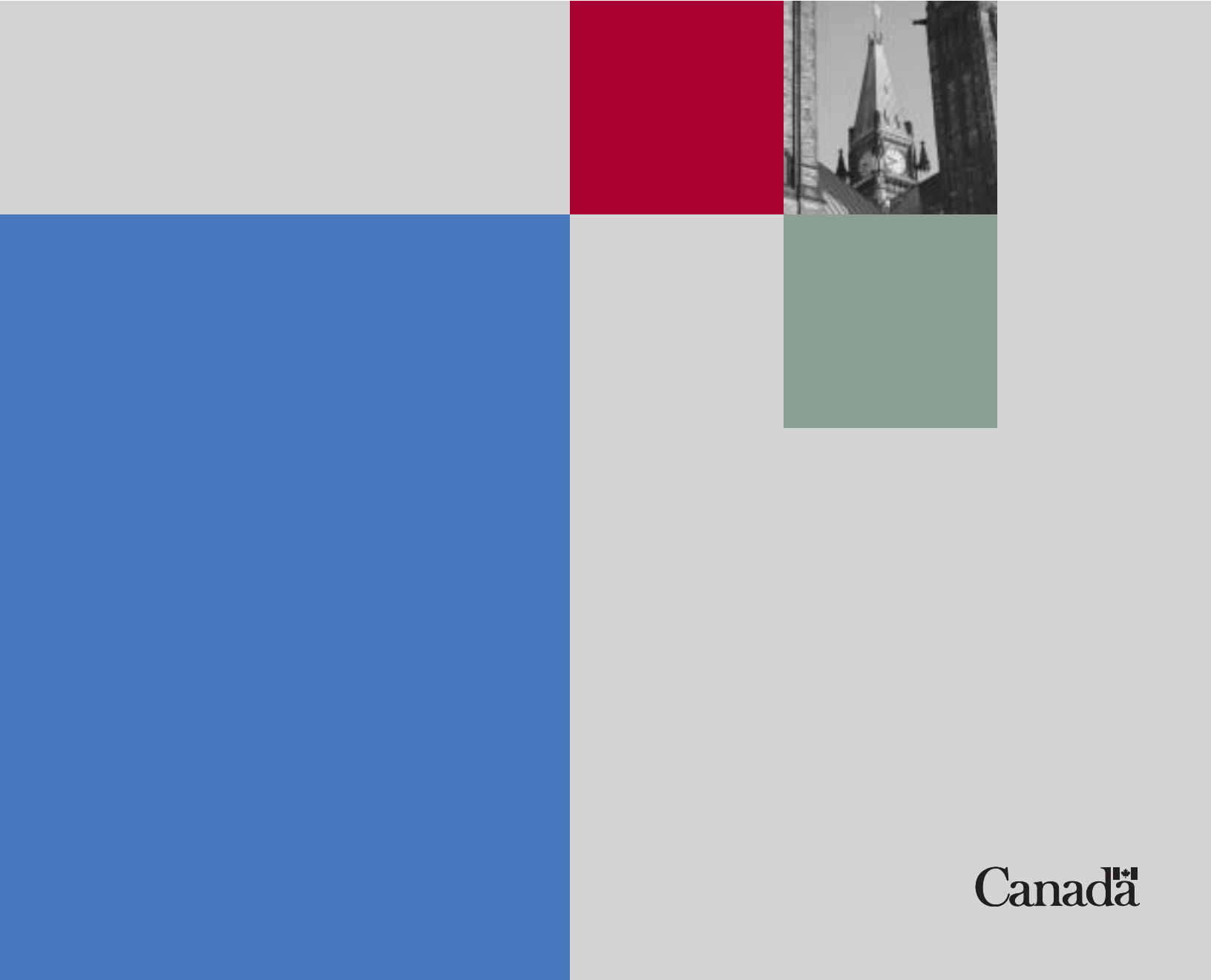




Public Service Commission
of Canada

Commission de la fonction publique
du Canada

Public Service Commission Audit of the Military Police Complaints Commission



**Public Service Commission Audit of
the Military Police Complaints Commission**



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EXECUTIVE SUMMARY

The Military Police Complaints Commission (MPCC), created in 1998 in response to the federal government's commitment to modernize Canada's military justice system, provides independent civilian oversight of the Canadian Forces Military Police. As of December 31, 2003, the MPCC had a complement of 25 employees appointed under the *Public Service Employment Act* and three part-time Commission members, in addition to the Chairperson, appointed by the Governor in Council. In February 2004, the MPCC downsized significantly in order to reduce by up to 30 percent the resources required by the organization in 2004-2005.

The Public Service Commission (PSC) and the MPCC signed a Staffing Delegation and Accountability Agreement in 2001, delegating staffing authorities to the Chairperson and requiring the organization to report annually to the PSC on its staffing performance. Based on complaints received and issues raised in the MPCC's 2002-2003 Departmental Staffing Accountability Report (DSAR), the PSC launched an audit of the MPCC in February 2004. The audit covered the MPCC's staffing activities and related matters over a three-period from April 1, 2001 to March 31, 2004. In total, the audit reviewed 56 staffing transactions, 52 involving non-executive positions and four involving executive-level positions. In addition to interviews with MPCC managers and staff, the PSC interviewed personnel from the Public Works and Government Services Canada (PWGSC) Shared Human Resources Services Directorate, which has provided human resources services to the MPCC since April 1, 2002.

The PSC found that there were serious deficiencies in the MPCC's application of staffing policies and practices, including:

- file documentation was missing or incomplete for five of 10 competitions, resulting in insufficient evidence to demonstrate that the competitive processes had been conducted in accordance with the merit principle;
- there was insufficient or no justification on file for the use of a non-competitive process in 10 of 15 cases (e.g., acting appointments, term-to-indeterminate appointments, without competition promotions);



- an overly restricted area of selection was used for posting the right of appeal in 10 of 15 non-competitive processes;
- six of 10 reclassifications were retroactive to the date, or shortly thereafter, of the incumbent's original appointment or deployment to the position; and
- through networking, managers identified three individuals who were deployed to MPCC positions and subsequently benefited from two-level non-competitive promotions.

There was no evidence of patronage or favouritism in the MPCC appointment processes. However, the use of deployments or appointments immediately followed by an acting appointment or reclassification was, in our opinion, an abuse of the MPCC's delegated authority for staffing.

We found that the MPCC's plans and strategies in support of staffing were adequate for a very small organization. Its human resources plan was clearly linked to its business plan. In most cases, senior management communicated openly with employees about staffing processes and decisions. However, the staffing-related roles and responsibilities of MPCC managers and their human resources advisors were not always clearly defined or consistently carried out.

We found that the PWGSC personnel who provided operational staffing services to the MPCC did not provide a service that protected their client from the errors that occurred in the application of staffing policies and practices. MPCC managers did not have sufficient training to make informed staffing decisions. They felt that the errors and omissions identified in the audit were made in good faith and with the benefit of expert advice.

The MPCC's 2002-2003 DSAR did not provide an accurate and complete picture of the organization's staffing performance for the reporting period. Several statements in the Report were not supported by our findings.



In our opinion, management failed to resolve a number of problems, including those related to communication, fear of reprisal and alleged harassment. These problems were initially identified in the 2002 Public Service Employee Survey and had not been dealt with adequately by MPCC senior management. A workplace assessment conducted by the Public Service Staff Relations Board in February 2004 found that lack of transparency, trust, confidence and cordiality in relations between employees and senior management were factors contributing to the low employee morale. Employee morale problems were exacerbated by the significant downsizing experienced by the MPCC in February 2004, when 47 percent of the organization's positions were eliminated.

To address the deficiencies found by this audit, the PSC made eight recommendations to the MPCC, for which commitments to corrective action have been made. To facilitate the implementation of the recommendations, the MPCC continues to work with PWGSC and has amended its agreement with the Shared Human Resources Services Directorate.

In order to ensure that the appropriate management of staffing becomes an integral part of the organization's management competencies, the PSC has withdrawn the MPCC's delegation for all appointments to executive positions and has imposed conditions on the MPCC's delegated authorities for non-executive staffing.



INTRODUCTION

AUDIT ENTITY

The Military Police Complaints Commission (MPCC) provides independent civilian oversight of the Canadian Forces Military Police. Created in 1998 in response to the federal government's commitment to modernize Canada's military justice system, the MPCC is mandated to monitor and review complaints about the conduct of members of the Military Police in the performance of their policing duties and to deal with complaints of interference with Military Police investigations. If deemed in the public interest, the MPCC may also conduct investigations of and, if warranted, hold public hearings concerning conduct or interference complaints.

Louise Cobetto was appointed by the Governor in Council as Chairperson-designate of the MPCC on September 1, 1999 and faced the challenge of setting up a fully operational organization by December 1, 1999. As of December 31, 2003, the MPCC had a complement of 25 employees appointed under the *Public Service Employment Act* and three part-time Commission members, in addition to the Chairperson, appointed by the Governor in Council.

In October 2003, the report of the Minister's Advisory Committee on Administrative Efficiency recommended a realignment of resources affecting a number of agencies under the umbrella of the Department of National Defence, and the possible integration of the MPCC with the Royal Canadian Mounted Police Public Complaints Commission. In the case of the MPCC, the recommended realignment entailed a reduction of up to 30 percent in the resources available to the organization in 2004-2005. The MPCC's budget for 2003-2004 was \$4.021 million.

In the fall of 2003, the report of the independent five-year review of the provisions and operation of the *National Defence Act* was released. In his report, former Chief Justice Antonio Lamer recognized the importance of independent oversight of the Military Police, but noted the decreasing number of complaints being handled by the MPCC. According to its 2003 annual report, the MPCC monitored 36 conduct complaints in 2003, barely half the number monitored in each of the three previous years. The organization has received only four complaints of interference with a Military Police investigation since its inception, and none in 2003.




At the recommendation of the former Chief Justice, the MPCC underwent an organizational review conducted by Consulting and Audit Canada (CAC) in order to determine whether the organization's financial and human resources were appropriate to its case load. The CAC review led to a significant reorganization of the MPCC, resulting in the elimination in February 2004 of 10 full-time equivalents and four vacant positions. The MPCC was successful in placing all but one of the affected employees by the end of March 2004.

BACKGROUND TO THE AUDIT

In January 2001, the Public Service Commission (PSC) and the MPCC signed a Staffing Delegation and Accountability Agreement (SDAA) delegating staffing authorities to the Chairperson of the MPCC. By accepting this delegation, the Chairperson committed to carrying out organizational staffing activities in a manner that ensures the observance of the merit principle and the Public Service-wide staffing values and principles. (Refer to Appendix C for the definition of the staffing values and principles.)

In accordance with the SDAA, the Chairperson is required to report annually to the PSC on the MPCC's staffing performance. Two reports have been received by the PSC, one for fiscal year 2001-2002 and one for 2002-2003. The PSC conducted a preliminary evaluation of the MPCC's 2002-2003 Departmental Staffing Accountability Report (DSAR) in January 2004 and found that the Report did not address some of the issues that had been brought to the PSC's attention, as described in the following paragraphs.

In January 2004, the PSC received a package of information from a group of MPCC employees, in which they expressed their concerns about the action plan proposed by MPCC management to address the results of the June 2002 Public Service Employee Survey. Approximately 80 percent of MPCC employees had responded to the Survey, the results of which were released to the organization in December 2002. A number of areas of concern were identified, including high staff turnover, lack of communication with staff, lack of satisfaction with the work performed, and workplace harassment.



In their information package, the MPCC employees informed the PSC that the Chairperson had asked Odilon Émond, one of the part-time Commission members and a member of the Executive Committee, to study the Survey results and recommend appropriate corrective actions. His report and recommendations were presented to the Chairperson on October 29, 2003. Employees were provided with a copy of Mr. Émond's report and the action plan developed by the MPCC's Management Committee in late January 2004. At that time they contacted the PSC and other central agencies with their concerns, which they felt had not been addressed by the action plan.

In November 2003, the former President of the PSC had also received information related to the MPCC employees' concerns. Taking this into account, along with issues raised by the MPCC's 2002-2003 DSAR and the MPCC employees' information package, in February 2004 the PSC decided to launch an audit of the MPCC's staffing and recruitment activities.

AUDIT OBJECTIVES

1. To determine whether, during the period from April 1, 2001 to March 31, 2004
 - the management framework of the Military Police Complaints Commission (MPCC) staffing and recruitment activities; and
 - recruitment and staffing transactions and processes for MPCC positionswere in compliance, or in accordance, with:
 - the *Public Service Employment Act* and associated Regulations and Orders;
 - the Staffing Delegation and Accountability Agreement between the Public Service Commission (PSC) and the MPCC; and
 - PSC policies and the staffing values.
2. To identify concerns related to the staffing of MPCC positions and human resources issues that affect the management of the organization and the quality of the work environment.
3. To determine whether the content of the 2002-2003 Departmental Staffing Accountability Report (DSAR) is fair and reliable.

The PSC developed criteria against which to assess the achievement of these objectives. To measure the MPCC's performance in relation to these criteria, the audit reviewed the organization's staffing programs, systems and activities and the content of the 2002-2003 DSAR, with particular reference to:

- compliance with applicable laws, regulations and policies; and
- the informed and ethical balancing of staffing values and management principles.

Refer to Appendix A for the audit's terms of reference, Appendix B for the audit criteria, and Appendix C for the definition of the Public Service staffing values and principles.



SCOPE AND METHODOLOGY

The audit covered all staffing transactions carried out by the Military Police Complaints Commission (MPCC), under the authority delegated to the Chairperson, from April 1, 2001 to March 31, 2004. It also included staffing transactions conducted by the Public Service Commission (PSC) on behalf of the MPCC that were not delegated to the Chairperson (e.g., the staffing of executive-level positions and non-competitive appointments of persons from outside the Public Service, typically referred to as named referrals).

For the period under review, there were approximately 56 staffing transactions, 52 involving non-executive positions and four involving executive-level positions. A summary of the MPCC's non-executive staffing activities is provided in Table 1 in the section entitled "Non-Executive Staffing Processes".

In addition to identifying concerns related to staffing, we reviewed other human resources issues that had come to our attention and that might impact the management of the organization and the quality of the work environment. The audit did not entail a review of the delivery of the organization's mandate or the financial management of the MPCC.

Audit activities included:

- structured interviews with the MPCC Chairperson, the Chief of Staff, the previous Executive Director, the Director of Legal Services/General Counsel, the Director of Operations, the Manager of Corporate Services, current and former MPCC employees, one of the MPCC's union representatives, and representatives from the PSC;
- structured interviews with representatives from the Public Works and Government Services Canada (PWGSC) Shared Human Resources Services Directorate, which has provided human resources services to the MPCC on a cost-recovery basis since April 1, 2002;



- a review and analysis of all available files for all staffing actions conducted during the period under review; and
- a review and analysis of all departmental documentation regarding plans, policies, programs, processes, communications and reports pertaining to staffing in the MPCC.

The audit team was also in contact with the Public Service Staff Relations Board (PSSRB), which was mandated by MPCC management to evaluate the work environment and develop a plan to address various workplace issues, including the concerns raised by employees in the 2002 Public Service Employee Survey. The PSSRB began its evaluation of the work environment in February 2004 and submitted its report to MPCC management on April 2, 2004.



STAFFING MANAGEMENT FRAMEWORK

The first part of this report addresses the management framework of staffing and recruitment activities at the Military Police Complaints Commission (MPCC), with particular reference to:

- the organization's staffing and recruitment strategies, plans and policies;
- the staffing-related roles and responsibilities of managers and human resources advisors;
- communications with managers and employees regarding staffing matters; and
- reporting and control systems.


STRATEGIES, PLANS AND POLICIES

The MPCC's plans and strategies in support of staffing and recruitment activities are adequate for a small organization. However, the MPCC's staffing activities are not always consistent with its strategies.

The MPCC has overly restricted the area of selection used for posting the right of appeal in non-competitive processes.

As described in the audit criteria, the Public Service Commission (PSC) would expect to find that staffing and recruitment strategies, plans and policies are clearly linked to an organization's mandate. In terms of staffing policy, we would expect an organization to develop its own policies in areas of specific concern. However, the PSC's expectations concerning an organization's staffing management framework are influenced by the size of the organization.

As a very small agency, the MPCC would not be expected to have comprehensive human resources plans or strategies. At a minimum, the PSC would expect that the MPCC clearly link its human resources plan or strategy to its business plan. Nor would the MPCC be expected to develop its own staffing policies; instead, the MPCC would be expected to adopt staffing practices that comply with central agency policies and guidelines.



The PSC found that the MPCC has clearly linked its human resources and business planning processes. The MPCC's 2002-2003 Report on Plans and Priorities identified the following three strategic outcomes:

- enhance the MPCC's informal and expeditious handling of complaints;
- improve awareness and raise the profile of the MPCC with respect to its mission, mandate, role and results achievement; and
- provide quality public service through greater efficiency in the operation of the MPCC through technology, partnerships and adoption of best practices.

In its Departmental Performance Report for the period ending March 31, 2002, the MPCC had reported progress towards achieving the first strategic outcome, in terms of recruitment and training of indeterminate employees for key positions.

The MPCC also noted in its 2002-2003 Departmental Staffing Accountability Report (DSAR) that it had finalized a comprehensive strategic plan in January 2003 and had focussed on the following human resources priorities during the fiscal year: "stabilizing its workforce, standardizing the employee and management performance agreement/appraisal processes, and improving career development and other retention issues to ensure a more sustainable workforce, such as introducing individual training plans."¹

In addition, the Chairperson told us that each year the MPCC develops a human resources plan by analysing its requirements for classification, staffing and staff relations.

In keeping with its third strategic outcome of achieving greater efficiency through partnerships, the MPCC has obtained its human resources services from the Public Works and Government Services Canada (PWGSC) Shared Human Resources Services Directorate since April 1, 2002. The current agreement is valid until March 31, 2005. PWGSC offers a full range of human resources services, customizing service delivery to individual client requirements. During the period under review, the MPCC purchased operational staffing and classification services on an ongoing basis, and additional corporate services, such as the preparation of annual reports, on an *ad hoc* basis.

1. MPCC's 2002-2003 Departmental Staffing Accountability Report, page 1.



In terms of an overall strategy for staffing positions in the MPCC, the Chairperson and managers told us that the organization first looks internally for qualified candidates. However, as a very small organization in which the majority of positions are unique, the MPCC often looks elsewhere in the Public Service or even in the general public to staff positions via competitions.

The MPCC also gives consideration to employees' development by offering acting appointment opportunities to staff. The Chairperson stated that deployments and non-competitive processes are used when other staffing processes are unproductive. The expertise required to achieve the MPCC's mandate is typically limited to individuals with experience in such organizations as the Royal Canadian Mounted Police, Canadian Security Intelligence Service, and other civilian oversight agencies.

In a speech presented in June 2000 at the 16th annual conference of the Council of Canadian Administrative Tribunals, the Chairperson spoke of the challenges she faced in establishing the MPCC. In addressing the issue of staffing the organization, she indicated that "the hiring of staff will affect the success of the Commission" and stated that, although it can take up to six months to staff a position in the Public Service, one should "take the necessary time to hire your permanent staff even if it takes longer than you would wish."²

In her interview, the Chairperson also told us of the importance of staffing key positions through competitive processes in order to obtain the most qualified candidates. However, during the period covered by the audit, seven staffing processes were used to fill the MPCC's four key positions (identified by the Chairperson as Executive Director, Director of Operations, Director of Legal Services/General Counsel and Executive Assistant). Five of these seven staffing processes were non-competitive.

2. [Establishing the Military Police Complaints Commission: A Commission Born. Speaking Notes for the Chairperson's Speech to the 16th Annual Conference of Canadian Administrative Tribunals, Ottawa, Ontario, June 12, 2000, page 4.](#)



Although most of the positions in the MPCC had already been classified, the planned implementation of the Universal Classification System required that positions be revisited. MPCC management felt that this exercise would allow for the review and redefinition of each position's responsibilities. However, rather than this coordinated organization-wide approach to the review of positions, 10 positions were individually reclassified upwards during the period covered by the audit. When interviewed, two managers indicated that reclassification was not always used appropriately in the MPCC, and that some positions were customized to the individual. More detailed information about reclassifications that occurred during the period covered by the audit is presented in the section entitled "Non-Executive Staffing Processes."

As expected of a very small organization, the MPCC has not developed its own staffing-related policies. However, we found that the MPCC has not always complied with the PSC's area of selection policy, as it pertains to posting the right of appeal in non-competitive processes.

Chapter 4 of the *Staffing Manual* states that, for a competitive process, the area of selection will determine who is eligible to apply and that it "must identify a reasonable pool of candidates to ensure a meritorious selection process". During the period covered by the audit, the MPCC conducted 10 competitions that produced one or more qualified candidates. Six of these were external competitive processes handled by the PSC and, therefore, the MPCC was not responsible for determining the area of selection. Three of the remaining four competitions were posted to all departments in the National Capital Region and one (for an AS-01 position) was posted internally to the MPCC only. In all four cases, the area of selection used was appropriate and should have provided the MPCC with a reasonable pool of candidates.

With non-competitive processes, the area of selection determines who has the right of appeal. The PSC's *Staffing Manual* states that the area for posting this right of appeal should not be "so restrictive that it is meaningless". Excluding reclassifications, during the period under review, the MPCC conducted 15 non-competitive processes for which a right of appeal was posted (four promotions, five term-to-indeterminate appointments and six acting appointments). In 14 of the 15 non-competitive processes, the right of appeal was given to MPCC employees only. This would be considered appropriate for the four non-competitive processes involving entry-level positions because there would have been potentially qualified employees within the MPCC. However, for the other 10 processes, posting the right of appeal to MPCC employees only was meaningless, either because the position being staffed was of a higher level (e.g., FI, SI, LA positions) and/or because the appointee was from another department.



In the former situation, few, if any, employees within the MPCC had the qualifications required for the higher-level positions being staffed. In the latter situation, at a minimum, employees in the appointee's former department should have received the right of appeal. Only in the case of a non-competitive promotion to a PM-06 position was the right of appeal posted appropriately, in March 2004, to all departments in the National Capital Region.

In summary, the MPCC has strategies and plans in place that clearly link its staffing and recruitment to the organization's mandate. However, the MPCC needs to ensure that the conduct of individual staffing actions is consistent with the organization's staffing strategies. Given that the MPCC has not developed its own area of selection policy, it should comply with the PSC's policy as it pertains to the posting of the right of appeal in non-competitive processes.

ROLES AND RESPONSIBILITIES

The staffing-related roles and responsibilities of MPCC managers and their human resources advisors are not always clearly defined or carried out consistently.

The PSC expected to find that:

- MPCC managers and their human resources advisors understand the values, policies, roles and responsibilities with respect to staffing;
- a sufficient number of managers and human resources advisors have received relevant training; and
- in addition to providing support and advice, human resources advisors provide a challenge function to managers. Human resources advisors should provide hiring managers with a verbal or written caution concerning the appropriateness of proceeding with staffing actions that do not respect the legislative, regulatory, policy and values-based framework of staffing in the Public Service.

During the period under review, the Chairperson had sub-delegated the authority for staffing to two MPCC managers, the Executive Director and the Director of Legal Services/General Counsel. As a result of the reorganization, however, the Executive Director position has been eliminated, and currently there is only one MPCC manager with sub-delegated authority for staffing.



The MPCC has obtained its human resources services from the PWGSC's Shared Human Resources Services Directorate since April 1, 2002. Prior to that date, human resources services were provided by a number of different organizations and individuals, including the Department of National Defence, the Passport Office and various private consultants. For the roles and responsibilities in the current staffing regime, the PSC was given differing information on whether PWGSC personnel dealt directly with the hiring manager or not. This issue is important in understanding how advice was conveyed to the MPCC concerning the appropriateness of certain staffing actions (e.g., retroactive reclassifications, acting appointments on the same date as deployment).

The Chairperson told us that the hiring manager is responsible for consulting with the human resources advisor, who then advises the manager on the various staffing options available. The human resources advisor makes a recommendation, but the final decision and accountability rest with the hiring manager.

Information provided by PWGSC personnel generally supported this description of the roles and responsibilities. However, they emphasized that the PWGSC human resources advisor offered advice and guidance directly to the MPCC's Manager of Corporate Services or her subordinate, the Human Resources Coordinator. PWGSC personnel said that they had no control over what, how or if their advice was relayed to the hiring manager or the MPCC executive team. Once a course of action was determined, the hiring manager's staffing decision was communicated via the Manager of Corporate Services or Human Resources Coordinator back to the human resources advisor for action.

Some managers indicated that they handled staffing actions directly with the human resources advisor, while others said that they dealt only with the Manager of Corporate Services or the Human Resources Coordinator. However, all agreed that MPCC management was accountable for all staffing decisions made by the organization.

MPCC managers, including the Chairperson, were asked if they had ever experienced a situation in which they disagreed with the advice provided by the human resources advisor. With the exception of one manager, they said they had never disagreed with the advice received. PWGSC advisors were asked if they had ever encountered a situation where a manager wished to proceed with a staffing action that was contrary to PSC and/or MPCC policies, regulations or any other legislative requirement. The advisors were not able to recall such a situation.




In reviewing the staffing actions conducted by the MPCC during the period under review, we concluded that there were serious deficiencies in the application of staffing policies, practices and values. Details of the MPCC's staffing actions are presented in the section entitled "Non-Executive Staffing Processes".

We did not find any written evidence in the staffing files of a challenge by human resources advisors concerning the staffing action chosen by the manager. Similarly, PWGSC personnel were unable to recall any specific examples of staffing actions for which they verbally challenged the manager directly (or indirectly through the Manager of Corporate Services or Human Resources Coordinator) to make the point that the chosen course of action did not respect staffing rules or values. Although they did provide examples of the challenge function in other areas of human resources, PWGSC personnel did not provide any examples specifically related to the MPCC's staffing activities. Furthermore, when asked about specific staffing actions that we considered questionable, the PWGSC personnel were not able to give examples of advice that they would have given to managers in those circumstances.

The challenge function exercised by staffing specialists is particularly important when managers do not have sufficient experience or training in staffing. In the case of the MPCC, three of the five managers employed by the organization during the period covered by the audit were hired from outside the core Public Service, from organizations where staffing is not subject to the *Public Service Employment Act*. In addition, the Chairperson had no federal government experience prior to her Governor in Council appointment. We were told that the Chief of Staff, Director of Legal Services and Manager of Corporate Services had some experience and/or training related to staffing. However, no one had extensive training or experience in this area and they claim that they relied on the advice of their human resources advisors to ensure that the MPCC's staffing activities respected the legislative, regulatory, policy and values-based framework of staffing in the Public Service.

In October 2000, the former President of the PSC had provided an overview of staffing in the Public Service to a group of MPCC employees, including the Chairperson and Executive Director. Since that time, MPCC managers have not received any additional training on staffing processes and values. The MPCC's Human Resources Coordinator took the training course designed for staffing assistants several years ago, but has not had recent or in-depth training in staffing. PWGSC's human resources advisors have received training on staffing values and, with the exception of one individual, have certification in Public Service staffing.



In summary, the MPCC management should clarify the roles and responsibilities of those involved in staffing. Managers must acquire a clearer understanding of the Public Service's staffing management framework in order to make informed staffing decisions for which they are accountable. MPCC management must ensure that a challenge to staffing decisions is provided, when required, by those with sufficient staffing expertise.

The PSC was informed that steps have been taken to improve the provision of human resources services by PWGSC personnel in 2004-2005. Human resources advisors now provide advice and guidance directly to the Director of Legal Services/General Counsel/Acting Executive Director, who has sub-delegated staffing authority. Any contentious issues are to be brought to the attention of the Chairperson.

RECOMMENDATION 1

That the MPCC Chairperson ensure that a challenge to managers' staffing decisions is provided, when required, as part of the delivery of services by staffing specialists.

MPCC's Response to Recommendation 1

Since April 1, 2004, through direct reporting to the manager exercising sub-delegated staffing authority, the challenge function has been enhanced significantly. Furthermore, PWGSC has been advised to bring forth any contentious issues directly to the Chairperson. The Memorandum of Understanding with PWGSC will be amended to reflect this enhanced service delivery model by October 29, 2004.

RECOMMENDATION 2

That a training session on staffing values be given to all MPCC employees and managers, whether or not they have been sub-delegated the authority for staffing.

MPCC's Response to Recommendation 2

The Chairperson welcomes training opportunities for her staff. PWGSC will be asked to coordinate such a session with the PSC. A formal request from the Complaints Commission was sent to PWGSC on September 17, 2004.



RECOMMENDATION 3

That the MPCC Chairperson sub-delegate staffing authority only to those with appropriate training in staffing processes and values.

MPCC's Response to Recommendation 3

The Chairperson will ask that PWGSC human resources specialists, in consultation with the PSC, recommend a training plan for the managers who will have sub-delegated staffing authority. A formal request from the Chairperson was sent to PWGSC on September 17, 2004.

COMMUNICATIONS

In most cases, MPCC management communicates openly with employees about staffing processes and decisions.

The PSC expected to find that MPCC management communicated openly with employees about its staffing processes and decisions. Employment opportunities should be communicated to employees and potential candidates in a manner that allows equity of access for those who might be interested and qualified. Also, MPCC management should communicate their staffing decisions transparently to all staff so that employees understand the rationale for the organization's staffing processes.

We found that, during the period covered by the audit, all internal staffing notices were posted electronically on Publiservice, with the exception of one case in which the MPCC used the Automated Notice System (ANS). Both Publiservice and ANS are official means of posting staffing notices within the Public Service and are accessible to all Public Service employees. However, as discussed in greater detail in the section entitled "Non-Executive Staffing Processes", MPCC managers used their own networks to find potential candidates in three non-competitive processes, a practice which did not give other potentially qualified and interested candidates the opportunity to apply.



As expected in a very small organization, the PSC found that staffing decisions are shared with MPCC employees in an informal manner during team meetings or via e-mail. The Chairperson told us that everything is discussed freely at Executive Committee meetings; managers are tasked with the responsibility of communicating with their individual work units. We were provided with examples of e-mails to staff, which demonstrated that senior management communicates openly and extensively with employees about matters affecting the organization, including staffing. However, we also found evidence that staffing decisions were not always communicated transparently and, as a result, employees did not clearly understand the rationale for the staffing process in question.

For example, in the case of the reclassification of two employees from an AS-01 to an AS-02 level, we received different information from managers, employees and PWGSC personnel concerning who proposed the reclassification and whether the employees' duties had changed sufficiently to warrant a higher-level classification. We were told that the Executive Director (who had sub-delegated staffing and classification authority) and the Director of Operations (to whom one of the positions reported) initially opposed the reclassification because they felt that the existing classification level was fair and met the organization's requirements. The Director of Operations was told by senior management that the decision to reclassify his assistant did not concern him. Despite the managers' reservations, senior management approved the reclassification of the two positions.

We were also given different versions of how the functions of the assistants' positions had changed. When interviewed, neither of the incumbents could give examples of any significant change in their jobs. There was also confusion about whether the reclassification was due to the addition of Access to Information and Privacy (ATIP) coordination duties or the addition of back-up responsibilities in the Chairperson's office. We were told that the decision to reclassify the positions was made by the Chairperson in February 2003, before the work descriptions had been reviewed. In May 2003, the PWGSC classification specialist stated in an e-mail to the Executive Director that the positions did not warrant an AS-02 level even if ATIP duties were added and she recommended the use of generic work descriptions, which would allow for each incumbent to back up the other, as well as the Chairperson's assistant. The positions were reclassified to AS-02 in July 2003 retroactively to February 2003.



In the context of the MPCC's downsizing exercise, we found that senior management communicated frequently and openly with employees by providing e-mail updates and regular all-staff briefings. We were provided with evidence demonstrating that employees received information and training sessions from union, PWGSC and PSC representatives. However, we also found evidence of a few situations where communication with employees could have been improved.

On October 30, 2003, an information meeting was held to advise employees that the MPCC was facing a major reorganization and that a number of positions would have to be abolished. On the same day, the Executive Director received a request from the Director of Legal Services to appoint a term legal counsel on a permanent basis. At a time when the MPCC had just announced the potential elimination of a number of positions, the Executive Director did not consider that it was appropriate to make an indeterminate appointment of a legal services employee; he expressed in an e-mail to senior management his disagreement with the proposed appointment. This was the same view that he had expressed at the October 29 Executive Committee meeting, at which he proposed a staffing freeze while the restructuring of the organization was under review. On October 31, employees were informed by the Chairperson via e-mail that, effective immediately, the Executive Director would assume new responsibilities for special projects within the Chairperson's office. His responsibilities as Executive Director were assigned to the Director of Legal Services.

In the Chairperson's view, the events of October 30 and 31 were coincidental and not related. She provided us with evidence that the decision to assign new responsibilities to the Executive Director had been under consideration for some time. However, for reasons of confidentiality, she could not convey this information to staff. As a result, there was concern on the part of employees about the circumstances surrounding the Executive Director's reassignment and the proposed permanent appointment of a term legal counsel at a time when other positions were potentially in jeopardy. When interviewed, some employees indicated to the PSC that they felt that Legal Services was favoured in the downsizing exercise.



Another example of a communication situation involving staff also occurred in the context of the reorganization. MPCC employees had been briefed by senior management at an all-staff meeting on December 22, 2003 that the Corporate Services section would likely face significant cuts. This was because, unlike other small agencies that typically spend approximately 20 percent of their budget on corporate services, the MPCC spent 44 percent. The Director of Operations, however, was told by the Chairperson on more than one occasion that the Operations section would not be affected in the downsizing. When the downsizing decisions were announced on February 4, 2004, the Manager of Corporate Services and the Director of Operations were not told about the decisions affecting their own staff until five minutes before the employees themselves were informed. The unions, however, had been notified by e-mail the day before.

We were told that the Chairperson had decided, on the basis of advice received from PWGSC personnel, not to include the two managers in the reorganization decision-making process because she had concerns about their lack of collaboration and loyalty during the Consulting and Audit Canada audit and review. As a result, the two managers said that they were ill-equipped to deal with the concerns and questions of their employees. Seven employees in the Corporate Services section, including the Manager herself, were declared surplus. In the Operations section, one employee was declared surplus as the result of a “technical oversight” (i.e., she was acting in a PM-06 position, but her substantive PM-04 position was eliminated) and the Director was informed that his position would be reviewed in six months, depending on the volume of complaints received by the MPCC.

In summary, we found that, in most cases, the MPCC senior management communicated openly with employees about staffing processes and decisions. However, there were a few situations where senior management should have been more transparent and open in their communication with employees and managers about staffing processes and decisions. In particular, in such a small organization undergoing a major downsizing, we found that the decision to omit two managers from the reorganization decision-making process, and from advance notification as to which of their employees were affected, contributed to increased concern on the part of employees.



RECOMMENDATION 4

That the MPCC Chairperson ensure that all staffing and related processes are conducted with fairness and transparency so that employees understand the rationale for staffing decisions.

MPCC's Response to Recommendation 4

The Chairperson is committed to fairness and transparency in all processes at the Complaints Commission, whether in staffing or in relation to the MPCC's core mandate. The Chairperson has already asked that any staffing actions be posted on the Complaints Commission Web site in a prominent way. In addition, a written directive was issued on September 17, 2004 requiring that the Complaints Commission staff receive information and explanations regarding all staffing decisions via e-mail.

In the Chairperson's view, all of the MPCC's workforce adjustment situations were conducted with fairness and transparency. However, for reasons of privacy, it would have been improper to discuss with all staff specific situations concerning individual employees. The Chairperson remains committed to transparency to the extent permitted by privacy legislation and regulations.

REPORTING AND CONTROL SYSTEMS

There is a lack of monitoring and analysis with respect to the MPCC's staffing activities.

The PSC expected to find that MPCC management receives timely and useful staffing performance information that would allow the organization to monitor and analyse its staffing activities over a period of time. We found that the MPCC has monthly reports, prepared with the assistance of PWGSC personnel, which update the Executive Committee on human resources activities. The reports provide information on the current status of individual staffing actions, but do not present an overall picture of the number and types of staffing actions undertaken by the MPCC over a period of time. The Chairperson told us that she uses these reports to plan and forecast the organization's human resources requirements.



In such a small organization, the PSC did not expect to find an elaborate monitoring or reporting system. A monthly or yearly summary of staffing activities would allow the MPCC to obtain an overall picture of its staffing performance. An analysis of this information would then help the MPCC determine if it is using an appropriate mix of staffing processes or if it is relying too heavily on any one type of process (e.g., non-competitive processes).

In terms of other information gathering, the MPCC has implemented an exit interview policy, which allows employees to voluntarily provide information on their reasons for leaving the organization. A significant number of employees have left the MPCC (i.e., 19 employees in the three-year period covered by the audit) and data gathered from the exit interview process might help the organization determine the underlying reasons for the high turnover rate. However, employees have chosen not to participate in this process. The information requested is very specific and would allow for the easy identification of respondents in such a small organization. Additional information concerning the issue of the MPCC's high turnover rate can be found in the section entitled "The Departmental Staffing Accountability Report: Fairness and Reliability".

In summary, the MPCC has implemented some staffing reports, but would benefit from the implementation of periodic monitoring and analysis of its staffing activities.

RECOMMENDATION 5

That the MPCC Chairperson implement periodic monitoring and analysis of staffing activities.

MPCC's Response to Recommendation 5

The Chairperson will ensure that staffing activities are discussed at each Executive Committee meeting, starting in September 2004. In addition, an independent review, by the Complaints Commission and by PWGSC, will be conducted annually for the next three years. Performance measures concerning staffing actions will be reported and analyzed. The process will be reassessed following three years of application, in consultation with the PSC. The independent review process will start in 2004.



NON-EXECUTIVE STAFFING PROCESSES

Many of the Military Police Complaints Commission's (MPCC) non-executive staffing activities do not follow the policies and accepted practices of values-based staffing in the Public Service. There are serious deficiencies in the application of staffing policies and practices.

The mix of staffing processes and the sources from which the MPCC obtains candidates need improvement.

The Public Service Commission (PSC) expected to find that the MPCC's staffing activities respect the legislative, regulatory, policy and values-based framework for staffing in the Public Service. More specifically, the PSC expected to find that:

- the mix of staffing processes (competitions, deployments, non-competitive processes) and the sources from which the organization obtains candidates (internal to the MPCC, internal to the Public Service, outside the Public Service) enable the MPCC to fulfil its mandate and mission;
- assessment methods are appropriate and are applied properly;
- appropriate mechanisms are in place to ensure respect for non-partisanship in staffing; and
- appropriate documentation is present in staffing files and within the organization to demonstrate compliance with the *Public Service Employment Act* (PSEA), the *Public Service Employment Regulations* (PSER) and related policies, and respect for the staffing values.

We reviewed all 52 non-executive staffing actions that occurred during the period covered by the audit, including 10 competitions, 12 deployments, and 30 non-competitive processes. A breakdown of the MPCC's staffing activities for the period of April 1, 2001 to March 31, 2004 is presented in Table 1.

Competitive processes

The PSC reviewed 10 competitive processes for MPCC positions — four competitions restricted to the Public Service and six open to the general public. As two appointments were made from one open competition, a total of 11 competitive appointments were made during the period under review. The PSC found that, in one open competition, the successful candidate did not meet the language requirements of the position and that the requirements were subsequently modified (i.e., the process was changed from “bilingual imperative” to “non-imperative”, meaning that the appointee did not have to meet the language requirements upon appointment and could be eligible for language training). As the poster was not changed and re-issued, other potential candidates, who might have applied but did not because of the original language requirements, were never advised of the change. This practice does not respect the values of fairness and equity of access.

The PSC also found that five competition files contained insufficient documentation to determine whether the assessment process had been conducted in accordance with the merit principle (e.g., no rating guide, no marks assigned to candidates, no reference check information). One other competition file was missing.

TABLE 1

STAFFING ACTIVITIES: 1 APRIL 2001 – 31 MARCH 2004	# OF PROCESSES
COMPETITIVE PROCESSES	10
OPEN COMPETITIONS	6
CLOSED COMPETITIONS	4
WITHOUT COMPETITION PROCESSES	30
RECLASSIFICATIONS	10
NAMED REFERRALS (AUTHORIZED BY THE PSC)	5
PROMOTIONS	4
TERM-TO-INDETERMINATE APPOINTMENTS	5
ACTING APPOINTMENTS	6
DEPLOYMENTS	12
TOTAL	52



Non-competitive processes (excluding named referrals)

Thirty non-competitive appointments were made to MPCC positions during the period covered by the audit. In the case of three appointments, the PSC found that the person hired was known by one or more of the MPCC's managers. We did not find evidence that those appointed were friends or relatives of the hiring manager. Instead, this type of situation arose as a result of managers using their own networks to find potential candidates for deployment. The use of one's network is not itself considered an unacceptable means for finding qualified people for deployment; however, it denies access to other potential candidates. In addition, in all three situations, the person identified for deployment subsequently benefited from a two-level non-competitive promotion. The details of the three appointments are provided below.

The MPCC had experienced difficulty staffing a PM-06 Investigator position. A competition open to the general public had been unsuccessful because no candidates were found to have the required combination of investigative experience and excellent writing skills. Arrangements to staff the position on a temporary basis also fell through. In order to staff the PM-06 position, a person was deployed to a PM-04 position, which had been created solely to facilitate the deployment. On the date of her deployment, the employee was given an acting appointment to the PM-06 position, even though the hiring manager knew that she lacked the experience required. It was the manager's intention to appoint her indeterminately to the PM-06 position after she had received substantial training in investigative techniques. The manager did not consider her sufficiently qualified for an immediate permanent appointment to the PM-06 position, but allowed her to act at the full PM-06 level while she acquired the necessary training and experience. After a year acting in the position, she was promoted without competition to the PM-06 level. There is no evidence that any of the candidates in the unsuccessful open competition was offered a similar developmental opportunity. The appointee had previously worked for the same organization as the hiring manager. Although they did not work in the same unit, the manager was aware of her work and her supervisor, known to the manager, recommended her for the MPCC position. The acting appointment file does not contain any assessment material demonstrating how the appointee was deemed to be qualified at the PM-06 level.



The MPCC had two vacant positions to be staffed, an AS-02 and an AS-01. The Executive Director asked MPCC staff if they knew of anyone who had the required qualifications and who might be interested in one of the positions. A manager and an employee both provided names of Public Service employees whom they knew and who were interested in finding new employment. One of the referred employees was deployed to the AS-02 position and subsequently reclassified to the AS-04 level retroactive to the date of her deployment. The other employee referred was deployed to a CR-04 position and on the same day was given an acting appointment in the AS-01 position. Six months later, she was appointed to the AS-01 through a competitive process in which she was the only candidate. She was subsequently reclassified to the AS-02 level retroactive to three weeks after the date of her competitive AS-01 appointment.

As described in the section entitled “Strategies, Plans and Policies”, 10 positions were reclassified during the period covered by the audit. In six of the 10 cases involving the subsequent reclassification of the position’s incumbent, the PSC found that the reclassification was made retroactive to the date, or shortly thereafter, of the incumbent’s original appointment to the position (i.e., two on the same day, three within two months, and one four months later). The PSC was assured by managers that work descriptions were typically up-to-date at the time that a staffing action was initiated. Yet, shortly after the six positions in question were initially staffed, the positions were classified at a higher level, retroactive to the date of the original staffing action or soon thereafter. This was possible because the Public Works and Government Services Canada (PWGSC) classification specialist did not put the effective date of the classification action on the file, leaving MPCC managers with the responsibility of determining the appropriate date.

The reclassification of existing positions may occur when the work has evolved over a significant period of time, usually from six to 12 months. To be appointed to the reclassified position, the incumbent must have performed the duties satisfactorily during that time period. The MPCC’s practice had the effect of favouring newly appointed individuals, who were effectively promoted without competition; this practice did not respect the staffing values of fairness, transparency and equity of access. In particular, the PSC views the use of deployments followed by retroactive reclassifications to be an abuse of the delegated authority for staffing.



Of the 20 remaining non-competitive processes, the MPCC had delegated authority for 15 appointments (four promotions, five term-to-indeterminate appointments, and six acting appointments). For 10 of these appointments, the PSC found little or no evidence on the staffing files to justify the use of a non-competitive appointment. Five of the non-competitive appointments involved positions requiring general competencies and, therefore, the use of a non-competitive process could not be justified in terms of the appointee's specialized skills or expertise.

Named referrals

During the period under review, the PSC approved five named referrals to MPCC positions (i.e., non-competitive appointments of persons from outside the Public Service). As the PSC has not delegated authority for named referrals to the MPCC, the PSC had primary responsibility for these staffing actions. However, the MPCC is responsible for making the initial request for the named referrals and for making the resulting appointments. The named referral processes have been included in the audit report for the purpose of providing a complete picture of all staffing activities involving the MPCC from April 1, 2001 to March 31, 2004.

In examining the staffing files for the five named referral processes, we found that three of the five named referrals did not meet the criteria established by the PSC for use by departments when requesting named referrals. There was no evidence on file of extenuating circumstances that would have justified the MPCC's request for a named referral. Nor was there any evidence on file that the MPCC had made any effort to staff the positions through other means, such as a competitive process. In one case, the PSC approved the MPCC's request for a named referral based on the following justification: (translation) "The candidate sent her application directly to the manager who was looking for someone occupying a similar position in the Public Service Up to that point, the search had been unsuccessful and it became critical to staff the position. The MPCC is a very small organization and cannot fill the position through a closed competition. We have to use agency services and the position has been vacant for over a month". The person was working at the MPCC as a casual employee at the time when she was appointed indeterminately to an AS-01 position via the named referral process.

The PSC has recognized that there are inconsistencies in the interpretation and application of the criteria for named referrals. In October 2002, the PSC issued a Letter to Heads of Personnel (02-37) to clarify the criteria to be used by departments when requesting a named referral. As a follow-up to the audit's observations, the PSC has taken further steps to ensure that frontline PSC staff apply the criteria clearly, correctly and consistently.

Documentation

In its review of the nine staffing files involving non-competitive promotions and term-to-indeterminate appointments, the PSC also found that the file documentation was inadequate in seven cases. There was insufficient assessment material to determine how the manager assessed the appointee's qualifications. In some cases, there was only a statement of qualifications and an attestation by the manager that the appointee met all of the qualifications. For two of the four non-competitive promotions, the PSC found virtually no information on the assessment methods used (e.g., interviews, examinations, reference checks). There was no evidence on any of the files that the manager had determined that the appointee was the most qualified person in the area of selection, even though this is a requirement for such an appointment process.

In summary, the PSC found that the MPCC did not use an acceptable mix of staffing processes. In our opinion, the MPCC relied too heavily on non-competitive processes that were not sufficiently justified. As previously mentioned, the Chairperson stated that non-competitive processes were used by the MPCC when other staffing processes were unproductive. However, we found evidence of only two unsuccessful competitions conducted during the period under review.

The MPCC has also relied on networking to identify potential candidates for deployment. This practice is viewed as problematic when the deployed employees subsequently benefit from a two-level non-competitive promotion. The PSC considers the use of deployments followed by retroactive reclassifications to be an abuse of the MPCC's delegated authority to make appointments. In addition, the lack of sufficient documentation on certain MPCC staffing files prevented the PSC from determining that staffing processes had been conducted in accordance with the merit principle and staffing values.

Steps have recently been taken by the MPCC to improve staffing documentation. In its 2004-2005 service agreement with PWGSC's Shared Human Resources Services Directorate, the MPCC has agreed to purchase this service from PWGSC. The completion and upkeep of all active staffing files will be carried out by PWGSC personnel. However, the MPCC will remain accountable to the PSC for the completion and maintenance of its staffing files.



RECOMMENDATION 6

That the MPCC Chairperson ensure the application of staffing policies and practices in all of the organization's staffing processes.

MPCC's Response to Recommendation 6

The training mentioned in Recommendation 2 will assist in this regard. As previously indicated, the amended Memorandum of Understanding with PWGSC will ensure that any questionable staffing issue is brought to the Chairperson's attention forthwith. In addition, the independent review and performance measures and analysis will further assist in detecting problems. Finally, the Chairperson will revoke the sub-delegation authority should a manager, after having been notified orally or in writing, ignore the Public Service staffing values.

RECOMMENDATION 7

That the MPCC Chairperson ensure that staffing file documentation meets PSC requirements.

MPCC's Response to Recommendation 7

The current Memorandum of Understanding has been amended so that PWGSC is now responsible for maintaining active staffing files. The amendment, which has been in place since April 2004, should resolve this issue since PWGSC human resources specialists have the required expertise in this regard. In addition, the yearly reviews, as indicated under Recommendation 5, will highlight any issues with respect to the MPCC's staffing files. The Chairperson or her delegate will be in a position to take prompt and effective corrective actions.



EXECUTIVE STAFFING PROCESSES

During the period covered by the audit, the Public Service Commission (PSC) conducted four executive-level appointment processes for the Military Police Complaints Commission (MPCC). As the PSC has not delegated authority for executive staffing to the MPCC, the PSC had primary responsibility for these staffing actions. They have been included in the audit report for the purpose of providing a complete picture of all staffing activities involving the MPCC from April 1, 2001 to March 31, 2004.

Of the four executive-level appointments made during this time period, three were the result of non-competitive processes. One appointment involved a non-competitive promotion in May 2001 to the EX-01 position, Director of Operations. The appointee had previously competed for the position in 2000 but had not met the language requirements. The competition was subsequently cancelled and while the employee pursued language training, he was seconded to the MPCC from his home organization. In making the EX-01 promotion, the PSC accepted the rationale that the employee had qualified first in the earlier competition.

Six months after this appointment, the same employee was promoted without competition to the position of Executive Director at the EX-02 level. The PSC approved this non-competitive promotion on the basis of the employee's superior performance in the earlier EX-01 competition. The staffing file for this promotion contained only a global narrative report of the employee's competencies prepared by the MPCC Chairperson. Also, the PSC agreed to the promotion on the condition that the MPCC develop a management training plan for the employee, which was to be based on his Assessment Centre for Executive Appointment results. Although a formal training plan was not developed, we were told that the employee received training and coaching as often as required.

The other non-competitive appointment made by the PSC for the MPCC involved another appointment to the EX-01 position, Director of Operations. In November 2002, an employee was promoted without competition after acting in the position for approximately 10 months. The initial acting appointment was made by the MPCC, as it was within its delegated staffing authority to make acting EX appointments of less than a year. Although the employee may have benefited from the acting appointment, an examination of the staffing file for the non-competitive promotion indicated that an appropriate assessment of the employee's competencies had been conducted to ensure that he met the position requirements.



The only EX-level competitive process conducted during the period under review was an open competition in August 2003 for the EX-01 position, Chief of Staff. The MPCC hired a private consulting firm to assist in the selection process. An examination of the staffing file indicated that some documentation concerning the reference checks had been retained by the firm. The file contained a summary document only for each of the four candidates screened in for further consideration. The consultant who completed the reference checks was present during the interview and assessment process and, according to the PSC executive resourcing consultant, additional information was provided verbally to the selection board at that time. However, this information was not available for review during the audit. As other assessment material for this selection process was either missing from the staffing file or incomplete, we could not verify whether the assessment process had been conducted in accordance with the merit principle.

Based upon preliminary audit observations concerning executive-level staffing at the MPCC, the PSC's Executive Resourcing Directorate took action by sending an operational memorandum to all executive resourcing consultants on April 22, 2004, advising them of the documentation that must be kept on executive-level staffing files. Another operational memorandum will be completed by the end of November 2004, which will specify which documents must be sent to the Executive Resourcing Directorate and to which documents the PSC must have access when departments hire firms to manage part of the selection process.



OTHER HUMAN RESOURCES ISSUES

The Public Service Commission's (PSC) audit objectives included identifying concerns related to the staffing of the Military Police Complaints Commission's (MPCC) positions, and human resources issues that affect the management of the organization and the quality of its work environment. We reviewed the following:

- the June 2002 Public Service Employee Survey (PSES) results;
- the findings of the October 2002 KPMG report;
- the October 2003 report and recommendations, prepared by Odilon Émond, part-time MPCC Commissioner;
- the January 2004 action plan developed by the MPCC Management Committee; and
- the results of the February 2004 workplace assessment conducted by a consultant retained by the Public Service Staff Relations Board (PSSRB).

In January 2004, employees of the MPCC submitted their concerns in writing to the Privy Council Office, the Treasury Board Secretariat and the PSC. The employees raised issues that had previously been identified in the PSES and commented on MPCC management's review of the Survey results. During the audit, we were also informed of the results of a workplace assessment conducted in February 2004 by a consultant mandated by the PSSRB.

PSES results

The PSES results were released to the MPCC's Executive Director in December 2002, and presented to the Chairperson and the Management Committee in May 2003 and to all staff in June 2003. Approximately 80 percent of MPCC employees present in 2002 responded to the Survey, the results of which identified a number of concerns, including lack of communication with staff, high staff turnover, lack of satisfaction with the work performed, and workplace harassment.



Some of the problematic results were:

In the past two years, have you been a victim of harassment on the job?

MPCC	44%	8 of 18 responses
All Small Organizations	20%	130 of 650 responses
Public Service as a whole	21%	19,752 of 94,059 responses

From whom did you experience harassment on the job? (Results reflect those who answered 'yes' to the previous question.)

Individuals with authority over me (eight MPCC respondents)

Never	0	
Once/twice	38%	3 of 8 responses
More than twice	63%	5 of 8 responses

I am satisfied with the way in which my department or agency responds to matters related to harassment and discrimination.

	Strongly Agree (%)	Mostly Agree (%)	Mostly Disagree (%)	Strongly Disagree (%)	Don't Know (%)	Not Applicable (%)	Total Responses
MPCC	12	19	24	24	12	0	17
All Small Organizations	24	28	10	9	22	7	647
Public Service	20	34	10	8	24	5	94,104

I feel I can initiate a formal redress process (grievance, right to appeal, health and safety, etc.) without fear of reprisal.

	Strongly Agree (%)	Mostly Agree (%)	Mostly Disagree (%)	Strongly Disagree (%)	Don't Know (%)	Not Applicable (%)	Total Responses
MPCC	28	11	17	33	6	6	18
All Small Organizations	20	29	22	16	11	2	654
Public Service	16	36	21	14	12	2	94,223

NOTE: Due to rounding, percentages may not add up to 100.

During the interview process, it was brought to our attention that some managers and employees were aware of alleged incidents of harassment involving senior management. We were also told of situations where employees were belittled by senior management. Some employees said they were looking for employment outside the MPCC. Some former employees indicated that they were happy to have left the organization.

KPMG report

The KPMG study was conducted in response to a modern comptrollership initiative sponsored by the Treasury Board Secretariat. The purpose of the study was to assess the capabilities of the MPCC with respect to its management practices and to identify areas for improvement. The study was conducted in the summer of 2002, and the report was issued in October 2002. In the area of employee satisfaction, the report identified some employee morale issues and recommended the following opportunities for improvement:

- “ Establish a follow-up team to determine and implement actions stemming from the PSES; and
- conduct regular discussions with employees, perhaps using an outside facilitator, in order for them to share their issues and concerns (i.e., get the issues on the table so that there is no confusion or disagreement as to the morale or satisfaction level of employees)”.³

3. *KPMG Modern Management Practices Assessment of the Military Police Complaints Commission. Final Assessment Report, October 31, 2002, page 35.*



Émond report and action plan

In May 2003, the MPCC Chairperson asked Odilon Émond to study the PSES results and recommend appropriate corrective actions. Before Mr. Émond began his interviews with staff, members of the MPCC Management Committee were aware that employees did not think that Mr. Émond, a part-time Commission member and a member of the Executive Committee, was the best choice for obtaining clarification of the Survey results. Staff suggested using an independent expert. However, Mr. Émond persuaded staff to give him a chance and he interviewed 17 employees, beginning on July 8, 2003. The resulting report included the positive feedback received from employees as well as suggested areas for improvement and recommendations. Some of the suggested areas for improvement were: the need for better employee recognition; the issue of fear of reprisal if employees disagree with their supervisor on work-related issues; and the informal complaints process.

On October 29, 2003, Mr. Émond provided his report and recommendations to the Chairperson. The following day, the Chairperson advised employees that Mr. Émond's review had been completed and that the Management Committee would soon present a detailed action plan. On January 15, 2004, employees received a copy of the proposed action plan, which was then discussed at a meeting on January 22. At first, employees were provided with a copy of the action plan only. They then requested and were given a copy of the report.

In the information package sent to central agencies, employees stated that the majority of staff felt that the report did not adequately describe the concerns that they had raised during their interviews with Mr. Émond. They felt that too much time had been taken in responding to the Survey results. Although they recognized the work done by the Management Committee in developing the proposed action plan, employees emphasized the importance of dealing with the harassment and discrimination issues immediately.

The majority of employees rejected the proposed action plan and recommended that an external consultant be hired to deal with the Survey results.

Workplace assessment

The workplace assessment, requested by MPCC management and conducted by a consultant for the PSSRB in February and March 2004, found that many of the employees' concerns, which were first identified in the June 2002 PSES and which still existed at the time of the Émond report in October 2003, continued to affect the MPCC in early 2004. Employee morale was very low and there were many factors contributing to the poor working climate, including interpersonal conflicts and problems of communication such as lack of transparency, trust, cordiality and confidence between employees and senior management. Most employees interviewed also believed that favouritism existed between members of senior management and some employees. The Chairperson is not in agreement with the workplace assessment report.

Senior management has told us that they believe that the problems identified in the PSES have been largely resolved and the unhappiness of employees at the time of the workplace assessment can be attributed to the tensions inherent in the significant reorganization of the MPCC, where 47 percent of positions were cut. However, despite the fact that MPCC management has taken a number of actions (e.g., the March 2003 implementation of a policy on prevention and resolution of harassment in the workplace, harassment awareness training, an exit interview policy, the draft awards and recognition policy), there is evidence that some of the problems that existed before the workforce reduction remain unresolved in 2004. For example, after meeting with employees to discuss the workplace assessment, the union representative informed the MPCC's senior managers by e-mail in May 2004 that certain MPCC employees fear recrimination from management if they exercise their rights individually in grievance and personal harassment situations.

In summary, the PSC found that management failed to resolve problems of communication, fear of reprisal and alleged harassment. These problems were initially identified in the 2002 PSES and were not dealt with adequately by MPCC senior management.



THE DEPARTMENTAL STAFFING ACCOUNTABILITY REPORT: FAIRNESS AND RELIABILITY


The content of the Military Police Complaints Commission's (MPCC) 2002-2003 Departmental Staffing Accountability Report (DSAR) does not meet reporting standards.

The Public Service Commission (PSC) expected to find that the content of the MPCC's 2002-2003 DSAR met generally accepted criteria, such as those established by the Office of the Auditor General for assessing the fairness and reliability of performance reporting. It was expected that the DSAR would tell an accurate and complete story of the MPCC's staffing performance for the reporting period. It was also expected that the DSAR would provide information that was meaningful, balanced and not misleading.

We found that the DSAR did not provide an accurate and complete representation of the MPCC's staffing performance during the reporting period April 1, 2002 to March 31, 2003. Several of the MPCC's statements concerning its staffing performance results are not adequately supported by the evidence. For example:

The DSAR states that Public Works and Government Services Canada (PWGSC) human resources specialists "provide managers with advice, interpretation and guidance throughout any HR undertakings (i.e., staffing or classification processes) to ensure conformity and values-based decision-making".⁴ However, as discussed previously in the section entitled "Roles and Responsibilities", we did not find sufficient evidence in our review of staffing files or in interviews with managers, employees and PWGSC personnel that the human resources specialists' advice ensured that values-based staffing decisions were made by MPCC managers. Several examples of staffing actions (reclassifications, acting appointments) are presented in the section entitled "Non-Executive Staffing Processes" to illustrate the fact that MPCC staffing decisions did not support the staffing values of equity of access and fairness.

4. MPCC 2002-2003 Departmental Staffing Accountability Report, page 4.



The MPCC's DSAR claims that the organization's staffing documentation is complete and accurate. The Report states that "all staffing decisions are properly documented",⁵ that the "HR files for 2002-2003 were reviewed to ensure relevance, accuracy and completeness",⁶ and that "the Complaints Commission is attentive to ensuring proper documentation of all staffing processes".⁷ However, as indicated in greater detail in the section entitled "Non-Executive Staffing Processes", we found numerous instances of incomplete and inaccurate staffing documentation and concluded that, for these files, it was impossible to determine whether the staffing actions had been conducted in accordance with legislative/regulatory requirements and the Public Service staffing values. In addition, evidence was obtained through interviews that there was no review of staffing files in 2002-2003. Moreover, we found that there is no consistent ongoing process in place to monitor or review staffing files for relevance, accuracy and completeness by either PWGSC or MPCC personnel.

More specifically, despite the MPCC's statement in its DSAR that "proper justifications for named referrals and appointments without competition can be found on files",⁸ we found that only four of 14 files documenting non-competitive processes (i.e., named referrals, promotions, and term-to-indeterminate appointments) contained adequate justification. Seven files contained no justification at all, and three others involving named referrals did not adequately address at least one of the criteria whereby the PSC assesses departmental requests for appointments without competition from outside the Public Service.

One of the measures adopted by departments to ensure non-partisanship in their staffing processes is the use of the "Signed Statement of Persons Present at Board" form. By signing the form, board members attest to the fact that they are not related to any of the candidates, and that the nature of their association, if any, with the candidates is such that they can render decisions in an impartial manner. The MPCC's DSAR asserts that this form is signed by all selection board members. However, the PSC found only one signed form on the 10 competition files reviewed.

5. [Ibid, page 6.](#)
6. [Ibid, page 13.](#)
7. [Ibid, page 13.](#)
8. [Ibid, page 12.](#)



The MPCC indicates in its DSAR that “notices of appeal are posted according to the guidelines”⁹ and that the MPCC “applies the Area of Selection Policy”.¹⁰ As reported in the section entitled “Strategies, Plans and Policies”, the MPCC does not have its own area of selection policy and, therefore, should follow the policy presented in Chapter 4 of the PSC’s *Staffing Manual*. However, we found substantial evidence that the MPCC has overly restricted the area of selection used for posting the right of appeal in non-competitive processes.

The MPCC’s DSAR does not address in any detail the retention problems experienced during the reporting period. In the 2002 Public Service Employee Survey, 72 percent of MPCC respondents indicated that staff turnover was a significant problem in their work unit. Based on our review of staffing files and documentation related to human resources, we were able to determine that 19 employees had left the MPCC during the time period covered by this audit, representing an average annual departure rate of approximately 28 percent. The only reference to this problem in the DSAR is the statement that one of the MPCC’s priorities is “improving career development and other retention issues to ensure a more sustainable workforce”.¹¹

Retention problems to the degree experienced by the MPCC can reasonably be expected to have a considerable impact on the organization’s recruitment activities and on its ability to fulfil its mandate. In its Departmental Performance Report for the period ending March 31, 2003, the MPCC stated that it did not implement a communications strategy because of difficulties it was experiencing hiring communications staff. However, the organization did not have difficulty hiring communications staff; rather, they had difficulty retaining employees in the communications field. A review of the data revealed that the MPCC hired three employees in communications. The first was hired through an open competition in March 2002 and left the position after three months. Then, two other Public Service employees were deployed to MPCC communications positions; one was deployed in September 2002 and left after six months, while the other was hired in November 2002 and left after 14 months.

9. Ibid, page 12.

10. Ibid, page 13.

11. Ibid, page 1.



In reference to retention issues, it was brought to our attention that, since its inception, the MPCC has had five executive directors and three chiefs of staff/executive assistants. Turnover to that extent at the senior levels of a very small organization can have a serious impact on employees, due to a lack of consistent leadership and direction, and may be one of the factors contributing to the employee morale problem cited in the section entitled "Other Human Resources Issues".

RECOMMENDATION 8

That the MPCC Chairperson implement procedures to ensure that departmental staffing accountability reports meet reporting standards for fairness and reliability.

MPCC's Response to Recommendation 8

By October 29, 2004, the Memorandum of Understanding with PWGSC will be amended to ensure that their human resources specialists, who draft the reports, and Complaints Commission personnel provide the information required for the reports in writing. In addition, should any questionable statement or decision be involved, PWGSC will be required to inform the Chairperson forthwith. Being committed to fairness and reliability, the MPCC Chairperson will take prompt and effective corrective actions vis-à-vis the employee(s) involved.



CONCLUSIONS

Based on the findings of this audit, the Public Service Commission (PSC) has concluded that there are serious deficiencies in the implementation of the management framework of the Military Police Complaints Commission's (MPCC) staffing and recruitment activities. Although the MPCC's plans and strategies in support of staffing and recruitment activities are considered adequate for a small organization, its staffing activities are not always consistent with its strategies. In most cases, senior management communicates openly with employees about staffing processes and decisions. However, there were some situations where senior management should have been more transparent and open in their communication with employees and managers about staffing processes and decisions.

We found that there is a lack of monitoring and analysis with respect to the organization's staffing activities. Also, the MPCC's 2002-2003 Departmental Staffing Accountability Report does not provide an accurate and complete picture of the organization's staffing performance for the reporting period.

In addition, the staffing-related roles and responsibilities of MPCC managers and their human resources advisors are not always clearly defined or carried out consistently. We found that the Public Works and Government Services Canada personnel who provided operational staffing services to the MPCC did not provide a service that protected their client from the errors that occurred in the application of staffing policies and practices. Managers felt that the errors and omissions uncovered in this audit were made in good faith and with the benefit of expert advice. There was no evidence of patronage or favouritism in the MPCC appointment processes. However, the use of deployments or appointments immediately followed by an acting appointment or reclassification was an abuse of the MPCC's delegated authority for staffing.



The PSC has made eight recommendations to the MPCC, which are designed to correct the deficiencies found in this audit. The MPCC Chairperson has stated her intentions to have all of the recommendations implemented as soon as possible. However, the Public Service's staffing system is very complex and the PSC must ensure that the MPCC understands and respects the fundamentals of the legislative, policy and values-based framework for Public Service staffing. Appropriate management of staffing must become an integral part of the management of the organization. For this reason, the PSC is withdrawing the MPCC's delegation for any appointments to executive positions and is imposing the following conditions on the MPCC's delegated authorities for non-executive staffing:

- the National Capital and Eastern Ontario Region (NCEOR) of the PSC will review all proposed selection tools and processes and will approve the staffing method before any process is initiated by the MPCC;
- a PSC representative will sit on all MPCC selection boards;
- the MPCC will forward the results of all processes to the NCEOR for review;
- proposed appointments will be submitted to the PSC for approval, and the MPCC will be informed of the PSC's decision; and
- in cases where approval has been given to proceed, the MPCC will forward a copy of the signed letter of offer to the PSC.

These measures will remain in effect until the PSC is satisfied that the MPCC has properly implemented its staffing management framework. The MPCC must develop an action plan with specific initiatives to address the recommendations of this audit and correct the deficiencies in its staffing processes.



RESPONSE TO THE AUDIT: THE CHAIRPERSON OF THE MILITARY POLICE COMPLAINTS COMMISSION

All of the errors and omissions uncovered by the audit are taken seriously. Corrective measures have been taken.

However, as stated in the conclusions of the audit report, it is important to keep the complexity of the Public Service's staffing system in mind. The errors and omissions of the Military Police Complaints Commission (MPCC) were made in good faith, with the benefit of expert advice, and in the context of attempting to fully comply with the staffing system's complex requirements while considering the need to proceed in a sufficiently expeditious and efficient manner to meet the MPCC's core mandate. In this context, the decision to greatly restrict the MPCC's staffing delegation seems to be an extreme reaction.

Nevertheless, the eight recommendations resulting from the audit are reasonable, logical and helpful. Steps have been taken to ensure complete implementation of the recommendations as soon as possible.



APPENDICES





APPENDIX A – TERMS OF REFERENCE

OBJECTIVES

1. To determine whether the content of the 2002-2003 Departmental Staffing Accountability Report (DSAR) is fair and reliable.
2. To determine whether, during the period from April 1, 2001 to March 31, 2004:
 - 2.1 the management framework of MPCC staffing and recruitment activities; and
 - 2.2 recruitment and staffing transactions and processes for MPCC positions are in compliance, or in accordance, with:
 - the *Public Service Employment Act* (PSEA) and associated Regulations and Orders;
 - the PSC Staffing Delegation and Accountability Agreement with the MPCC;
 - PSC policies and staffing values.
3. To identify concerns related to the staffing of MPCC positions and human resources issues that affect the management of the organization and the quality of the work environment.

This audit will examine MPCC's staffing programs, systems and activities to conclude on the soundness of the department's report on its staffing and recruitment system, including compliance with applicable laws, regulations and policies, the informed and ethical balancing of staffing values and management principles.

SCOPE / METHODOLOGY

This audit will cover all sections of the MPCC, which is located entirely within the National Capital Region. It will include all staffing transactions under the authority delegated to the Chairperson of the MPCC, as well as those performed by the PSC (e.g., EX positions), from April 1, 2001 to March 31, 2004. Section 7.1 of the PSEA enables the Commission to conduct audits on any matter within its jurisdiction. Deputy heads and employees are required to provide the Commission with such facilities, assistance and information and with such access to their respective offices as required to conduct such audits. On the basis of an audit, the Commission may take, or order a deputy head to take, such corrective action as the Commission considers appropriate.



If, during the course of this audit, allegations arise or facts come to light which indicate a probable breach of the legislation, fact-finding investigations will be initiated and conducted concurrent with the audit. These investigations will be conducted in accordance with section 7.1 of the PSEA and the investigators will have the authority conferred by section 7.2 of the PSEA. This will enable the investigators to exercise the powers available under Part II of the *Inquiries Act*, which include summoning witnesses and taking evidence under oath. Any fact-finding investigation initiated will follow the rules of procedural fairness and will give the parties an opportunity to be heard.

Audit activities will consist of interviews with HR specialists, MPCC managers and union representatives, a review of the files on every staffing action for the period under review, and a review of all departmental documentation regarding plans, policies, programs, processes, communications and reports with respect to staffing in MPCC. It will also include interviews with current and former MPCC staff, and others, who are identified as having relevant information. The members of the audit team will also report and comment on human resources issues which have a significant impact on the management of the organization or the quality of the work environment. This information will be included in the report under the heading "Other Human Resources Issues" and if necessary, these comments will be shared with the appropriate authorities.

The audit team will maintain ongoing liaison with the personnel of the Public Service Staff Relations Board mandated to provide mediation services to the interested parties of the MPCC.

This audit will not cover: a comparison of staffing under the current Chairperson versus other organizations; staff retention and the classification of positions, except insofar as they impact on staffing practices; nor personal service contracts, except insofar as they have been used to circumvent the PSEA and its underlying values.

REPORTING

Upon completion of the audit, the MPCC and the PSC will be provided with a first draft of the report for their review of factual errors and to provide comments. This draft will subsequently be revised and transmitted to the MPCC, the PSC and other central agencies, as appropriate, for their final responses to the recommendations. The results of this audit, including the stakeholders' responses, will be made public. Regular updates on the status of the audit will be provided to the senior official identified by the Chairperson of the MPCC.




The audit team will report to the President of the Public Service Commission on its findings, conclusions and recommendations with an objective to provide a final report for approval, in both official languages, by May 17, 2004.

Investigation reports, if required, are subject to the *Privacy Act* and will, as a result, be provided to those directly involved after they are finalized. Given the nature of fact-finding investigations, these reports may not be completed at the time when the audit report is made public.

APPENDIX B – CRITERIA

1. A Management Framework for Staffing and Recruitment Activities appropriate to the organization should be in place.
 - a) Established Plans, Strategies, Policies in the Support of Staffing and Recruitment Activities
 - there is a clear link between the human resources strategy and plan and the business plan;
 - the performance information is linked to the human resources strategy and plan;
 - managers have a clear understanding of the mission and vision of the MPCC;
 - managers have a clear understanding of the objectives of their organization and how they fit with the other objectives of the MPCC; and
 - staffing policies address all relevant matters.
 - b) Adequacy of Organization and Resources in the Support of Staffing and Recruitment Activities
 - the MPCC staffing sub-delegation agreement is in accordance with PSC and MPCC staffing policies and regulations;
 - the position requirements fit with organizational needs;
 - the HR specialists and managers understand the values, policies, roles and responsibilities with respect to staffing;

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- there is a sufficient number of trained managers and HR specialists;
 - managers with sub-delegated staffing responsibilities understand the requirements of these responsibilities; and
 - HR provides an appropriate support, advice and challenge function to managers.

c) Adequacy of Communication related to Staffing Activities

- management communicates regularly and in a timely fashion to employees and potential candidates about staffing strategies and decisions; and
- the staffing policies and procedures are documented and accessible.

d) Adequacy of Reporting and Control Systems

- individual manager accountability contracts contain staffing elements;
- there are reports on key staffing issues;
- staffing specialists clearly understand the staffing system checks and balances;
- senior management receives timely and useful staffing performance information; and
- senior management requests staffing reports.

e) Adequacy of the Use of Staffing Processes in the Support of Merit

- the MPCC mix of staffing processes (competitions, deployments, developmental programs, other processes), of employment types (indeterminate, term, casual, student), and of sources of candidates (internal to the MPCC, internal to the PS, outside the PS) is appropriate to the mandate and mission of the organization.

2. Individual staffing transactions, including those for positions in the EX category, comply with legislation and policy.

- the statements of qualifications and assessment methods are appropriate and applied properly;
- the appropriate mechanisms are in place to ensure respect for non-partisanship in staffing; and
- there is appropriate documentation on staffing files and system-wide to demonstrate compliance with the PSEA and related regulations and policies, and respect for staffing values.



APPENDIX C – STAFFING VALUES AND PRINCIPLES

RESULTS VALUES

Competency

Attributes which ensure that Public Servants are qualified to fulfil their public duty.

Representativeness

The composition of the Public Service reflects that of the labour market.

Non-Partisanship

Employees are appointed and promoted objectively, free from political or bureaucratic patronage.

PROCESS VALUES

Fairness

Fair practices are those where decisions are made objectively, free from political or bureaucratic patronage, and which reflect the just treatment of employees and applicants.

Equity

Equitable practices are those which provide equal access to employment opportunities and that are barrier-free and inclusive.

Transparency

Open communication with employees and applicants about resourcing practices and decisions.

MANAGEMENT & SERVICE PRINCIPLES

Flexibility

The impact of this factor will be resourcing approaches that are adapted to the specific needs of the department.

Affordability/Efficiency

The impact of these factors will be resourcing approaches that ensure good value for money and are simple, timely and effective in their delivery.