



Office of the
Merit Commissioner

Short-Term Temporary Appointments
Special Audit Report

2012

UPHOLDING FAIR HIRING IN THE
BC PUBLIC SERVICE



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Executive Summary

This special audit examined whether the hiring option of making a temporary appointment of not more than seven months (T<7) is being used for its intended short-term purpose. This audit is a follow-up to an audit conducted in 2009.

The audit of data obtained from the Corporate Human Resource Information and Payroll System (CHIPS), found that only 45 per cent of the identified T<7 appointments concluded within seven months. Many of the other T<7 appointments became long-term appointments which included discrete terms of appointment or extension which themselves exceeded seven months. Seven per cent of the T<7 appointments continued from two to seven years. Four ministries accounted for 53 per cent of all the T<7 appointments audited, and were responsible for 72 per cent of those continuing for more than two years.

The findings from this special audit clearly indicate that longer-term appointments are being made as if they were appointments of under seven months. Although initially some may have been made through a competitive process, when such extensions to these appointments were granted, other employees were not given the opportunity to be considered for or to request a review of what as a result became lengthy appointments.

The audit also found the current lack of detail and clarity in the published information and guidelines available to hiring managers may be a contributing factor to the incorrect use of the T<7 appointment option. The information provided should contain sufficient detail and explanation of merit-based hiring requirements to ensure appointments are made in accordance with the provisions of the *Public Service Act* and collective agreement requirements.

The recommendations resulting from this audit are as follows.

Recommendations to the Head, BCPSA

1. Ensure that all information and advice provided to hiring managers, including published guidelines, is accurate and consistent, and contains sufficient detail regarding the appropriate and legitimate use of T<7 appointments and extensions.
2. Establish an ongoing process to monitor the use of the T<7 appointments, including extensions and renewals to initial appointments which would carry them beyond a total of seven months.

Recommendations to deputy ministers and organization heads

1. Ensure hiring managers give full consideration to determining the likely duration of an assignment and selecting the appropriate appointment option based on that determination.



Introduction

The Merit Commissioner is responsible for monitoring the application of the merit principle under the *Public Service Act* (the *Act*). On average, 29 per cent of appointments made each year in the BC Public Service are categorized as temporary appointments of not more than seven months (T<7). This type of appointment applies only to temporary appointments of existing regular employees; a short-term assignment of a new external temporary hire or an auxiliary employee is categorized as an auxiliary appointment.

Under the *Act*, T<7 appointments must be based on the principle of merit; appointments must be non-partisan and those appointed must be qualified to do the job. There is a requirement to consider education, skills, knowledge, experience, past work performance and years of continuous service in determining merit, but there is no requirement for a competitive process.

Without the need for a competitive process, a T<7 appointment is an efficient staffing option that is intended for short-term assignments such as project work or a temporary vacancy due to illness that is not anticipated to continue for more than seven months. However, when it is reasonably known that the work will continue for more than seven months, filling a position as a T<7 appointment circumvents the intent of merit-based hiring which would normally involve an open and transparent competitive process to assess applicants' relative merit and provide the right to request a review of the staffing decision.

Background

In 2009/10, the Office of the Merit Commissioner completed a special audit of T<7 appointments that were active in 2008 and had concluded by June 2, 2009. It was clear from this audit that there were potentially large numbers of employees who had been temporarily promoted to assignments which had become long-term, without requiring a competitive process. In addition to having the benefit of a lengthy temporary promotion, these employees were also in a position of advantage when they became candidates for permanent appointment to the same position.

This audit also concluded that given the significant number of managers who were using T<7 appointments to fill and extend assignments for long periods of time without a competitive process there may have been a lack of awareness of the requirements under the *Act*. As well, the absence of basic documentation to support decisions suggested a lack of accountability for these types of appointments. A number of recommendations were made following the audit and the Merit Commissioner indicated that a follow-up audit of T<7 appointments would be undertaken at a future date.



Objective

This special audit examines whether the T<7 appointment option is being used for its intended short-term purpose or if it is being misused to fill longer-term temporary appointments. It also follows-up on the previous special audit recommendations made in the Merit Commissioner's 2009/10 Annual Report to determine whether suitable guidelines and processes have been implemented and assess whether the number of lengthy T<7 appointments has decreased.

Scope and Approach

Audit data was obtained from the Corporate Human Resource Information and Payroll System (CHIPS). The scope of the audit included ministries and organizations making T<7 appointments under section 8 of the Act. Those organizations which do not enter their appointment information in CHIPS (Liquor Distribution Branch and Forensic Psychiatric Hospital (BC Mental Health and Addiction Services)) were excluded from the audit.

The audit analyzed CHIPS data as of September 30, 2012 to identify all active temporary appointments (including extensions or back-to-back appointments) that had started out as a T<7 appointment. These T<7 appointments were then re-examined eight months later, on May 31, 2013 to determine their status at that time.

Information was requested from the BC Public Service Agency (BCPSA) to provide further context regarding the corporate approach to T<7 appointments, including any guidelines for managers and any systems for monitoring the use of this hiring option.

Analysis and Observations

On September 30, 2012 there were 887 active T<7 appointments throughout the BC Public Service. Of these, 643 (72 per cent) were promotions (that is, an employee was moved to a position with a higher maximum salary than their base position). The remaining 244 (28 per cent) were considered to be lateral moves. The audit focused on the 643 T<7 appointments which were promotions.

The majority (58 per cent) of T<7 appointments were promotional appointments to BC Government and Service Employees' Union (BCGEU) positions, followed by promotional appointments to excluded management positions (35 per cent). The remaining seven per cent consisted of other promotional appointments, such as to Professional Employees Association (PEA) positions.

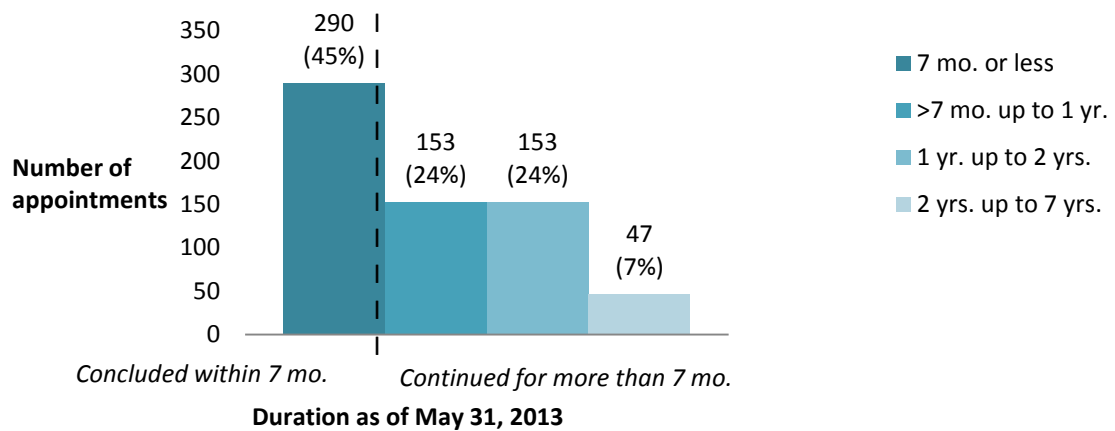
In 91 per cent of the T<7 appointments examined, the temporarily promoted employee was from within the same ministry or organization.



Duration of T<7 Appointments

Although T<7 appointments are intended to fill a short-term need, many of the promotional T<7 appointments active on September 30, 2012 had already continued for more than seven months. To provide a snapshot of how long these T<7 appointments continue, the audit looked at the actual end date of those T<7s that had concluded by May 31, 2013, and the future end date (as entered in CHIPS) for those that were still active on May 31, 2013.

Chart 1 – Duration or Anticipated Duration of Promotional T<7 Appointments

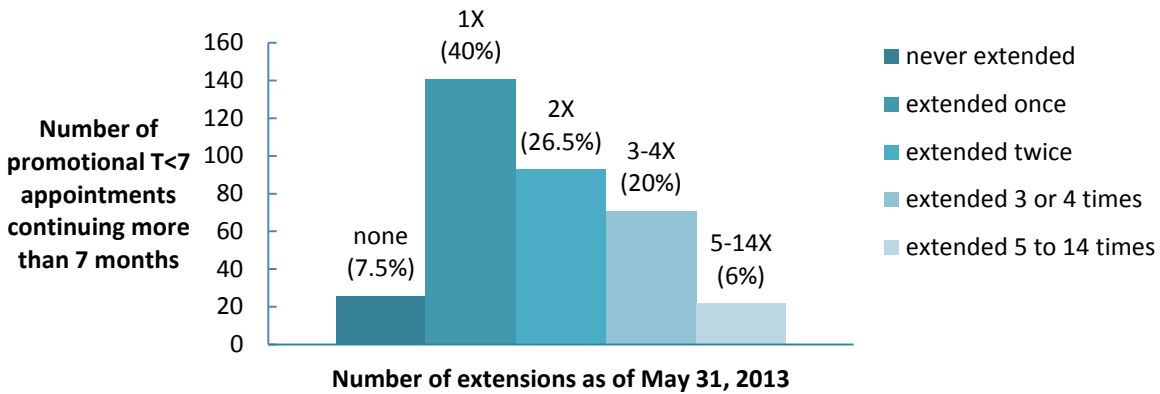


It is also noted that six of the T<7 appointments identified as active in the special audit of 2008 data had been repeatedly extended, and were identified in the current special audit as still active. As noted in Chart 1, there were 353 T<7 appointments that exceeded seven months and they were further examined to determine the number of times each appointment had been extended as of May 31, 2013.

Only 45 per cent of the audited T<7 appointments concluded within seven months.



Chart 2 – Number of Extensions



The analysis found 26 (7.5 per cent) of the T<7 appointments which continued for more than seven months had no extensions. These appointments may have been initially established without an end date, in which case they could continue indefinitely; or as a T<7 appointment even though they would be more than seven months long; or they may have been miscoded in CHIPS as a T<7 appointment.

Another issue is noted for the remaining 92.5 per cent of T<7 appointments (i.e., those with one or more extensions that took them beyond a seven-month term). An in-depth examination of some of the appointments found additional instances of T<7 appointments which started with a lengthy initial term of more than seven months. This examination also found T<7 appointments that had at least one extension of more than seven months (e.g., an individual term ranging from eight to 12 months).

These findings clearly indicate that longer-term appointments are being made as if they were appointments under seven months, either through the initial appointment term or subsequent extension, thereby not requiring a competitive process or the associated right of review for unsuccessful employee applicants.

Though not typical, the detail of one such appointment with a number of extensions is shown in Table 1 for illustrative purposes. With multiple extensions, there were also multiple opportunities to review the overall length of the appointment but there was no evidence that actions such as posting as a T>7 appointment were taken.



Table 1 – Example of One T<7 Appointment History

Date	Action	Duration
September 2007	Initial T<7 appointment made	6 months
March 2008	Extended	6 months
September 2008	Extended	4 months
December 2008	Extended	3 months
April 2009	Extended	5 months
September 2009	Extended	12 months
September 2010	Extended	4 months
January 2011	Extended	3 months
April 2011	Extended	3 months
July 2011	Return/ same date back to back T<7 to same position	3 months
October 2011	Extended	6 months
April 2012	Extended	7 months
November 2012	Return/same date back to back T<7 to same position	5 months
April 2013	Extended	4 months
Total Duration as of May 31, 2013 (13 Extensions):		5 years, 11 months

The 47 T<7 appointments continuing for two years or more identified in Chart 1 were analyzed in more detail to identify common characteristics.

Union Status of Lengthy T<7 Appointments

The audit confirmed the 47 T<7 appointments that continued for two years or more had approximately the same representation by union status as was found overall in T<7 appointments; no category was over-represented in these lengthy appointments.

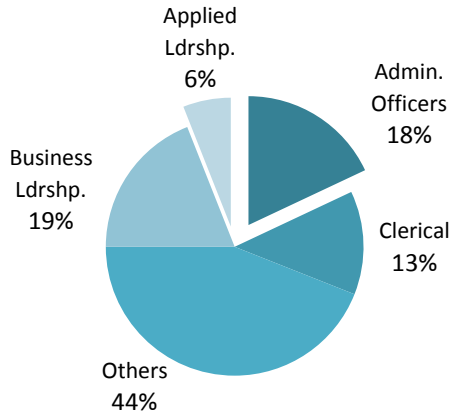
Position Classifications of Lengthy T<7 Appointments

Chart 4 shows the most common position classification groups found within all T<7 appointments examined, compared to those that continued for two years or more.

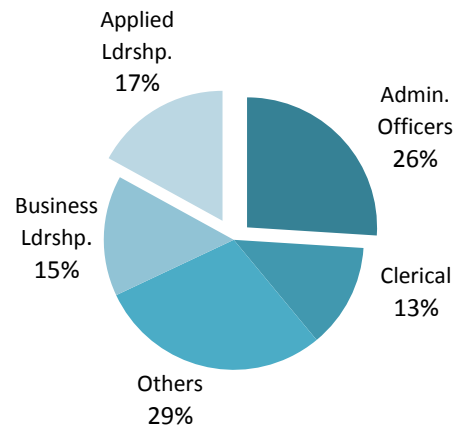


Chart 3 – Comparison by Position Classification

Promotional T<7s of less than 2 years



Promotional T<7s continuing 2 to 7 years



As can be seen in Chart 3, Applied Leadership positions accounted for a much higher percentage of the very lengthy T<7 appointments (two to seven years duration) than were represented in the overall sample of T<7 appointments. This was also true, to a lesser degree, for Administrative Officer positions. Conversely, there were fewer T<7 appointments that continued for lengthy terms in Business Leadership positions, as well as in some less prevalent classifications within the “Other” category (such as Strategic Leadership, Scientific and Technical Officer, and Information Systems positions).

Number of Ministries with Lengthy T<7 Appointments¹

The audit also examined the duration of T<7 appointments based on the ministry making the appointment. Seven ministries were found to be responsible for 75 per cent of all the T<7 appointments examined.

Four ministries accounted for 53 per cent of all the T<7 appointments audited, but were responsible for 72 per cent of those continuing for more than two years.

¹ Individual ministries have not been identified in this report as it has not been the Merit Commissioner’s practice to identify specific ministries in published audit findings.



Closer adherence to the intent of the T<7 staffing option was identified in three other ministries, collectively responsible for 22 per cent of all the T<7 appointments examined. On average, in these three ministries only 2 per cent of their T<7 appointments exceeded two years.

No correlation was found between the volume of T<7 appointments made by an organization and the percentage of those appointments that became lengthy. Some organizations making a large number of T<7 appointments also had a large number which exceeded two years. Some other organizations made only a small number of T<7 appointments, but they all continued for more than two years.

Public Service Guidelines for T<7 Appointments

The BCPSA was contacted to provide further context and details of the corporate approach for the use of the T<7 appointment hiring option. They advised that the current information and directives have been in effect since 2009 and are available to hiring managers on the BC Public Service human resources information website (MyHR). More recently, information was also added regarding approvals required during government-wide staffing restrictions implemented in September, 2012. The online information includes a high-level policy on hiring and deployment, as well as general guidelines on hiring options, temporary appointments and their extensions, and the current hiring approval process. The BCPSA noted that additional information and individual coaching on hiring options is available to hiring managers through the BCPSA advisors. In addition, to ensure consistency of advice to hiring managers, the BCPSA has developed a topic guide on temporary appointments for their own internal use.

The audit further noted that relevant BCPSA guidelines advise managers to choose a hiring option that saves time and resources in the long run, and includes temporary appointments of less than seven months as one of the options for filling positions quickly. It states short-term staffing options are for positions where the work will be limited to a short-term project or is not expected to be continuous. Although the guidelines indicate that temporary appointments longer than seven months must be awarded through a competitive hiring process, it does not include critical details related to the appropriate use of temporary appointments and their extensions. As some ministries may conduct their own staffing actions without seeking advice from the BCPSA and some independent organizations making public service appointments do not receive human resource services from them, ensuring that hiring guidelines and considerations are clear, correct and available is vital to ensuring appointments are made in accordance with the provisions of the *Act* and collective agreement requirements. The current lack of detail and clarity in the available information may be a factor contributing to the misuse of the T<7 appointment option.



During the course of the audit it was found that the BCPSA was incorrectly advising hiring managers that T<7 appointments were not subject to section 8 (Appointments on Merit) of the Act, through the information on the MyHR website and in the internal topic guide used as a reference by BCPSA staff. The error was brought to the BCPSA's attention and their website information was corrected.

Implications of T<7 Extensions

There are a number of implications related to the inappropriate use of T<7 appointments. First, practice is not consistent with formal labour relations interpretations. Public Service arbitration awards with the BCGEU (#598 and #598a) issued in 2002 and 2003 deal with T<7 appointments and their subsequent extensions. In Award #598a, the arbitrator concluded that a temporary vacancy of less than seven months can be extended up to a period of three additional months without posting. It states that should the original estimate, and the extension, exceed 10 months in total then the temporary vacancy must be posted.

The current application of the arbitration awards is unclear. The BCPSA advised that there is less impact of the awards over time, which is interpreted to mean there is less understanding and application of the ruling. When asked about the impact of these arbitration awards on their current practice, the BCPSA indicated that the awards have less direct impact now under the current staffing controls. Although the BCPSA's advice to hiring managers may be consistent with the awards, practice is not; 41 per cent of the active T<7 appointments examined continued for more than 10 months.

Second, in cases where a ministry advises the BCPSA that a T<7 appointment was initially made through a competition, lengthy extensions are currently being approved. However, no process has been established to confirm whether the initial competition was open, transparent, considered all the factors of merit and whether candidates received appropriate right of review.

Third, as was observed in the previous special audit, the employees appointed to these lengthy T<7 appointments receive the financial and experiential benefits of a long-term promotional opportunity. In addition, when the position is subsequently being filled on a permanent basis and the temporary incumbent applies, they are appointed in over 80 per cent of cases.

Finally, it is noted that any T<7 appointments that in actuality would be more appropriately filled as a T>7 appointment should be included in the scope of the Merit Commissioner's annual merit performance audit.



Actions Taken to Address Previous Recommendations

The previous special audit report on T<7 appointments, included four recommendations addressed to the BCPSA. These are summarized below.

- Publish criteria to determine when a T<7 or a T>7 appointment type is the appropriate option, including guidelines for appointing employees not fully qualified.
- Publish guidelines for renewing or extending T<7 appointments where the total term would be significantly beyond seven months.
- Monitor the use of T<7 appointments and their extensions/renewals beyond seven months.
- Examine the ongoing T<7 appointments that have already well-exceeded seven months to identify solutions to this ongoing problem.

The BCPSA was requested to identify the actions taken since 2010 to address these recommendations. In the BCPSA response, it was stated that hiring managers are provided with information and coaching regarding hiring options. In 2012, controls on staffing in the BC Public Service were put in place which included a process to oversee the use of T<7 appointments and their extensions. It is understood that these measures which are still in place are not permanent in nature and when the current staffing restrictions are lifted, there will again be no ongoing process to monitor the use of T<7 appointments. Based on the BCPSA's response, it was clear that while some general action has been taken, the action was not specifically intended to address the Merit Commissioner's recommendations.

Conclusions

The findings of this follow-up audit reinforce those of the previous special audit and also show that little progress has been made toward rectifying the issues with T<7 appointments.

The audit results confirm there continues to be a large number of employees who have been temporarily promoted and extended for more than seven-month terms without a full merit-based process. In 55 per cent of the T<7 appointments examined, the assignments exceeded seven months. Many of these have become long-term and include discrete appointment or extension terms which themselves exceed seven months. Although some of these appointments initially may have been made through a competitive process, when extensions are granted there is no means of providing other employees the opportunity to request a review of these lengthy appointments.

If managers are to be held accountable for the proper use of this appointment type, the published information and guidelines available to them must contain sufficient detail and explanation of merit-based hiring requirements to enable them to make informed decisions.



Recommendations

Based on the special audit findings, the Merit Commissioner makes the following recommendations related to the use of temporary appointments of not more than seven months to the Head, BCPSA, and to deputy ministers and organization heads. A preliminary copy of the recommendations was shared with the Head, BCPSA, whose response is included in Appendix A.

Recommendations to the Head, BCPSA

1. Ensure that all information and advice provided to hiring managers, including published guidelines, is accurate and consistent, and contains sufficient detail regarding the appropriate and legitimate use of T<7 appointments and extensions.
2. Establish an ongoing process to monitor the use of the T<7 appointments, including extensions and renewals to initial appointments which would carry them beyond a total of seven months.

Recommendations to deputy ministers and organization heads

1. Ensure hiring managers give full consideration to determining the likely duration of an assignment and selecting the appropriate appointment option based on that determination.

November, 2013

Office of the Merit Commissioner



Appendix A

Response from the Head, BC Public Service Agency



Where ideas work

September 30, 2013

CLIFF #5388

Ms. Fiona Spencer
Merit Commissioner
Office of the Merit Commissioner
5th floor – 947 Fort Street
Victoria, BC V8W 2C4

Dear Ms. Spencer:

Thank you for providing the opportunity to respond to the Special Audit Report, Short-Term Temporary Appointments in 2012. The Report notes that a temporary appointment of less than 7 months is an efficient staffing option for short-term assignments and is an area of mutual interest to ensure the principle of merit continues to be upheld across the BC Public Service.

The timing of the special audit in September 30, 2012 and then the re-examination of data on May 31, 2013 corresponds with the government's introduction of a managed staffing strategy which was put into effect on September 13, 2012 and remains in effect today. I recognize that an increase in temporary assignments has occurred as a method for ministry's to have more flexibility to fill critical vacancies and provide hiring managers the ability to maintain short term operational requirements specifically in front line service delivery to citizens.

At the same time, hiring restrictions have resulted in the BC Public Service Agency being very involved in the approval of all hiring across government. As the requests for approval are coming in, we have been very diligent in reminding and requesting that ministries ensure that any approved temporary assignments over 7 months are subject to a competitive process. Your audit and another internal review that we conducted demonstrate that more rigor needs to be applied and we are stepping up our efforts to monitor the use of temporary assignments. The Agency is close to launching a new manager's dashboard across the organization that will allow managers the ability to track their full time equivalents, temporary assignments and auxiliaries in real time. Through this tool and other business intelligence we will be more proactively reporting to Deputy Ministers and Executives which we expect will improve our outcomes.

In addition, I am launching a communications plan targeted at front line managers to ensure they know how to access the materials and supports we have available for them to help make decisions about the use of temporary appointments and the appropriate assessment of merit.

Thank you for your audit report and recommendations. I remain committed to ensure that we remain diligent in our efforts and that improvements in the use of temporary assignments are realized.

Yours truly,

Lynda Tarras
Deputy Minister