



Public Service  
Staffing Tribunal

Tribunal de la dotation  
de la fonction publique

# Public Service Staffing Tribunal

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# 2007-2008



## Report on Plans and Priorities Approved

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The Honourable Beverley J. Oda  
Minister of Canadian Heritage and Status of Women

Canada





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## Chairperson's Message

I am pleased to present the 2007-2008 *Report on Plans and Priorities* for the Public Service Staffing Tribunal (the PSST).

The coming-into-force of the new *Public Service Employment Act (PSEA)* marked the beginning of a new staffing regime in the federal public service, with a new definition of merit and new arrangements for recourse before an independent body, the PSST. The PSST received its first complaints filed under the provisions of the new *PSEA* in February 2006. The day-to-day operations of the PSST began to take shape as complaints, were filed, mediation sessions, pre-hearing conferences and formal hearings were scheduled and complaints were resolved through mediation or a decision of the PSST.

Given the importance placed on effective dialogue to resolve appointment issues by the new *PSEA*, the PSST created a mediation program specific to staffing complaints which consists of a training component for employer and employee representatives as well as the mediation services offered by PSST members and staff.

As the PSST enters the second year of implementation of the new *PSEA* and the number of complaints continues to rise, it will schedule and hold an increasing number of mediation sessions, pre-hearing conferences and formal hearings. However, with the development of jurisprudence regarding appointment issues, it is expected that a number of complaints will be resolved without a formal hearing through pre-hearing and settlement conferences.

While the PSST's main priority is the consideration and disposition of complaints, there is also a need to ensure that its primary stakeholders – bargaining agents, departments and agencies – have a clear understanding of the staffing process and recourse under the new *Act*. Accordingly, the PSST will continue to refine its procedures, maintain an up-to-date procedural guide on its web site and work with the Canada School of the Public Service to develop an education program for the public service.

In order to ensure that the needs of its stakeholders are met as much as possible, the PSST will continue to hold regular meetings with a representative group of departments, agencies and bargaining agents, and will consult its stakeholders more broadly as part of its review of the PSST Regulations and general procedures.

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Other priorities include the ongoing development of internal corporate services and management practices, particularly in communications, planning, reporting, audit and evaluation, and labour relations.

As a quasi-judicial and independent body, the PSST remains committed to its role in ensuring that Canada continues to benefit from a public service that strives for excellence, is based on merit and non-partisanship, is representative of Canada's diversity and is able to serve Canadians in the official language of their choice.

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## Management Representation Statement

I submit for tabling in Parliament, the 2007-2008 Report on Plans and Priorities for the Public Service Staffing Tribunal.

This document has been prepared based on the reporting principles contained in the *Guide for the Preparation of Part III of the 2007-2008 Estimates: Reports on Plans and Priorities and Departmental Performance Reports*:

- It adheres to the specific reporting requirements outlined in the Treasury Board Secretariat guidance;
- It is based on the department's Strategic Outcome and Program Activity Architecture that were approved by the Treasury Board;
- It presents consistent, comprehensive, balanced and reliable information;
- It provides a basis of accountability for the results achieved with the resources and authorities entrusted to it; and
- It reports finances based on approved planned spending number from the Treasury Board Secretariat in the RPP.

Guy Giguère  
Chairperson and Chief Executive Officer  
Public Service Staffing Tribunal

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## Summary Information

### ***Raison d'être***

The Public Service Staffing Tribunal (PSST) is an independent, quasi-judicial tribunal established by the *Public Service Modernization Act (PSMA)* as part of the new arrangements for recourse with respect to staffing complaints.

The mandate of the PSST is to consider and dispose of complaints related to internal appointments, lay-offs, the implementation of a corrective measure ordered by the Tribunal or the revocation of an appointment.

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The PSST may provide mediation services at any stage of a proceeding in order to resolve a complaint.

In considering whether a complaint against an internal appointment or lay-off is founded, the PSST may interpret and apply the *Canadian Human Rights Act (CHRA)*.

### ***Mission***

The mission of the PSST is to contribute to a competent, non-partisan and representative public service through the impartial and timely disposition of disputes related to the internal staffing and lay-off processes in the government of Canada. This includes:

- Rendering decisions that are sound and well reasoned;
  - Ensuring that parties are treated fairly;
  - Processing complaints in a timely manner;
  - Assisting parties to resolve complaints through alternative dispute resolution (ADR) mechanisms;
  - Ensuring that all processes are fair and transparent;
  - Providing stakeholders user friendly access to PSST services and information;
  - Educating and informing clients and the public on the PSST's role, services and jurisprudence; and
  - Promoting a work environment that fosters the development of a knowledgeable and client-centred staff.
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## **Benefits to Canadians**

By providing transparent, impartial and sound decision-making and support to help parties resolve staffing disputes, the PSST will be accessible and responsive to stakeholders, and contribute to the effective management of human resources to the benefit of federal public service departments and agencies, managers, employees and Canadians.

The PSST benefits Canadians by helping to ensure that appointments to the public service are based on merit and made in accordance with the values contained in the preamble of the *PSEA*.

## **Financial Resources (\$ Thousands)**

<b>2007-2008</b>	<b>2008-2009</b>	<b>2009-2010<sup>1</sup></b>
\$4,960	\$4,960	–

## **Human Resources**

<b>2007-2008</b>	<b>2008-2009</b>	<b>2009-2010<sup>1</sup></b>
35 FTEs	35 FTEs	37 FTEs

<sup>1</sup> The Tribunal is requesting funding to pursue its mandate.

## **Departmental Priorities by Strategic Outcome**

<b>Strategic Outcome: Contribute to a competent, non-partisan and representative Public Service through impartial and timely disposition of disputes related to the internal staffing and lay-off processes in the Government of Canada.</b>				
<b>Priority</b>	<b>Type of Priority</b>	<b>Planned Spending (\$ thousands)</b>		
		<b>2007-2008</b>	<b>2008-2009</b>	<b>2009-2010</b>
Consider and dispose of complaints	Ongoing	2,270	2,270	Pending approval of funding
Provide mediation services	Ongoing	880	880	Pending approval of funding
Fully inform and assist clients	Ongoing	200	200	Pending approval of funding
Fully develop corporate services	Ongoing	1,110	1,110	Pending approval of funding
Enhance management framework	Ongoing	500	500	Pending approval of funding

## Departmental Plans and Priorities

This section provides details on specific initiatives identified for the planning period that support the PSST's sole strategic outcome: *Contribute to a competent, non-partisan and representative public service through impartial and timely disposition of disputes related to the internal staffing and lay-off processes in the government of Canada.*

### Program Priorities

#### ■ Consider and dispose of complaints

The PSST will continue to render decisions and establish new jurisprudence based on staffing complaints submitted under the new *PSEA*.

Training with respect to the PSST's mandate, processes, policies and emerging issues will be offered to members and staff to ensure consistency and high quality in its decision-making and services.

The PSST's legal services will examine legal issues, do research on specific topics, clarify legal issues where no precedents exist and provide guidance to members and staff as required.

The PSST will offer every opportunity for parties to resolve their differences through a range of formal and informal processes: the facilitation of the exchange of information between the parties, mediation, pre-hearing conferences and settlement conferences.

The PSST will develop a modern case management system which optimizes the use of available technology and is designed to meet its particular needs.

#### ■ Provide mediation services

The PSST will continue to provide mediation services to complainants and respondents at any stage of the complaint process.

PSST mediators, both members and staff, will monitor and discuss issues arising during mediation and hone their skills through training, coaching and discussion.

Training to PSST stakeholders will be offered on a regular basis so that they are well prepared to assume their roles and responsibilities in a mediation session.

## ■ Fully inform and assist clients

The PSST will continue to inform its stakeholders about its mandate, policies and processes in order to ensure transparency and awareness. Stakeholders include: delegated managers, deputy heads, bargaining agent representatives, human resources professionals and employees.

The PSST will coordinate an outreach program consisting of information sessions to stakeholders, presentations to conference and seminar participants and regular meetings with stakeholders to discuss and resolve any concerns they may have.

The PSST will improve existing communication products and tools and develop new ones, as necessary, including, but not limited to, an up-to-date web site; resource materials, such as the procedural guide and a brochure describing the PSST's mediation process.

The PSST will collaborate with central agencies, such as the Canada School of the Public Service, to develop new strategies and tools for increasing stakeholders' knowledge of the PSST and thereby ensuring ready access to its services.

## ■ Monitor issues arising from the application of the new *PSEA*

In preparation for the five-year review of the new *PSEA*, the PSST will examine issues and concerns that emerge through the complaint process with a view to determining what, if any, changes to the legislation it will recommend during the review period.

## ***Management Priorities***

### ■ Fully develop corporate services

The PSST is committed to developing and maintaining an adaptable and multi-disciplinary workforce as well as a healthy and productive work environment for its members and staff. To this end, the PSST will continue to develop integrated business and human resources plans; human resources policies and processes related to classification, staffing, labour relations, performance management and employee assistance and tools and strategies to ensure continuous learning, including a needs assessment and the development of individual learning plans.

### ■ Enhance management framework

In keeping with government initiatives and the requirements outlined in the Management Accountability Framework, the PSST will develop an audit and evaluation program and plan; finalize policies and procedures for finance, contracting, security, travel and inventory management and complete its performance measurement framework and performance indicators.

## ***Operating Environment***

Like all federal institutions, the PSST faces the challenge of carrying out its statutory responsibilities and fulfilling the increasing requirements for transparent and accountable reporting, while at the same time spending public funds wisely. As a very small organization, the PSST must accomplish its many tasks with a limited number of staff.

Due, in large measure, to its small size, one of the main challenges facing the PSST is predicting the number of complaints to be handled on a yearly basis. Under the former appeals process contained in the previous legislation, the Public Service Commission handled approximately 1,100–1,200 appeals during fiscal years 2003–2004 and 2004–2005.

In its first eight months of operation, the PSST received 120 complaints. Nearly all of these were received over a period of 26 weeks; the number of complaints received during the first eight weeks of its existence was almost nil.

Given the rapid increase in the number of complaints this fall, now at over 300, the PSST can reasonably expect to receive 300-600 cases a year. For planning purposes, the PSST has therefore estimated the average number of complaints to be dealt with at 400 per year.

However, the PSST must prepare itself for the possibility that the number of complaints or the demand for mediation services could be greater than is currently anticipated. The unpredictability of the PSST's caseload continues, therefore, to be a complicating factor in its planning process.

Other areas of concern include:

- **Uncertainty among stakeholders and uneven awareness of the PSST**

There is an ongoing need to ensure that key stakeholders – delegated managers, deputy heads, bargaining agent representatives, human resources professionals and employees – are aware of the PSST's policies and procedures as well as any and all jurisprudence arising from its decisions.

- **Obtaining permanent funding**

Obtaining permanent and adequate funding for the PSST is crucial as funding has been allotted until March 31, 2009 only.

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The PSST will need to meet the expectations of its stakeholders, including:

- Departments and agencies

This group includes deputy heads, delegated managers and human resources professionals. They are looking for a user-friendly and transparent process, the timely resolution of complaints, impartiality of the Tribunal, consistent and well reasoned decisions and increased ability to resolve disputes informally. The PSST also needs to be conscious of the service needs of clients at the regional level.

- Public Service employees, bargaining agents and other employee agents

They have many of the same expectations as departments and agencies, but will also be seeking information on their rights to recourse.

- Central agencies

Agencies with specific interests such as the Public Service Commission and the Public Service Human Resources Management Agency of Canada and the Treasury Board Secretariat will want to be kept informed of areas of concern in the staffing process and will want to be consulted on important issues stemming from the application of the new legislation.

- Other tribunals and groups

The Canadian Human Rights Commission will want a proper determination of allegations of discrimination as well as consistency with the *Canadian Human Rights Act* and jurisprudence. Similarly, human rights groups will be expecting fair treatment of complaints.

- Public

At the highest level, parliamentarians and Canadians will want information on the application of the merit principle and its impact on the public service. The media will want information on specific decisions made by the PSST.

## ***Link to the Government of Canada Outcome areas***

### **Government Affairs**

In providing services to all governments department and agencies, the PSST operates at arm's length to resolve staffing complaints in the public service, thereby protecting the integrity of the appointment process in the government of Canada.

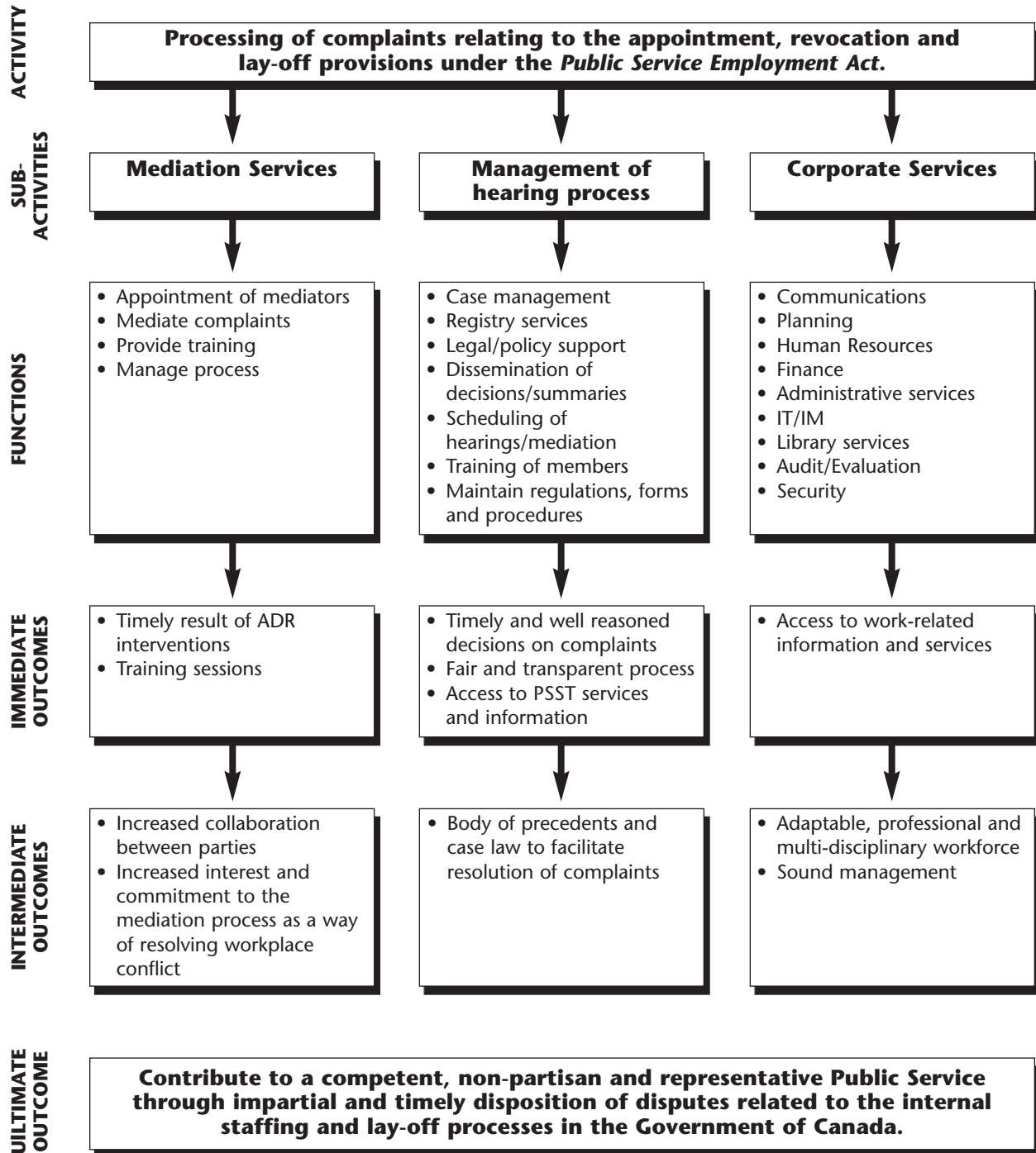
In so doing, the PSST contributes to the building of a representative and non-partisan workforce fully capable of delivering quality services in the main outcome areas of the government of Canada: economic affairs, social affairs and international affairs.

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# Analysis of Program Activities by Strategic Outcome

The PSST has a single strategic outcome: **Contribute to a competent, non-partisan and representative public service through impartial and timely disposition of disputes related to the internal staffing and lay-off processes in the government of Canada.** Accordingly, the PSST has one main activity – the processing of complaints relating to the appointment, revocation and lay-off provisions of the *PSEA* – and three sub-activities – the management of hearing processes, mediation and corporate services. The following chart depicts the links between the PSST’s main activity and three sub-activities and their expected results for Canadians.





<b>Sub-Activity</b>	<b>Planned Spending (\$ Thousands)</b>			
	<b>FTE</b>	<b>2007-2008</b>	<b>2008-2009</b>	<b>2009-2010<sup>1</sup></b>
Management of hearing process	14	2,270	2,270	–
Mediation services	7	880	880	–
Corporate services	14	1,810	1,810	–

<sup>1</sup> The Tribunal is requesting funding to pursue its mandate.

## Performance Measurement

The PSST has established performance indicators and targets based on desired outcomes as part of its current performance measurement framework. These indicators and targets will need to be further developed and refined over time. A brief description of both indicators and targets follows:

### ***PSST decisions are sound and well reasoned***

This result is the ongoing primary concern of the PSST. Key performance objectives include:

- High quality of decisions. The PSST must issue sound decisions that provide effective recourse, withstand judicial review and are of high quality. An important measure of quality will be the number of legal challenges submitted to the Federal Court and, of those, the number dismissed.
- Fair and transparent process. The PSST must ensure that all parties are treated fairly, that all processes are fair and transparent and that it maintains its impartiality and independence. This indicator will be monitored by the number of challenges to the Federal Court, as well as through stakeholder feedback.

### ***Complaints are processed in a timely manner***

A key challenge for the PSST will be to minimize the length of time to render decisions. Key performance indicators include:

- Stakeholder satisfaction. The PSST intends to conduct client satisfaction surveys from time to time and conduct evaluations after each training session in order to obtain client feedback.
- Elapsed time for processing complaints. The PSST will establish service standards for processing complaints and will monitor actual times against these standards with a view to avoiding a backlog. At this time, it is expected that, depending on the degree of complexity, complaints may take from 120 to 150 days to process from the receipt of the complaint to the issuance of the decision. However, this timeframe will need to be reviewed on actual experience.

## Access to PSST Services and Information

This result applies to both the management of hearing processes as well as mediation.

Key performance objectives include:

- Maintain high level of responsiveness in acknowledging complaints or requests for mediation, responding to requests for information or in scheduling training or information sessions. These and other standards will be more formalized over time.
- Effective regulations and procedures. The effectiveness of the PSST's regulations, procedures and guidelines in support of the processing of complaints and ADR interventions will be monitored through periodic consultations with stakeholders.
- Quality of access to services and information. The PSST plans to use technology to the extent possible. Eventually, this will mean: using the Internet as a tool to link with the case management system and to provide information to clients; automating scheduling and other administrative matters with the parties; allowing complainants to e-file; and linking the case management system to the performance management system.

## Timely Results of ADR Interventions

Given the *PSMA's* focus on building improved labour-management relations through informal means, the PSST will strive to increase the use of ADR mechanisms to resolve complaints.

Key performance objectives include:

- A high participation rate. The current participation rate is about 40%; the PSST aims to increase this to 50% through its mediation training program.
- High success rate of parties in mediation. The PSST will monitor the use of its mediation services through its case management system.
- Stakeholder satisfaction. The PSST intends to conduct client satisfaction surveys from time to time and conduct evaluations after each training session in order to obtain client feedback.

## Adaptable Workforce

Key performance objectives include:

- Healthy workplace. This will be monitored through the number of complaints and grievances submitted by PSST staff and other means, such as workplace surveys.
- Adaptable workforce. The PSST will emphasize career development, continuous learning and the creation of meaningful jobs. Jobs will be designed to enable the PSST to attract and retain qualified staff. This will be measured by the number of applicants to advertised positions, the rate of turnover, and other means, such as workplace surveys.

# Supplementary Information

## Organizational Information

The PSST is an independent, quasi-judicial administrative tribunal that reports to Parliament through the Minister of Canadian Heritage. The Tribunal may include between five and seven permanent members, including the Chairperson and Vice-Chairperson, as well as an unlimited number of temporary members. Permanent members are appointed by the Governor in Council for a term not exceeding five years.

The members of the Tribunal are supported by a permanent staff which has a current complement of 26 employees. The principal work units are:

- Executive Director and General Counsel, ultimately responsible for the management of hearing processes, mediation, legal and policy support, fostering good relationships with stakeholders and corporate services.
- Legal Services, responsible for the provision of legal services to the members and staff of the PSST.
- Dispute Resolution Services, responsible for mediating complaints, mediation training and other ADR interventions.
- Registry, responsible for case management, registry services, dissemination of decisions and scheduling and managing logistics with members.
- Planning, Communications and Corporate Services, responsible for external and internal communications, the development of communication products including the development and maintenance of the PSST Web site and other tools as well as corporate services, such as human resources, labour relations, information technology and management, audit and evaluation and security and all planning and central agency and other reporting responsibilities.

## Organization Structure



## Financial Tables

**Table 1: Planned Spending and Full Time Equivalents**

(\$ thousands)	Forecast Spending 2006-2007 <sup>1</sup>	<b>Planned Spending 2007-2008</b>	Planned Spending 2008-2009	Planned Spending 2009-2010 <sup>2</sup>
Processing of complaints relating to the appointment, revocation and lay-off provisions under the <i>Public Service Employment Act</i>	5,244	<b>4,960</b>	4,960	–
<b>Total Main Estimates</b>	5,244	<b>4,960</b>	4,960	–
<i>Adjustments:</i>				
Adjustment entry to reconcile to best estimate of cash expenditures	(1,100)			
<i>Total Adjustments</i>	<i>(1,100)</i>	–	–	–
<b>Total Planned Spending</b>	4,144	<b>4,960</b>	4,960	–
Plus: Cost of services received without charge	474	442	442	–
<b>Net cost of Program</b>	4,618	<b>5,402</b>	5,402	–
<b>Full Time Equivalents</b>	33	<b>35</b>	35	37

1 Reflects the best forecast of total net planned spending to the end of the fiscal year.

2 The Tribunal is requesting funding to pursue its mandate.

**Table 2: Voted and Statutory Items listed in Main Estimates**

(\$ thousands)		<b>Current Main Estimates 2007-2008</b>	Previous Main Estimates 2006-2007
Voted & Statutory Item	Public Service Staffing Tribunal		
90	Program expenditures	<b>4,451</b>	4,710
(S)	Contributions to employee benefit plans	<b>509</b>	534
<b>Total Voted and Statutory Items</b>		<b>4,960</b>	<b>5,244</b>

**Table 3: Services Received Without Charge**

(\$ thousands)	<b>2007-2008</b>
Accommodation provided by Public Works and Government Services Canada	<b>249</b>
Contributions covering employers' share of employees' insurance premiums and expenditures paid by Treasury Board of Canada Secretariat	<b>193</b>
<b>2007-2008 Services received without charge</b>	<b>442</b>

**Table 4: Internal Audits and Evaluations**

1. Name of Internal Audit/Evaluation	2. Audit Type/Evaluation Type	3. Status	4. Expected Completion Date	5. Electronic Link to Report
In development	N/A	N/A	N/A	N/A
<b>6. Electronic Link to Internal Audit and Evaluation Plan:</b> N/A				

**Table 5: Departmental link to the Government of Canada Outcomes**

2007-2008				
(\$ thousands)	Budgetary	Total Main Estimates	Adjustments (planned spending not in Main Estimates)	Total Planned Spending
	Operating			
<b>Strategic Outcome:</b> Contribute to a competent, non-partisan and representative public service through impartial and timely disposition of disputes related to the internal staffing and lay-off processes in the government of Canada.				
<b>Program Activity</b>				
Processing of complaints relating to the appointment, revocation and lay-off provisions of the <i>Public Service Employment Act</i>	4,960	4,960	–	<b>4,960</b>
<b>Total</b>	<b>4,960</b>	<b>4,960</b>	<b>–</b>	<b>4,960</b>

The strategic outcome and program activity of the Tribunal contributes to the achievement of the Government of Canada's "Government Affairs" outcome.



## Other Items of Interest

### Statute and Regulations

*Public Service Employment Act*  
*Public Service Staffing Tribunal Regulations*

S.C. 2003, c. 22, ss. 12 and 13  
SOR/2006-6

### Contact Information

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Web site: [www.psst-tdfp.gc.ca](http://www.psst-tdfp.gc.ca)

### Publications and Other Relevant Documents

*Public Service Staffing Tribunal Procedural Guide, 2006*

### Statutory Responsibilities

The *Public Service Employment Act* requires or permits the Tribunal to undertake the following activities:

1. consider and dispose of complaints presented to the Tribunal [subs. 88(2)];
2. in the case of a founded complaint involving a lay-off of an employee, set aside the decision of a deputy head to lay off the employee and order the deputy head to take any corrective action that it considers appropriate, other than the lay-off of another employee [subs. 65(4)];
3. in considering whether a complaint against a lay-off is substantiated, interpret and apply the *Canadian Human Rights Act*, other than its provisions relating to the right to equal pay for work of equal value [subs. 65(7)];
4. in the case of a founded complaint involving a revocation of an appointment, order the Public Service Commission or the deputy head to set aside the revocation [s. 76];

5. in the case of a founded complaint involving an internal appointment, order the Public Service Commission or the deputy head to revoke the appointment or not to make the appointment and to take any corrective action that it considers appropriate [subs. 81(1)];
6. in considering whether a complaint against an internal appointment is substantiated, interpret and apply the *Canadian Human Rights Act*, other than its provisions relating to equal pay for work of equal value [s. 80];
7. in the case of a complaint involving a corrective action ordered by the Tribunal, order the Public Service Commission or the deputy head to revoke the appointment made as a result of the implementation of the corrective action, or not to make the appointment, and give the Commission or the deputy head any directions that it considers appropriate with respect to the implementation of the corrective action [s. 84];
8. provide mediation services at any stage of a proceeding in order to resolve a complaint [subs. 97(1)];
9. summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath in the same manner and to the same extent as a superior court of record [par. 99(1)(a)];
10. order that a hearing be conducted using any means of telecommunication that permits all persons participating to communicate adequately with each other [par. 99(1)(b)];
11. administer oaths and solemn affirmations [par. 99(1)(c)];
12. accept any evidence, whether admissible in a court of law or not [par. 99(1)(d)];
13. compel, at any stage of a proceeding, any person to produce any documents and things that may be relevant [par. 99(1)(e)];
14. subject to any limitations that the Governor in Council may establish in the interests of defence or security, enter any premises of an employer where work is being or has been done by employees, inspect and view any work, material, machinery, appliances or articles in the premises and require any person in the premises to answer all proper questions relating to a complaint [par. 99(1)(f)];
15. summarily dismiss any complaint that, in its opinion, is frivolous or vexatious [subs. 99(2)];
16. decide a complaint without holding an oral hearing [subs. 99(3)];
17. render a decision on a complaint and provide a copy of it, including any written reasons, and any accompanying order to the Public Service Commission and to each person who exercised the right to be heard on the complaint [s.101];
18. make regulations respecting complaint time limits and procedures, procedures for the hearing of complaints, time limits and procedures for notices and other documents, notice of an issue to the Canadian Human Rights Commission and the disclosure of information [s.109];
19. prepare and submit an annual report to Parliament through the Minister of Canadian Heritage regarding activities during the fiscal year [subs. 110 (1)].
20. may use any services and facilities of departments, boards and agencies of the Government of Canada that are appropriate for the operation of the Tribunal [subs. 93(2)].