- Appellant representatives
- Respondents
- Added parties

The primary audience for correspondence from the tribunal secretariat is appellants. Employment insurance and income security are features of our social safety net that affect all Canadians. We would expect appellants to occupy the full range of reading proficiency mapped out in the PIACC survey, from Level 1 to Level 5.

Appellant representatives may be trained legal professionals, or they may not, depending on the jurisdiction. In jurisdictions that allow representation from non-professionals, we can expect to find a range of reading proficiency.

Respondents in tribunal cases are either the Canada Employment Insurance Commission or Employment and Social Development Canada. In these audiences we can expect to find both reading proficiency and a high level of understanding of tribunal processes. Moreover, these respondents have the resources to dedicate staff to tribunal issues.

Added parties for EI cases are often employers, from very small businesses to large corporations. We can expect to find a range of reading proficiency and familiarity with tribunal processes. Added parties for income security cases can include appellant spouses and other members of the general population, where once again we need to keep the PIACC data in mind.

Three ‘personas’

Clear language assessment is closely related to the field of user experience in technical communications. In usability analysis, we create ‘personas’ or small profiles of typical users of a document. Personas help us to visualize and personalize the user, making it easier to anticipate difficulties they may have.

On the following page are three personas representing people from different backgrounds in both training and language skills who might receive correspondence from the tribunal secretariat.

Persona 1: Eric

Eric is a 29-year-old pipefitter who has been laid off from his job in the oil sands. He has moved back to his home town in the Maritimes. He is appealing a decision about his Employment Insurance. Because of the move, he filed his appeal a little late. He is representing himself.



Persona 2: Richard

Richard is a retired actor and musician living on a low fixed income. He is appealing a decision about his Canada Pension. He cannot afford a computer or internet service at home, but he visits the public library to look at his email. Recently, he has developed mobility issues, especially in bad weather. Whenever he is able to get to the library, he finds the volume of his unread email overwhelming.

Persona 3: Socorro

Socorro was educated as a legal secretary but came to Canada as a nanny. Her first language is Tagalog and she is a leader in her Filipino community. Socorro has agreed to represent Maria, a member of her church congregation who is severely disabled and needs to appeal a decision about her income security.



What are Grade Reading Levels?

Grade Reading Levels are a calibrated system of measurement of the level of difficulty for a text. They are research-based benchmarks originally designed to help teachers choose texts at suitable levels of difficulty for students at various reading ages.

The formulas, such as Flesch-Kincaid and the SMOG index, are based on sentence length and the number of syllables in words. The longer the sentences are, and the more long words there are in each sentence, the higher the Grade Reading Level will be.

Audience research tells us that even native English speakers are not comfortable reading at the same level of difficulty as their last completed year of education.² In fact, most English-educated North Americans prefer to read at a Grade 7 – 9 reading level.³

Even those who are very highly educated prefer to be able to process business correspondence quickly and efficiently, without having to exercise specialized reading skills, and prefer a reading level below Grade 12.

Illness and emotion are factors that can drive down a person's reading ability. Researchers in the field of health literacy⁴ tell us that stress plays a role in reading comprehension. This is important to keep in mind when writing to people about an appeal process that affects their income.

Readability experts agree on the following general guidelines for setting target grade reading levels:

If you are writing:	Then aim for a Grade Reading Level of:
Essential information for a diverse public, including: <ul style="list-style-type: none">• people who are still learning the English language• people with less than 8 years of formal education	Grade 5 to 6
Information for the general public that introduces: <ul style="list-style-type: none">• new terms and concepts• specialized subject matter	Grade 7 to 9
Specialized information intended for an informed audience	Grade 10 to 15 (college)

Recommended reading levels for appeals correspondence

Appeals correspondence must necessarily introduce new concepts to readers, often of a legal or quasi-judicial nature. This requires us to retain a number of polysyllabic words, although we can certainly apply techniques to reduce their frequency, as well as the length of the sentences they appear in.

Because Canada is a diverse country, we must assume that a significant portion of the audience for appeals correspondence does not speak English or French as a first language. We must also assume that appellants – our primary audience for appeals correspondence – are often under stress, because the decisions of the tribunal affect their basic incomes.

Members of the general public, such as Socorro, who have agreed to represent someone but lack professional legal qualifications, also deserve special consideration.

These factors indicate that we should strive to **keep the Grade Reading Level at 6 - 8** wherever possible.

5. Reading scores in the sample correspondence

I measured the Grade Reading Level of the sample letters using the Flesch-Kincaid Readability Formula.⁵

Document Name	Grade Reading Level Score
Acknowledgement of complete Notice of Appeal - Appears to be late	11.8
Appeal appeared to be late determined to be on time	11.6
Notice of hearing Teleconference	8.8
Potential Added Party - asking if they want to be a party	12
Potential added party – Documents filed (after they responded they wanted to be a party)	11
Average Grade Reading Level	11

Implications of these results

Reading level scores are a reliable predictor of reading difficulty based on syntactical density – the length of sentences and words.⁶ It is important to note that they do not analyze other cognitive barriers in the prose, such as confusing or disorganized information. Problems such as those noted in the Purpose section of this report can raise the level of reading difficulty much higher.

Our first two sample letters are more than four grade reading levels higher than our target. The Potential Added Party letters are closer to an acceptable grade reading level, provided that they go to an employer. I would caution you however that if similar language is used to contact added parties in the Income Security stream, the reading level is much too high.

The Teleconference letter is close to the high end of our Grade 6-8 target, but because it is such a crucial piece of information, we need to bring it down closer to Grade 6.

6. Controlling the reading level

Managing sentence and word length

Rudolph Flesch, who co-developed the readability measurement tool used for this report, researched reading difficulty and its relationship to both sentence and word length.⁷ Flesch found that written passages become more difficult for readers to process as sentences become longer on average than 15 words.

In the chart on the next page, we look at some of the difficult sentences in the sample correspondence and demonstrate ways to make the message more manageable. We do this by:

- limiting each sentence or line to only one idea
- making use of subheadings
- removing words and phrases that are unnecessary
- substituting shorter words for polysyllabic words where there is no loss of meaning.

The examples illustrate how these techniques reduce the Grade Reading Level (GRL) on the Flesch-Kincaid readability scale.

Sample passage	Readability	Alternative	Readability
The following is to inform you that the General Division of the Social Security Tribunal of Canada has received an appeal from a reconsideration decision of the Canada Employment Insurance Commission in the above-noted appeal.	1 sentence of 35 words GRL 22.3	We have received your Notice of Appeal to the Social Security Tribunal.	1 sentence of 12 words GRL 9.7
If the last Notice of Readiness form includes additional documents, the Tribunal will send that information to all other parties and allow parties 30 days to file a response before the appeal is assigned to a Tribunal member.	1 sentence of 38 words GRL 19.1	If one of the parties sends documents during the last month before the deadline, then we will extend the deadline by 30 days. This is to give you a chance to respond.	2 sentences Average of 16 words GRL 6.1
The time zone specified above corresponds to the Appellant's location. Other parties to this appeal may be located in different time zones. It is the responsibility of all parties to determine the local time of the hearing based on the time specified above.	3 sentences Average of 14 words GRL 9.7	The hearing is scheduled for [date] at [time] in the appellant's time zone .	1 sentence of 13 words GRL 3.9
The Tribunal will decide whether to grant the adjournment request. If the request is granted, a new hearing date will be scheduled according to your availability. If the request is refused, the hearing will proceed as scheduled. Until the Tribunal informs you if the adjournment is granted or refused, the hearing will take place as scheduled.	3 sentences Average of 14 words GRL 8.6	If you call us after two business days, you must ask for a new hearing date in writing and explain why you need it. This is called an 'adjournment request'. If the Tribunal does not grant your request, your hearing will go ahead as scheduled above.	3 sentences Average of 15.3 words GRL 6.2

Changing passive constructions to active ones

Passive verbs and ‘frozen verbs’ (verbs made into nouns) tend to obscure the actor in a sentence. They create ambiguity and a distant, vague, bureaucratic tone. The following are examples of passages from the sample correspondence written in the passive voice (shown in red). The Alternative column shows the same passage in the active voice.

Example	Alternative
An extension of time cannot be granted if more than one year has passed since the reconsideration decision was communicated to the Appellant.	We cannot grant an extension if more than one year has passed since you received your decision from CEIC.
The Tribunal will now review the file to determine if the appeal was filed late and if so, whether an extension of time should [be] granted .	If the Tribunal finds that the appeal was late, it will decide whether or not to grant an extension.
You are encouraged to call from a location that allows you to fully participate to [sic] the hearing. The location should be quiet and free from distraction.	Choose a quiet, private place to make the call.
An adjournment request must be sent to the Tribunal in writing and must explain why a new hearing date is required.	You must ask for a new hearing date in writing and explain why you need it.

Avoiding unnecessary legal jargon

Modern legal drafters are moving away from the use of legal language and archaic Latinate forms. In many parts of the world, legislation, as well as rules of court, judicial decisions, and instructions to the jury, are now being written in modernized language that the average citizen can better understand.⁸

According to law professors and plain legal language advocates Peter Butt and Richard Castle, “Modern, plain English is as capable of precision as traditional legal English. It can cope with all the concepts and complexities of the law and legal processes.”⁹

I was impressed with the care that the Tribunal Secretariat is taking to avoid unnecessary legal language. It shows a level of awareness that I rarely see in organizations that carry out quasi-judicial processes.

7. Communicating by email

You have asked for my thoughts on problems you are encountering with appellants who receive their correspondence by email. Appellants are arriving at their hearings with their documentation incomplete, which causes adjournments. There are issues around appellants not opening their mail, not reading it, not printing it, and even deleting it, thinking it is spam.

Potential problems with the opting in process

In keeping with its Client Centric Action Plan to help speed up the appeal process, the Tribunal Secretariat has begun to encourage correspondence by email. In August 2018, a box was added to the Notice of Appeal asking permission to communicate by email.

Appellants who do not wish to receive correspondence by email can tick the 'no' box. But if an appellant writes to the tribunal, even once, by email, all correspondence thereafter automatically comes by email. This is explained in the permission box on the Notice of Appeal, in very small type:

(If you do not authorize email communication, and then email us during the course of your appeal, we will continue to communicate with you by email.)

In addition to being in very small type, this warning tests at Grade Reading Level 13.6.

Part of the thinking behind Canada's Anti-Spam Law (CASL) was that automatic opt-ins place an unfair burden on consumers to opt out.¹⁰ Although the tribunal's process is technically not an automatic opt-in, it is close enough, in my view, to cause confusion and to place a burden on unsophisticated email users.

Let's take the case of our persona Richard, who has developed some mobility issues. Let's say Richard filed his appeal in August 2018, when the email permission box was added to the Notice of Appeal. Richard ticked the 'no' box. He expected to receive his correspondence by mail. He did not read the warning very carefully, because the type was so small.

In the fall of 2018, Richard went to the library and wrote a quick email to notify the Secretariat of a change to his phone number. Then winter set in, and Richard's trips to the library became less frequent. He completely missed this poorly worded and badly organized notification:

Veillez ne pas répondre à ce courriel.

Merci d'avoir communiqué avec nous. Nous communiquerons avec vous si vous êtes dans l'attente d'une réponse.

Étant donné que vous avez communiqué avec nous par courriel, nous vous contacterons aussi par courriel à l'adresse que vous venez de nous fournir. La correspondance du Tribunal peut contenir des renseignements personnels. Veuillez-vous assurer de vérifier périodiquement si le Tribunal vous a envoyé des courriels ou nous informer de votre désir de ne pas recevoir de correspondance par courriel.

Please do not reply to this e-mail.

Thank you for communicating with us. If your request requires a response, we will contact you.

As you have contacted us by email, going forward we will correspond with you by email at the email address you have just provided. The Tribunal's correspondence may include personal information. Please be sure to monitor regularly for email from the Tribunal or let us know if you do not wish to receive email correspondence.

Because of a long stretch of bad weather, it took some time for Richard to return to the library and realize that he had been receiving his Tribunal correspondence by email. Now he is frantic because he has missed a crucial deadline in the appeal process.

Although this is only an imaginary scenario, I would suggest that Richard's story or variations on it are quite plausible, especially among older and low-income appellants. Young Eric, who moved from Alberta back to the Maritimes, could easily have fallen into this trap as well, if he were initially receiving Tribunal communications by mail and then sent an address change notification by email.

My recommendation is that you review your process for 'opting in' to email. You need to ensure that you have a 'double opt-in', which marketers consider to be a best practice.¹¹ That means that recipients would have to confirm, after starting to communicate by email, that they wish to continue communication in this medium.

The cost of communicating by email

Agreeing to communicate with the Tribunal by email has consequences that are not made explicit in the opt-in process. Appellants may not realize at the outset that they will have to print a significant number of documents at their own expense, and that the documents they send will have to be scanned and attached.

For appellants trying to live on a very low income, such as Richard and Maria, the cost of printing and scanning documents could easily be prohibitive. Appellants need to understand the implications of using email before they make their choice, and they need to be reminded of these implications and their right to opt out of email regularly throughout the process.

The secretariat is moving toward a cover email instruction that advises email recipients to "open, print, and read" documents attached. This is a more concrete instruction than was on the original cover message, and will, we hope, lead to fewer parties having incomplete documentation at the time of their hearing.

However, appellants will find in their email attachments documents that they have already printed. They will see, for example, copies of documents they themselves have submitted. It would be unfortunate to make appellants feel they have to pay for printing a document twice.

Once solution to this might be to add a sentence to the cover email explaining that, if they already have a printed copy of an attached document, they should ensure that it has the document number on it for their reference. If it does not, they should open the attachment and copy the number from the attachment onto their printed copy.

Crafting effective subject lines for emails

The secretariat's practice for email subject lines is in transition. To date, the practice has been to code the subject line with the file number, the name of the template attached, and the date of the correspondence. An example would be: GE-19-201 - Withdrawal of Appeal - March 19, 2019.

As we discussed at the beginning of this report, in any piece of correspondence, the purpose, or action item, should be paramount. The Secretariat is moving toward a new way of crafting email subject lines that focuses more on what is essential for the reader. For example:

Social Security Tribunal Appeal - NOTICE OF HEARING [Date of hearing]

I fully support this initiative and hope that the new subject lines I am writing for the letter templates will help direct staff writers to what they need to focus on in email subject lines.

File naming conventions

There seems to be some fluidity in the way that letter template files are named at the Secretariat. The file name used internally is currently modified before being sent out. It incorporates the subject line of the letter plus a document code if applicable. It seems to me overly complex to have two sets of file names – internal and external.

Furthermore, since I have extended letter subject lines into much more prominent headings expressed as sentences, transposing the letter subject line to the file name is no longer practical. The file name will have to be carefully crafted as a distillation of the subject line.

It is outside the scope of my contract to make recommendations on naming each file. I am however flagging this as an issue for the Secretariat. File names have to do two things:

- Signal something that makes sense to the external reader who will be opening the file as an email attachment
- Have a simple coding or numbering system that will enable internal users to easily retrieve and organize the template files. This coding should be removed when files are sent.

8. Type and formatting

Body type

The sample correspondence uses 12 point Times New Roman as the body type. This is an appropriate choice for a general readership. However, it is too small for a readership that includes significant numbers of older people claiming Income Security.¹² I have set the sample rewrites in 13 point type.

Times is also a serif, or decorated type. That makes it harder to read online. If you look at the default typefaces designed for email, tablets, and phones, you will notice that none of them have pronounced ‘serifs’ or thickenings in different parts of each letter. That is because serifs require additional pixilation and therefore flicker and cause eyestrain when read on screens for extended periods of time.

I have set the rewritten letters in Calibri, a highly readable typeface both online and on paper.

Headings

I recommend that you use a bold sans-serif typeface, **12-point Ariel** for subject lines and **11-point Ariel** for sub-headings. Ariel is designed to appear larger than Calibri, so that even at 11 points, it stands out from the body text effectively.

Margins

I have adjusted the left margin for both the tribunal logo and the body type, shifting both a little further to the left. This makes better use of available space while maintaining a very readable line length.

Justification

The letters are set ‘ragged right’, which is preferable to justified type. Readers use the uneven white space at the end of lines as place markers.

I have used square ‘editorial’ brackets and yellow highlighter to mark off instructions to correspondence writers. Writers must remove these instructions when they finalize each letter.

Headers and footers

I agree with your decision not to include the Canada logo at the bottom of the first page, as this adds ‘clutter’ and does not provide the reader with new information.

I have moved the page number to the bottom right of the footer, for a more contemporary feel.

Endnotes

1. Evetts, Julian and Gauthier, Michel. *Literacy Task Assessment Guide*. Ottawa: Statistics Canada, 2005.
2. DuBay, William H., *Smart Language: Readers, Readability, and the Grading of Text*. Costa Mesa, California: Impact Information, 2007.
3. DuBay, William H., *Smart Language: Readers, Readability, and the Grading of Text*. Costa Mesa, California: Impact Information, 2007.
4. Osborne, Helen: *Health Literacy from A to Z*. Sudbury, Massachusetts: Jones and Bartlett Publishers, 2005.
5. This formula is built into Microsoft Word's grammar and spelling feature. When I needed a second check on the readability statistics because of problems with the Flesch-Kincaid formula in Word, I used StyleWriter software.
6. From a psycholinguistic standpoint, "It is almost certain that sentence (or clause) length can predict readability only because it is correlated with more fundamental predictors of syntactic complexity such as nesting, transformational complexity, and others (Miller & Chomsky, 1963)." (Coleman, E.B. The comprehensibility of several grammatical transformations. *Journal of Applied Psychology*, 48:186-190, 1964.)

This is borne out by the way that readers understand their own reading processes: ". . .The problem seems to concern the amount and depth of information which the reader must store in memory in moving from one construct to the next, and how hard the transition becomes as a result. And in fact, in the experiment . . ., students said things like: 'I was so busy working on this part of the sentence, I forgot it was connected with something else'." Berman, R. Syntactic components of the FL reading process. In: Alderson, J.C. & Urquhart, A.H. (Eds.) *Reading in a Foreign Language*. Longman, 1984: 142-3).
7. Flesch, Rudolph. *The Art of Readable Writing*, 1949. Downloadable from:
<http://dc135.files.wordpress.com/2012/11/flesch-the-art-of-readable-writing.pdf>
8. See Kimble, Joseph. *Writing for Dollars, Writing to Please. The Case for Plain Language in Business, Government, and Law*. Carolina Academic Press, 2012. Order from:
<http://tinyurl.com/8oq3dno>.
9. Butt, Peter & Castle, Richard. *Modern Legal Drafting: A Guide to Using Clearer Language* (2nd ed.) Cambridge University Press, 2006.
10. https://www.techsoupcanada.ca/en/community/blog/CASL?gclid=CjwKCAjw7MzkBRAGEiwAkOXexNumofs1o7_n87zPQXT5vehUdPi1Lm8WAQKVnGoP_ajZkA2A95nzsxoCbCgQAvD_BwE

11. <https://intercom.help/convertkit/email-marketing-tips/single-vs-double-opt-in>

12. Canadian National Institute for the Blind. Clear Print Accessibility Guidelines: Print that's easy on the eyes. Toronto: CNIB, 2015