



Union Education for change

PSAC Booklet on Staffing in the Federal Public Service



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The Public Service Alliance of Canada strives to obtain fair and equitable workplaces for our members. How staffing is conducted is a significant measure of workplace fairness and transparency.

We have many concerns with the changes brought about by the *Public Service Modernization Act*. Although the PSAC will continue in its attempts to strengthen fairness and equity in the Federal Public Service, we believe that members and Locals also play an important role in what happens in their workplaces.

This booklet offers information on the new staffing regime in the Federal Public Service. We have attempted to provide a short description of the main steps in the FPS staffing system. The booklet also raises critical questions which can assist Locals in intervening effectively in their workplace's human resources planning and staffing.

Given the delegation of staffing to Departments and Agencies, Components are an additional invaluable source of information on your Department or Agency staffing regime.

Human resources planning

Managers are expected to plan staffing around their human resources and other needs. Although broad based guidelines may be developed at the national levels of Departments and Agencies, most of the concrete planning is likely to take place at the local office area.

The Staffing Management Accountability Framework (SMAF) is a document prepared by the PSC which outlines expectations for managers related to the governance; the planning; the policy; the communications and the control around staffing in their Departments or Agencies. You can download a copy of the SMAF at:

http://www.psc-cfp.gc.ca/psea-lefp/framework/accountability/chart_e.htm

1 *Was your Local consulted on the development of this framework? Has your union received information on staffing strategies and decisions?*

2. *Do you know how and to whom staffing has been delegated in your Department and Agency?*

3. *Does it appear that managers in your workplace have been trained for these new staffing functions?*

4. *What do you know about your Department/Agency human resources?*

Employment Equity

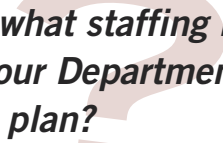
Employment equity seeks to achieve equality in the workplace so that no person is denied an employment opportunity. It also seeks to correct conditions of disadvantage in employment experienced by equity group members and recognizes the need for special and corrective measures and the accommodation of differences.

The Federal Public Service is subject to the *Employment Equity Act*. Deputy heads are responsible for developing their own employment equity program.

1. *Do you know if under-representation of members of the equity groups exists in your Department or Agency? Has your Local been provided with a copy of the workforce and availability analysis carried out by your Department/Agency?*

2. *Is the union involved in ensuring that an effective employment equity plan is developed and implemented in your workplace? If, yes, do you know who to contact to get information?*

3. *Do you know what staffing measures are included in your Department/Agency employment equity plan?*



Establishing Merit Criteria

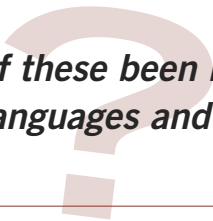
Merit is now defined in the *Public Service Employment Act*. Merit is deemed respected when the person to be appointed meets the essential qualifications for the work to be performed, including official language proficiency. In addition, merit includes:

- Any additional qualifications that the deputy head may consider to be an asset for the work to be performed, or for the organization, currently or in the future,
- Any current or future operational requirements of the organization,
- Any current or future needs of the organization.

1. *How is your Department or Agency setting merit criteria?*



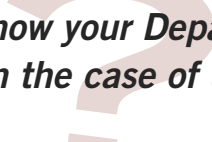
2. *Have copies of these been made available in both official languages and in alternate formats?*



3. *Do you know if a common merit criterion has been set for jobs with the same duties?*



4. *Do you know how your Department or Agency will proceed in the case of unique jobs within their organization?*

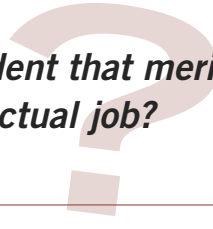


5. *Is there under representation that could be corrected by using EE as a merit criterion?*



When a large number of candidate applications are expected, there is a real possibility that employers may want to introduce additional job requirements for the purposes of screening applicants down to a manageable size.

6. *Are you confident that merit criteria being set relate to the actual job?*



Essential qualifications are those required to perform the work involved in a position. These may include: experience, education, knowledge, skills, personal suitability and competence in either or both official languages.

7. *Do you know if the essential qualifications have been reviewed to make sure they do not act as barriers against equity group members?*

8. *Do you know who you can go to if you have a concern about the setting of essential qualifications in your workplace?*

9. *Is there a training and developmental strategy in your Department/Agency to ensure that current staff are provided an opportunity to meet essential qualifications for promotions and advancement?*

Asset qualifications are not essential to perform the work, but could be in the future. There is no requirement to establish asset qualifications but if these are used they can include: experience, education, knowledge, skills, personal suitability, behavioural competencies or any other qualification.

Note: Official languages proficiency can only be an essential qualification.

10. *Do you know if your Department or Agency will be using asset qualifications?*

11. *If yes, do you know for which positions and what these asset qualifications are?*

12. *Do you know if your union was consulted on these?*

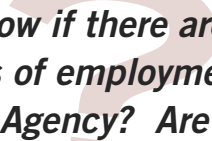
13. *Are the future Department/Agency needs set out in the SMAF?*



A **condition of employment** is not merit criterion. It is a condition that an employee must meet on appointment and maintain throughout his/her tenure (e.g., professional or trade certification).

Operational requirements are meant to be requirements of the work itself and are not mandatory (e.g. travel). They should not conflict with collective agreement provisions.

14. *Do you know if there are standard conditions of employment in certain jobs in your Department or Agency? Are these job related?*



15. *What about operational requirements? Are these job related?*

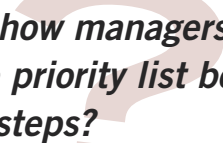


Priority Appointments

There are priorities provided in the *PSEA* and the *PSER*. These include:

- surplus employees (***PSEA***)
- employees on leave of absence because of the relocation of their spouse or common law partner who do not qualify for a leave of absence under the *PSEA* (***PSEA***)
- the reinstatement of employees who have accepted a position at a lower level as a result of the exercise of a priority (***PSEA***)
- a person who is laid off (***PSEA***)
- employees who become disabled (***PSEA***)
- members of the Canadian Forces and the RCMP who are medically released (***PSEA***)

1 *Do you know how managers are ensuring they first go to the priority list before they proceed with other staffing steps?*



2. *Does there appear to be backlash in your workplace when individuals from a priority list are hired? Has your union carried out education to explain the importance of priority rights to members?*

3. *Do you know where to go to obtain a copy of the priority lists?*

Choosing An Appointment Process

Managers are no longer required to appoint from within the FPS before they proceed with external staffing. The *Public Service Employment Act* sets out a **preference for advertised external processes** as follows:

- A person in receipt of pension by reason of war service.
- A veteran or a survivor of a veteran (surviving spouse or surviving common law partner).
- A Canadian citizen where a person who is not a Canadian citizen is also a candidate.

Managers may use one selection process to staff several positions. This is called **collective staffing** - a process that allows the staffing of more than one position within, among and across organizations and departments, region or regions. These could be used in situations where there is a high turnover and an on-going need – both current and forecast – to staff similar positions within the same group and level or within different groups and levels.

The process requires the establishment of pools of individuals who have had some degree of assessment completed in order to be included in the pool. These individuals will then be assessed against the merit criteria established for each position being staffed.

This process applies to both internal and external appointments. In the case of internal appointments, only persons employed in the public service may be considered – while in the case of external processes, persons who are not employed in the public service are also considered.

1. *Do you know what the expected rate of attrition is for your Department/Agency?*

2. *Do you know in which occupational categories these are likely to occur?*

3. *Your Department\Agency likely has representation gaps for equity groups. Do you know what these are, by occupational groups?*

4. *What do you know about the linguistic needs of your Department/Agency?*

5. *Has your Department/Agency developed a policy on the question of external and internal appointments? Has your union been consulted?*

6. *Is there a staff training and development strategy in your Department/Agency? If yes, is this included in the external and internal staffing analysis?*

7. *Does your Department /Agency hire students?
Are you tracking the use of students to ensure they are not being used as cheap labour?*

8. *Are you ensuring that students hired receive appropriate training and support?*

9. *Do you know if your Department/Agency will be using collective staffing processes?*

10. *Do you know for which positions and who is leading the collective staffing process?*

11. *Are there specific timeframes for:*

- The creation of specific collective staffing processes?
- Incumbent selection?
- Turnover within collective staffing process?
- Selection monitoring?

And do these coincide with Department/Agency human resources planning?

Advertised And Non-Advertised

Both an **advertised** and a **non-advertised** appointment process exist. An **advertised** process means that persons in the area of selection are informed of the appointment opportunity and can apply and demonstrate their suitability against the merit criteria.

A **non-advertised** appointment process means that managers with delegated staffing authority need not solicit applications. This person may simply

decide to consider only one person and appoint him or her if the person meets the merit criteria. In a non-advertised process, the applications of several persons can be considered.

The difference between an **advertised** and a **non-advertised** process is whether or not applications have been solicited.

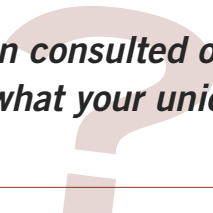
It is possible to complain **about an abuse of authority** in the choice of an advertised or **non-advertised** appointment process.

Deputy heads are expected to establish and communicate criteria for the use of non-advertised processes and ensure that a written rationale demonstrates how a non-advertised process meets the established criteria and the appointment values.

1. *Has this been done in your Department/Agency?*



2. *Was your union consulted on this question?
Do you know what your union's position is?*



3. *Will your union be provided with regular data reports on the non-advertised occurrences in your Department/Agency? Will this report provide details by Branch, Region or Office?*

4. *Have you identified how you will ensure managers are not using the non-advertised process to exclude workers from the application process?*

5. *Have you established a process to ensure you obtain the written rationales prepared to support non-advertised processes?*

Deputy heads are expected to establish a monitoring and review mechanism for the following appointment processes:

- Acting appointments over 12 months;
- The appointment of casual workers to term or indeterminate status through non-advertised processes.

Deputy heads must advertise external recruitment employment opportunities on the Internet at <http://www.jobs-emplois.gc.ca>, as well as on Infotel or on an alternative telephone service provider.

They must also advertise interdepartmental employment opportunities on Publiservice, the extranet site for employees of the Government of Canada, at <http://publiservice.gc.ca>.

Establishing The Area of Selection

An **area of selection** determines who is eligible to apply and covers geographic, organizational or occupational criteria. For the purposes of employment equity, criteria may include being a member of a designated group within the meaning of the *Employment Equity Act*. According to the Public Service Commission, areas of selection should

provide reasonable access to internal and external appointments and a reasonable area of recourse for internal non-advertised appointments. The PSC has set out a requirement that a national area of selection apply to external advertised appointment processes for management feeder group positions. In addition, all officer type jobs in the National Capital Region are to be opened to national areas of selection.

Deputy heads are expected to **establish and communicate** an organizational policy on area of selection.

1. *Has this been done in your Department?*

2. *Was your union consulted?*

3. *What mechanism is there in your workplace to ensure that area of selection decisions are fair and transparent and not subject to manipulation? (e.g. to avoid situations where occupational specific*

criteria is used inappropriately to screen out most applicants; using a national area of selection for equity measures aimed at Aboriginal Persons or people of colour, when regional area of selection would be more effective.)

4. *Do you know how applications for advertised positions are to be received (paper, electronic)?*



Deputy heads are expected to monitor national area of selection, at a minimum, for:

- Appointment processes where a national area of selection was used;
 - The place of residency of the applicants in those processes; and
 - The place of residency of the persons hired in those processes.
-

Assessment

Assessment processes and methods are meant to identify the person(s) who meet the qualifications and other merit criteria used in making the appointment decision and are meant to provide a sound basis for making appointments according to merit.

The PSC has indicated that the assessment should be designed and implemented without bias, political influence or personal favouritism and must not create systemic barriers.

Assessments can be conducted using a review of past performance appraisals, prior accomplishments, interviews and examinations.

Managers may apply merit criteria in any order they think is appropriate.

Deputy heads must:

- Inform the persons to be assessed, in a timely manner, of the assessment methods to be used, their right to accommodation and how to exercise that right; and
- Ensure that those responsible for assessment:
 - ◆ Have the necessary competencies to ensure a fair and complete assessment of the person's qualifications;

- ◆ Have the language proficiency required to permit effective communication with the person being assessed in the official language or languages chosen by that person in order to assess his or her qualifications fairly;
- ◆ Are not in conflict of interest and are able to carry out their roles, responsibilities and duties in a fair and just manner;
- ◆ Obtain the PSC's approval before using tests of personality, intelligence, aptitude, or tests of like nature;

1. *Has your union been provided an opportunity to verify that these minimum standards are being respected?*

2. *Do you know where to go if alternate formats (HTML, Braille) are not available or if information on the assessment methods has not been provided?*

3. *Is there a mechanism in your workplace to verify how and when organizational need, operational requirements and essential qualifications are assessed for various occupational groups?*

Informal Discussion

An **informal discussion** is an opportunity provided to a person eliminated from consideration during an **internal appointment process** to discuss the decision informally before an appointment is made. Departments and Agencies are expected to correct any errors uncovered during informal discussions. Given that a comparative process no longer applies to the merit principle, informal discussion will focus on the individual's assessment – and why she/he was eliminated, rather than on a comparison against the appointed individual.

There are no set rules or format for informal discussions. Managers are expected to advise individuals of the right to informal discussion.

1. *Members who wish to proceed with an informal discussion have a right to be represented. Do you know who your workplace representatives are?*

2. *Has your Department/Agency set out a format or a process for informal discussions? Was your union consulted on this?*

3. *Do you know if your Department/Agency will report on the numbers and frequency of informal discussions held and the results of these?*

Selection

Selection refers to choosing and deciding who gets the job.

Deputy heads must ensure that persons proposed for appointment or appointed:

- Meet all the essential qualifications;
- Are within the area of selection, where required;
- Meet any asset qualifications, operational requirements and organizational needs that were used to make the appointment decision; and

- Applied within the period for receiving applications, if such a period exists.

Reasons for the appointment decision have to be documented.

1. *Are members in your workplace aware of the new staffing regime in the Federal Public Service?*

2. *Do you know where to go if you want an explanation about an appointment in your Department/Agency?*

3. *Do you know what the PSC set selection standards are for jobs in your Department /Agency? You can consult these by going to : http://www.psc-cfp.gc.ca/staf_dot/stand_selec/index_e.htm*

4. *Is your Department/Agency respecting these selection standards?*

Notification

A notification is a process for identifying, in writing, the name(s) of the person (s) being considered for the job. This process applies for internal advertised or non-advertised processes. In the case of **advertised** processes, the written notice should go to all persons in the area of selection who participated in the process. In the case of **non-advertised processes**, notification of consideration must be given to all persons in the area of selection. A **first notice** starts a waiting period of at least five calendar days during which no appointment may be made. This is meant to provide enough time to hold informal discussions with those who were not considered for the appointment.

A **second notice** should provide the name of the person(s) being appointed.

Departments/Agencies may increase the initial five day waiting period, based on the size of the area of selection, the type of the appointment process, the geographic distribution of employees, work schedules and access to computer and e-mails.

1 *Has your Department/Agency established a different waiting period? If yes, for which positions?*

Corrective Action

Deputy heads have the authority (if staffing has been delegated) and in cases of internal appointments, to revoke appointments and to take corrective actions whenever the deputy-head, after an investigation, is satisfied that an error, an omission or improper conduct affected the appointment selection.

The PSC has this same authority in the case of external appointments.

The PSC cannot revoke an appointment authorized by a deputy head unless there is reason to believe that there has been political influence or fraud.

1. *Has your Department/Agency established and communicated an organizational policy on corrective action and revocation?*

2. *Does the policy provide procedural fairness in the process followed for corrective action and revocation, in particular the right to be heard and the right to have a fair investigation?*

3. *Has your union consulted on this policy? Is your union capturing and monitoring corrective actions? (Or lack of?)*



Complaints

A new Public Service Staffing Tribunal has been created. The Tribunal is responsible for receiving, assisting with resolving, hearing and deciding complaints related to internal appointments, lay-offs, revocation of internal appointments, and appointments made or proposed as a result of the implementation of corrective action.

Complaints may be filed:

For an **internal appointment process** on the grounds that:

- There was abuse of authority in either applying merit or choosing between an advertised and a non-advertised appointment process.
- There was a denial of the right to be assessed in the official language of the person's choice.

Complaints may be filed by:

- Any unsuccessful candidate in the area of selection in an advertised process; or
- Any person in the area of selection in a non-advertised process.
- If an appointment or proposed appointment occurs as a result of **corrective action** taken in response to a successful complaint under s. 77 of the *PSEA*, a complaint may be filed by the following on the ground that there was abuse of authority in implementing the corrective action:
 - The person who filed the original complaint;
 - The person originally proposed for appointment or appointed; or
 - Any person directly affected by the implementation of the corrective action.
- If some, but not all, of the employees in a part of an organization are selected for **lay-off**, any employee informed by the deputy head that he or she will be laid off may file a complaint on the ground that the deputy head's decision to lay him or her off constitutes abuse of authority.
- Any person whose appointment is **revoked** in an internal appointment process by the Public Service Commission or by the deputy head is entitled to file a complaint on the ground that the decision to revoke was unreasonable.

1. *Do members in your Department/Agency know about the grounds for filing a complaint to the PSST?*

2. *Do they know who to go to in their Component for assistance with this?*

3. *Do your members understand the powers of the PSST?*

4. *Do your members know that the PSST may interpret and apply the Canadian Human Rights Act during their proceedings and award damages?*

Conclusion

Information on the mechanics of staffing contained in this booklet was summarized from the “Making It Work for You”, Government of Canada Staffing Tool kit for Managers. Questions were prepared by the PSAC based on our history with staffing in the Federal Public Service.

You can obtain details on legislative requirements for staffing in the Federal Public Service by consulting the *Public Service Employment Act and Regulations*.

<http://laws.justice.gc.ca/en/P-33.01/index.html>

In addition, the Public Service Commission web site http://www.psc-cfp.gc.ca/index_e.htm includes information for managers and reference documents on the new staffing regime.

The *PSMA* will undergo a mandatory review in 2010. Information on our members' experiences with the new staffing regime will help us engage effectively in this review.

If you require clarification on information contained in this booklet, or want to know about other union tools related to the *Public Service Modernization Act*, please contact your Component or your PSAC Regional Office. You may also contact the PSAC PSMA Coordinator at:

PSMA Coordinator
Collective Bargaining Branch
Public Service Alliance of Canada
233 Gilmour Street
Ottawa, Ontario
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