



Office of the
Merit Commissioner

Upholding Fair Hiring in the BC Public Service

2018–2019
Annual Report



Office of the Merit Commissioner

Upholding Fair Hiring in the BC Public Service

The Honourable Darryl Plecas
Speaker of the Legislative Assembly
Province of British Columbia
Parliament Buildings, Room 207
Victoria, British Columbia V8V 1X4

Dear Mr. Speaker:

It is my honour to present the 2018–2019 Annual Report of the Merit Commissioner. This report is submitted pursuant to section 5.2 of the *Public Service Act*, Chapter 385 of the Revised Statutes of British Columbia.

As an Officer of the Legislative Assembly, I would be pleased to appear and report further on these matters at the request of the Members of the Legislative Assembly.

Respectfully submitted,

Fiona Spencer
Merit Commissioner

Victoria, British Columbia
April 2019



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Message from the Merit Commissioner

I am pleased to present this Annual Report, which reflects the results of the work of the Office of the Merit Commissioner over the 2018–2019 fiscal year and provides information on work underway.

This report is the first since our mandate was changed in 2018 to encompass responsibility for the oversight of processes which result in just cause dismissals from the public service. Our revised mission, vision and responsibilities reflect this new direction and guide us in our planning and priority setting as we work to fulfill our expanded role. This report contains high-level information and overviews – more detail is available on our website.

Merit has been the foundation of BC Public Service hiring for well over 100 years. Hiring on merit generally means selecting people for appointment based on their qualifications and not based on who they are or who they may know. There are many interpretations of what factors must be considered when conducting hiring processes, but here in BC our *Public Service Act* makes it clear that the factors to be considered are: education, experience, knowledge, skills, past work performance, and years of continuous service. Merit-based hiring not only takes into account these factors, but requires open and transparent processes as well as fair and equitable treatment of all applicants.

The Office of the Merit Commissioner is charged with oversight of hiring to and within the public service to provide reassurance to the Legislative Assembly, employees of the public service and the public as a whole that merit is respected in our hiring processes and that qualified individuals are being appointed.

Every three months we take a random sample of appointments to and within the public service for audit. We audit a sufficient number to allow us to generalize the results, which meant in 2017–2018 that we audited 259 appointments. Included in this sample were appointments made from seven different inventories of candidates, with a combined total of 9,000 applicants.



We looked at both the appointment processes and the qualifications of the individuals appointed.

The results of our audits show that with very few exceptions, individuals being appointed have the qualifications necessary for their positions. We found no evidence of patronage in any appointments. Our findings with respect to appointment processes were consistent with past years, with 57 per cent of appointments audited having some form of error; some errors being more consequential than others. We did find improvement in the overall numbers – fewer errors were found, indicating positive progress. However, specific aspects of the hiring process still need attention, such as the early short-listing phase when determinations are made as to who will be given consideration.

In response to our report of findings, the Deputy Minister of the BC Public Service Agency expressed her commitment to creating a more consistent, transparent and inclusive hiring system for the BC Public Service.

In addition to our standard audit, the Office completed an audit of auxiliary appointments this year to determine if individuals appointed met minimum job requirements.

The audit results showed that the large majority of individuals met or exceeded the required qualifications. Further, most appointments were the result of an active search open to a number of individuals and involved some form of assessment, even though such a process is not required by legislation or policy. Though the risk posed to merit-based auxiliary appointments was determined to be low, the Office made recommendations germane to establishing qualifications, conducting past work performance assessments, and improving hiring managers' access to relevant information.

In 2017–2018 we saw 25 requests for review, the highest number since the Office was established and double the average number over the last 10 years. The number of requests the Office receives in a year cannot be predicted and we have not been able to identify a link to any particular event or set of circumstances. In 2018–2019 we continued to experience a high level of activity in this area. We have received 25 requests for review over the course of the fiscal year. The Office gives high priority to the investigation and consideration of review requests to ensure employee concerns are heard and addressed and hiring managers receive timely feedback on the outcome of investigations.

My new responsibility with respect to just cause dismissals relates to an after-the-fact review of the process leading up to a dismissal, to ensure conduct in keeping with government practices, procedures and standards. A review can take place only once all avenues of recourse have been exhausted or associated timelines have passed – as such, a dismissal process does not become eligible for review until at least 12 months after the dismissal has occurred. This means no reviews can be conducted prior to April 2019. During the last fiscal year, the Office has been preparing internal procedures to undertake dismissal process reviews, which has included addressing a number of legal, policy and financial issues. We are now well positioned to receive files and conduct the legislated process reviews.

It has been a busy year for the Office as we faced new challenges: the audit of large inventory selection processes, a record number of requests for review, two special audits, and the preparatory work related to the new mandate. The hard work, professionalism and commitment of the staff of the Office of the Merit Commissioner, as well as the support of the professionals we engage on a contract basis to assist and advise us, has enabled us to fulfill our mandate and deliver these significant results for the people of British Columbia.

A handwritten signature in black ink that reads "Fiona Spencer". The script is fluid and cursive, with the first name "Fiona" being more prominent than the last name "Spencer".

Fiona Spencer, Merit Commissioner

Vision

Merit-based hiring in the BC Public Service; fair process in just cause dismissals.

Mission

To support a strong and non-partisan BC Public Service by monitoring the application of the merit principle to appointments; and by reviewing the application of government practices, policies, and standards to just cause dismissals.

Responsibilities

The Merit Commissioner has three central responsibilities with respect to the BC Public Service:

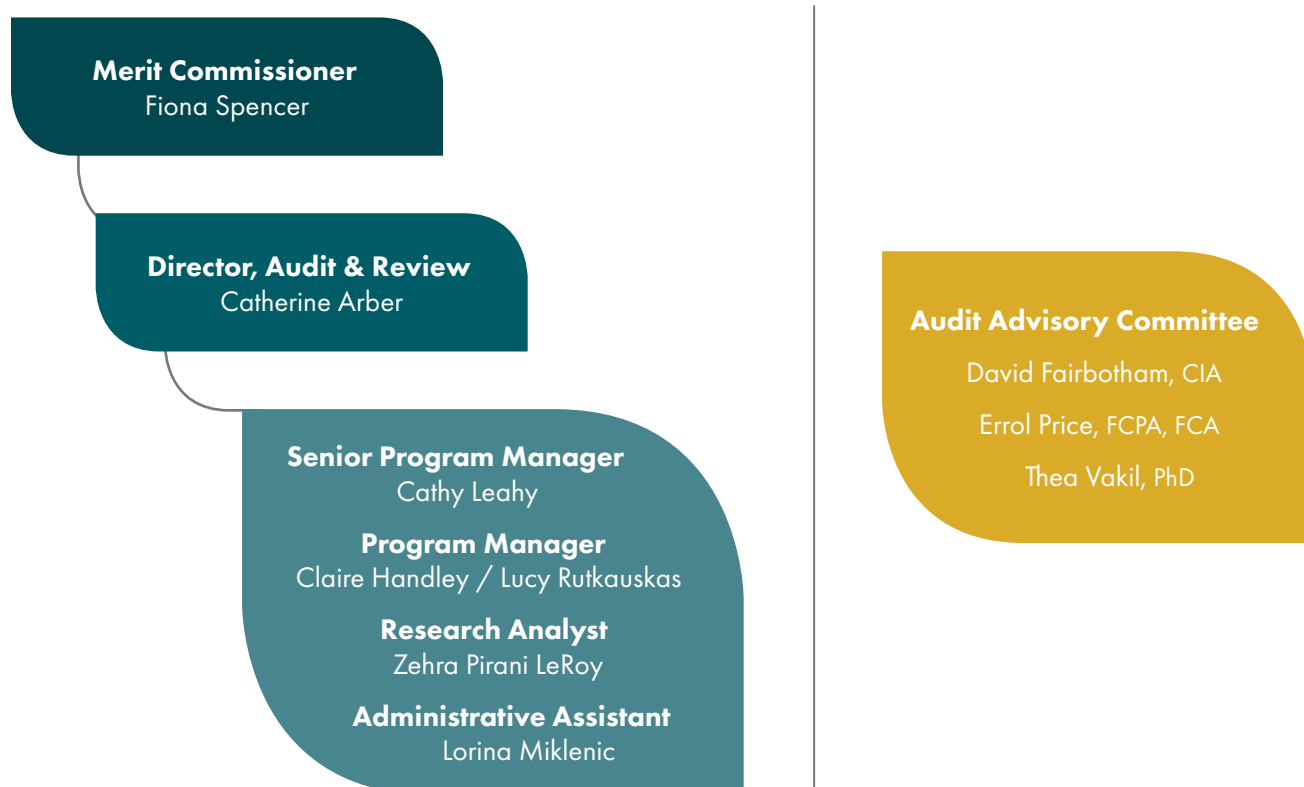
- conduct random audits of appointments;
- conduct reviews of the application of merit as the final step in the staffing review process; and
- conduct reviews of the processes which result in just cause dismissals.

The Office of the Merit Commissioner

The Merit Commissioner is appointed by the Legislative Assembly on a part-time basis for a three-year term. The Office of the Merit Commissioner (the Office) consists of a small team of core staff supplemented by contract resources.

With respect to our audit program and process, our Audit Advisory Committee provides a forum for discussion, consultation, and advice. Members are selected for their professional qualifications, relevant knowledge about the public service, and expertise related to performance audits. The Committee meets periodically with the Merit Commissioner and her staff to provide advice, contribute to planning, and examine issues of interest.

The Office is guided by the principles of fairness and impartiality. We apply to ourselves the same standards of integrity in performance and accountability that we apply to others, and we make certain all those who contact the Office are treated with respect. We are passionate about our work and understand that a vital part of being independent is to have the courage to deliver facts and recommendations about where improvements are needed, as well as to report on progress and accomplishments.



With respect to merit-based hiring and promotions, the Office provides oversight of provincial government organizations that have employees appointed under the *Public Service Act* (the *Act*). Appendix A includes the list of organizations subject to monitoring by the Merit Commissioner with respect to the application of the merit principle to appointments.

With respect to eligible dismissal processes under the *Act*, the Office reviews the application of practices, policies, and standards.

The responsibilities of key stakeholders for merit-based hiring and just cause dismissal processes within the BC Public Service are illustrated below.

Responsibilities for Merit-Based Hiring and Dismissal Processes

Deputy Minister, BC Public Service Agency

Sets human resources policy and the accountability framework for human resource management with the Deputy Ministers' Council

Provides staffing and labour relations support and training to client groups

Delegates responsibilities to deputy ministers and heads of organizations

Authorizes direct appointments

Prior to termination action, confirms with the deputy minister or organization head that appropriate due process has been followed

Provides information related to just cause dismissals to the Merit Commissioner

Receives and takes action as appropriate on the Merit Commissioner's audit, review, and study findings

Deputy Ministers and Organization Heads

As a Council, carry out the corporate human resource plan

Create and lead a culture supportive of public service human resource principles

Sub-delegate human resource responsibilities to line managers and supervisors

Hold managers accountable for human resource decisions

Respond to requests at the second step in the staffing review process

Receive and take action as appropriate on the Merit Commissioner's audit and staffing review decisions

Adhere to practices, policies, and standards for just cause dismissals

Hiring Managers

Acquire and maintain the knowledge and skills required to fulfill responsibilities for human resources management, including hiring and labour relations processes

Make fair and unbiased hiring decisions

Respond to requests at the first step in the staffing review process by providing feedback

The bargaining units that represent most BC Public Service employees – BC Government and Service Employees' Union (BCGEU), the Professional Employees Association (PEA), and the nurses' unions – as well as the BC Excluded Employees' Association, have long records of encouraging and supporting both merit-based hiring and fair dismissal processes in the public service.

Merit-based hiring is an important part of:

- building a qualified and professional public service;
- sustaining an engaged and productive workforce;
- demonstrating credible leadership; and
- maintaining public trust.

Our Work

The Office has three main lines of business: conducting merit performance audits, reviewing individual staffing decisions upon request by eligible individuals, and reviewing processes which resulted in just cause dismissals. The Merit Commissioner also conducts special audits and studies as part of fulfilling her mandate. The following sections include synopses of work completed during 2018–2019 and work in progress. Detailed reports related to the work completed in 2018–2019 and past years can be found at www.meritcomm.bc.ca.

Merit Performance Audits

Overview

The Office monitors the application of the principle of merit in the BC Public Service by conducting on a yearly basis, random audits of permanent appointments and temporary appointments greater than seven months. Any organization to which section 8 of the *Act* applies may be audited by the Office.

We conduct audits in accordance with generally accepted professional audit standards and methodology, work with independent statisticians to ensure our methodology is rigorous and objective in obtaining random and representative samples, and incorporate quality assurance reviews into the audit process.

In accordance with section 5.1 (a) of the *Act*, the purpose of a merit performance audit is to determine whether:

- (i) the recruitment and selection processes were properly applied to result in appointments based on merit, and
- (ii) the individuals when appointed possessed the required qualifications for the positions to which they were appointed.

Appointments on Merit

Section 8(1) of the *Act* requires that, other than in some defined exceptions, appointments to and from within the public service must: (a) be based on the principle of merit, and (b) be the result of a process designed to appraise the knowledge, skills, and abilities of eligible applicants.

The Merit Principle

The *Act* states that all appointments to and from within the BC Public Service must be based on the principle of merit. Merit is commonly accepted to mean that appointments are based on an assessment of competence and ability to do the job, and are non-partisan.

Factors of Merit

Section 8(2) of the *Act* sets out the matters to be considered in determining merit, which must include the applicant's education, skills, knowledge, experience, past work performance, and years of continuous service.

Recruitment and Selection Process

In accordance with an established audit program, we determine whether the design and conduct of a hiring process led to merit-based appointment(s). As part of this determination, we consider the application of relevant legislation, policy, and provisions of collective agreements, and whether the hiring decisions were properly communicated to employee applicants. The overall approach (i.e., process) employed to recruit and select applicants is examined, as well as specific aspects of the process, which we categorize as short-listing, interviewing and testing, past work performance, years of continuous service, and notification. The detailed audit program can be viewed at www.meritcomm.bc.ca.

For each appointment audited, one of the following findings is made.



Recruitment and Selection Process Findings

Merit

The recruitment and selection process was both properly designed and applied to result in an appointment based on merit.

Merit with exception

The recruitment and selection process contained one or more errors in design or application: there was no identifiable negative impact on the outcome.

Merit not applied

The recruitment and selection process contained one or more errors in design or application: the impact on the outcome was known to be negative and as a result, the appointment was not based on merit.

Individual Appointed

We also determine, in accordance with the established audit program and based on the evidence provided, whether the individual appointed possessed the education and experience specified as required for the position and met the minimum criteria established for the other factors assessed during the process. This determination leads to one of the findings below.

Audit findings for each appointment are reported to the respective deputy minister or organization head. A report of overall results is provided to the Deputy Minister of the BC Public Service Agency (Agency Head) and presented to the Legislative Assembly before being posted on

our website. The merit performance audit is a means of bringing issues and opportunities for improvement to the attention of the Agency Head, deputy ministers, and organization heads, and of holding managers accountable for hiring decisions. It also acknowledges and supports good hiring practices throughout the BC Public Service.

Individual Appointment Findings

Qualified

The individual, when appointed, possessed the qualifications specified as required for the position.

Not qualified

The individual, when appointed, did not possess the qualifications specified as required for the position.

Qualifications not demonstrated

There was insufficient evidence provided to demonstrate that the individual, when appointed, possessed the qualifications specified as required for the position.

Audit Findings

Each audit results in two findings: whether the recruitment and selection process was based on merit, and whether the individual appointed was qualified.

Documentation

We also consider whether there was sufficient supporting documentation of all aspects of the process including the actions taken and decisions made, and whether it was necessary to consider verbal or ad hoc evidence from the panel in order to complete the audit.

The state of competition documentation is reported as a separate audit determination as described below.

Documentation Determination



The hiring process was comprehensively documented with minimal or no follow-up required.



The hiring process was partially documented: documents initially missing were later provided; some pieces were missing but key information was provided; and/or some aspects required clarification.



The hiring process was insufficiently documented: key aspects of the process were not documented and verbal evidence was required to complete the audit.



Work Completed

2017–2018 Merit Performance Audit

A total of 6,683 permanent appointments and temporary appointments exceeding seven months were made to and within the public service between April 1, 2017, and March 31, 2018. In order for it to be possible to generalize the results of the audit to all of these appointments, a simple random sample, based on a pre-determined sample size, was chosen each quarter from this population of appointments. A total of 276 appointments were selected, of which 17 were determined to be outside the scope of the audit and removed from consideration. The Office conducted audits of the remaining 259 hiring processes.

Where preliminary findings of “merit not applied” were made, we provided the responsible deputy

2017–2018 Merit Performance Audit Timeline

2017

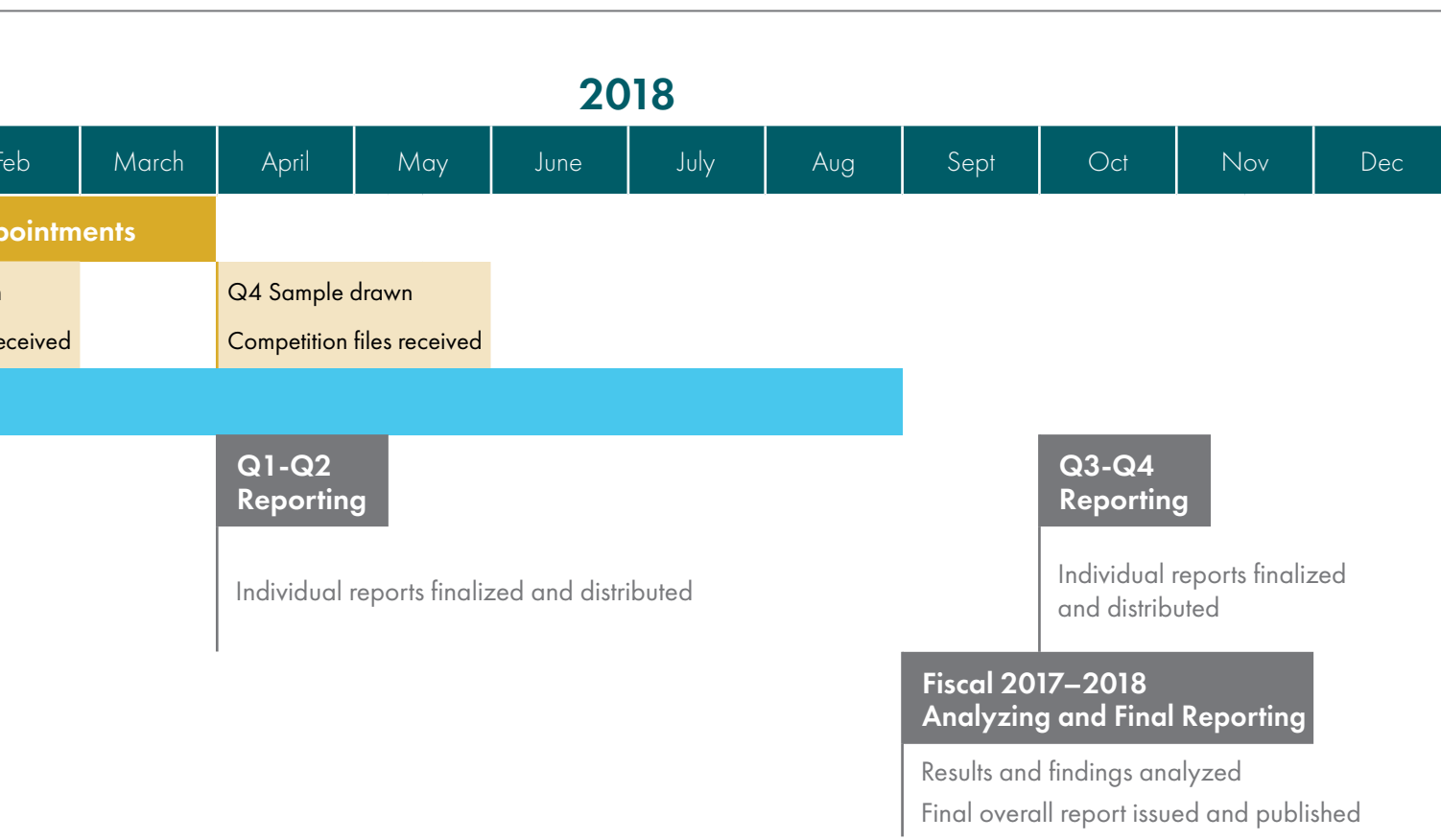
April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb		
Q1 Appointments			Q2 Appointments			Q3 Appointments			Q4 Appointments			
			Q1 Sample drawn			Q2 Sample drawn			Q3 Sample drawn			
			Competition files received			Competition files received			Competition files received			
								Auditing				
								Audits conducted				
					Audits reviewed for quality and consistency							

minister or organization head with the draft results and the opportunity to provide additional or clarifying information. All deputy ministers and organization heads received a final report for each appointment audited within their organization, regardless of the audit finding, and were encouraged to share the results with the responsible hiring managers.

At the conclusion of the audit, we completed a comprehensive analysis of the overall findings and made recommendations. Our findings and analysis were reported to the Legislative Assembly and the Agency Head in November 2018, and were published on our website. A graphic representation of the timeline for the 2017–2018 Merit Performance Audit is shown below.

Individual Appointed

The 2017–2018 Merit Performance Audit found that in all cases except four, the individual appointed met the qualifications specified as required for the position at the time of appointment. One audit resulted in a “not qualified” finding, and three other audits resulted in a finding of “qualifications not demonstrated” due to insufficient evidence demonstrating that the individuals, when appointed, possessed the qualifications required. There was no evidence that any of the 259 appointments audited were the result of patronage.



Recruitment and Selection Process

The audit found that 43 per cent of appointments in the sample were the result of a merit-based recruitment and selection process with no errors. A total of 51 per cent of audited appointments were in the “merit with exception” category, indicating a design or application error in the hiring process where the impact on the outcome was either unknown or mitigated by other factors. In six per cent of the audited appointments, identified errors had an identifiable negative impact on the outcome, resulting in a “merit not applied” finding. When these findings

were extrapolated to the related BC Public Service appointments made over the 2017–2018 fiscal year, an estimated 2,709 appointments would have been merit-based, and another 3,163 appointments would have been considered “merit with exception.” Further, an estimated 397 appointments would have resulted in a “merit not applied” finding.

Only one overall recruitment and selection process finding is reported for each audit, as shown below, although some appointments had more than one error

Types of Errors

Approach

Was the overall approach to recruit and select applicants fair, reasonable and transparent, given the job and its requirements?

Short-listing

Were applicants consistently and appropriately assessed in accordance with the minimum requirements of the position?

Interviewing and testing

Were applicants consistently and appropriately evaluated in accordance with the factors of merit, typically involving skills, knowledge, and experience?

Past work performance

Was this factor properly assessed, including at least one reference from a supervisor or equivalent?

Years of continuous service

Was this factor properly considered, and calculated as applicable?

Notification

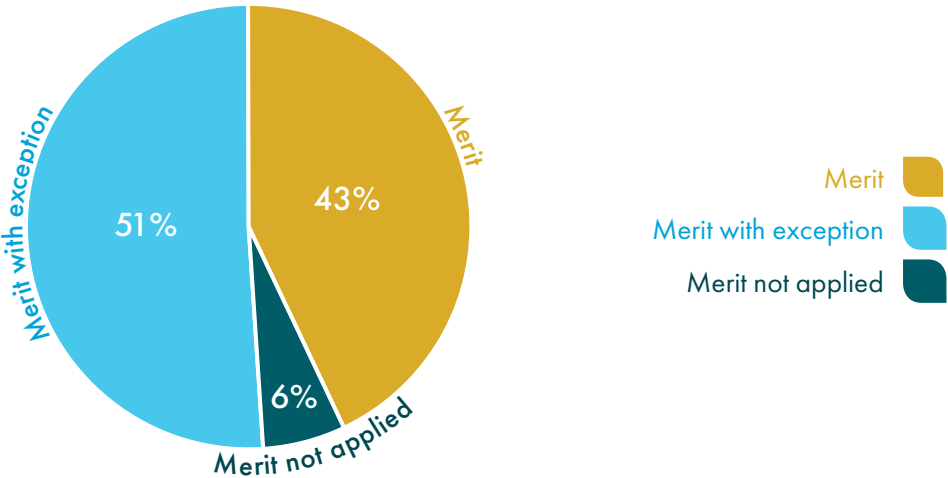
Were employee applicants notified of the final outcome of the hiring process?

and a few had multiple errors. Of note in the 2017–2018 audit is that the frequency of findings was similar to those of the 2016–2017 audit; however, overall there was a decrease in the total number of errors identified in each appointment, suggesting there has been an improvement in hiring practices.

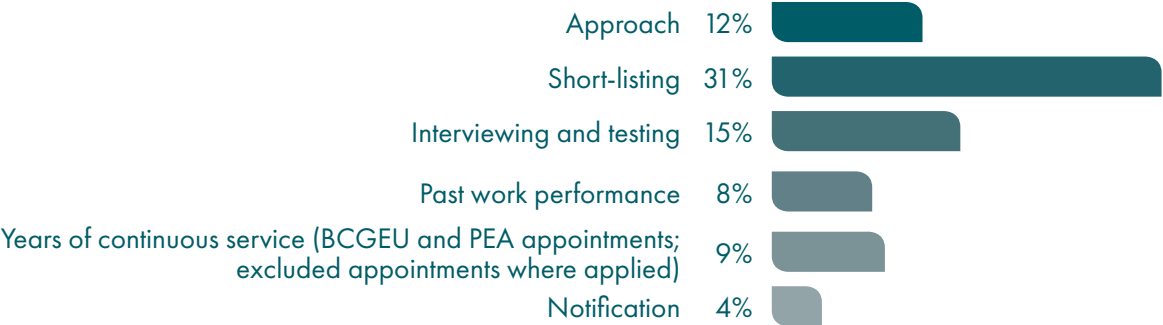
We examined and grouped the identified types of errors into categories involving approach, short-listing, interviewing and testing, past work performance, years of continuous service, and notification. In comparison to

the previous two Merit Performance Audits (2015–2016 and 2016–2017), errors involving short-listing continued to rise, whereas errors involving interviewing and testing, past work performance, years of continuous service, and notification decreased somewhat. In particular, the rate of interviewing and testing errors is down nine percentage points from 2016–2017. Illustrated below are the types of errors as a percentage of all appointments audited.

2017–2018 Overall Recruitment and Selection Process Findings



Types of Errors as a Percentage of All Appointments Audited



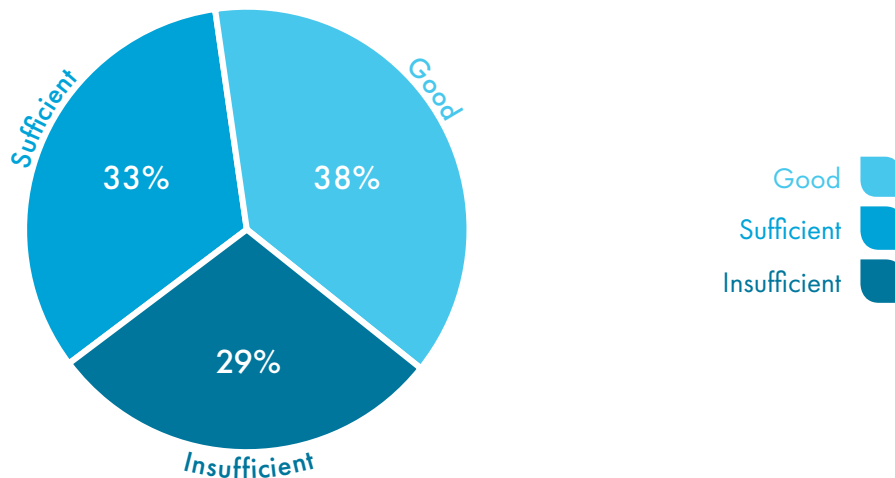
Note: As some appointments had more than one error, the percentages above do not total 100 per cent.

Documentation

As illustrated below, the determinations related to documentation varied slightly across the three categories, with 38 per cent, 33 per cent, and 29 per cent of the audits described as having good, sufficient,

and insufficient documentation, respectively. This means that just over one third of appointments were fully documented.

2017–2018 Overall Documentation Determinations



2017–2018 Merit Performance Audit Recommendations

Based on the analysis of the 2017–2018 Merit Performance Audit findings, the Merit Commissioner made a number of recommendations to deputy ministers and organization heads to strengthen merit-based hiring, recognizing that assistance by the BC Public Service Agency may be necessary to support implementation.

- Review the minimum qualifications before advertising the position to ensure the appropriate education and experience requirements are accurately captured, stated and applied, and consider where alternative combinations of requirements may be appropriate or acceptable.
- Give thoughtful consideration to the assessment methods and tools to be used, and design these to assess specific job requirements.
- Establish reasonable standards and criteria for each form or stage of assessment, including interviews.
- Review and verify the application of standards and criteria to ensure they have been correctly and consistently applied across applicants and candidates.
- Ensure hiring decisions are documented sufficiently to demonstrate each applicant's status at each stage of the competition.



Work Underway

2018–2019 Merit Performance Audit

The 2018–2019 audit of appointments made from April 1, 2018 through March 31, 2019, is currently underway. Random samples of appointments were drawn for the first three quarters, and in April 2019 a random sample of appointments will be drawn for the last quarter. Reports for 140 appointments audited from the first two quarters were scheduled to be provided

to deputy ministers and organization heads in early April 2019. The reports for appointments audited in the last two quarters of the fiscal year are expected to be distributed in the fall of 2019. The final comprehensive report, including the analysis and summary of the overall audit results, is targeted for publication in November 2019.

Special Audits

Audit of Auxiliary Employees

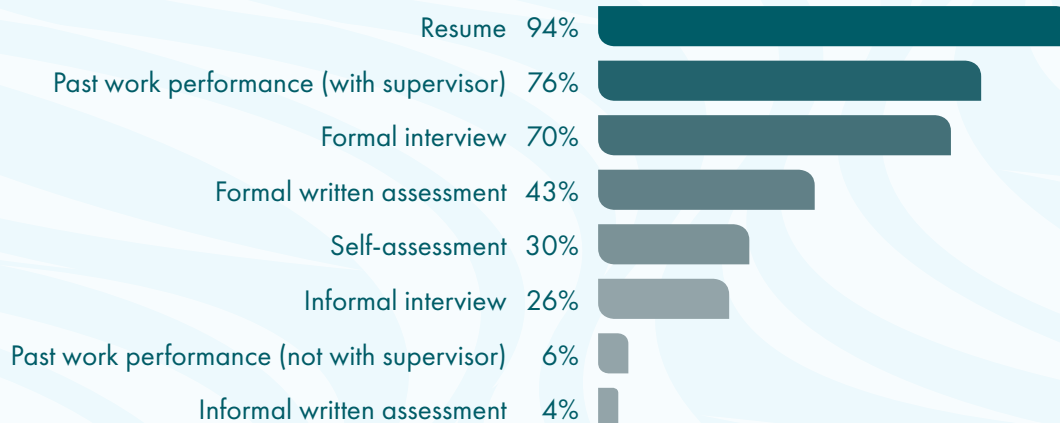
Section 8 of the Act requires appointments to and from within the public service to be based on merit – this includes auxiliary appointments. The main purpose of this audit was to determine whether the identified auxiliary employees met the minimum position requirements (i.e., the mandatory education and experience qualifications) at the time of appointment. While section 10 of the Act exempts this type of appointment from a competitive process, given that some of these employees will likely transition to the permanent workforce, it was also of interest as to how they were identified and selected.

Based on information provided by responsible hiring managers, a sample of 171 individuals who were appointed during a six-month period in 2017 was examined. The audit concluded that 144 of these individuals met or exceeded the minimum requirements and 17 did not meet the minimum requirements. Due to a lack of information, determinations could not be made for the remaining 10 individuals.

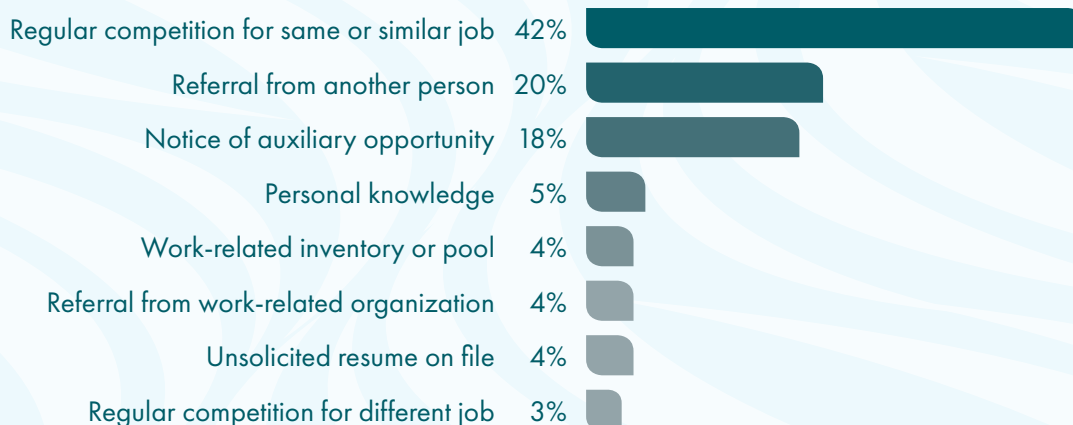
For the 17 individuals who did not meet the minimum requirements, they were usually missing all or part of an experience qualification fundamental to the position. Most were appointed to positions classified at the R9 and R11 level (e.g., entry or working levels), many of which were administrative or clerical in nature and required up to a year of related experience.

The means by which individuals were identified and assessed are illustrated in the following two charts. It was evident that many hiring managers took time to identify individuals through some form of active search and assessed these individuals through a competitive process involving other applicants. While not the focus of this audit, of concern was the uncertainty for a number of positions whether past work performance, a factor of merit, had been assessed.

Methods Used to Assess Auxiliary Appointees



Methods Used to Identify Auxiliary Appointees



The audit concluded that a significant majority of auxiliary appointees met the minimum requirements. For those who did not, given the nature of the position, it is likely that they would have gained the requisite experience during the appointment, thereby limiting the risk that an unqualified individual would become part of the permanent BC Public Service workforce.

The audit made the following three recommendations.

1. Hiring managers review the mandatory education and experience qualifications to determine their accuracy, and do not change fundamental requirements.
2. Hiring managers assess past work performance and include a reference from a supervisor or equivalent.
3. The BC Public Service Agency provide easily accessible and amalgamated information on auxiliary appointments for hiring managers, including an explanation of the phrase "to be based on the principle of merit," and the specific requirements for the assessment of past work performance and documentation.

Audit of Direct Appointments

Direct appointments – appointing a specific person directly to a position, without any opportunity for others to compete – are permitted under section 10 of the Act when three criteria are met: the appointment must be based on the principle of merit; there should be unusual or exceptional circumstances; and the appointment must have the approval of the Agency Head. Due to the different process requirements for this type of hire, the Office ceased including direct appointments in the annual merit performance audit as of April 1, 2015, instead opting to conduct a separate audit of direct appointments at a later date. The purpose of this audit was to ensure that direct appointments which occurred from April 1, 2015, to March 31, 2018, were appropriately approved by the Agency Head.

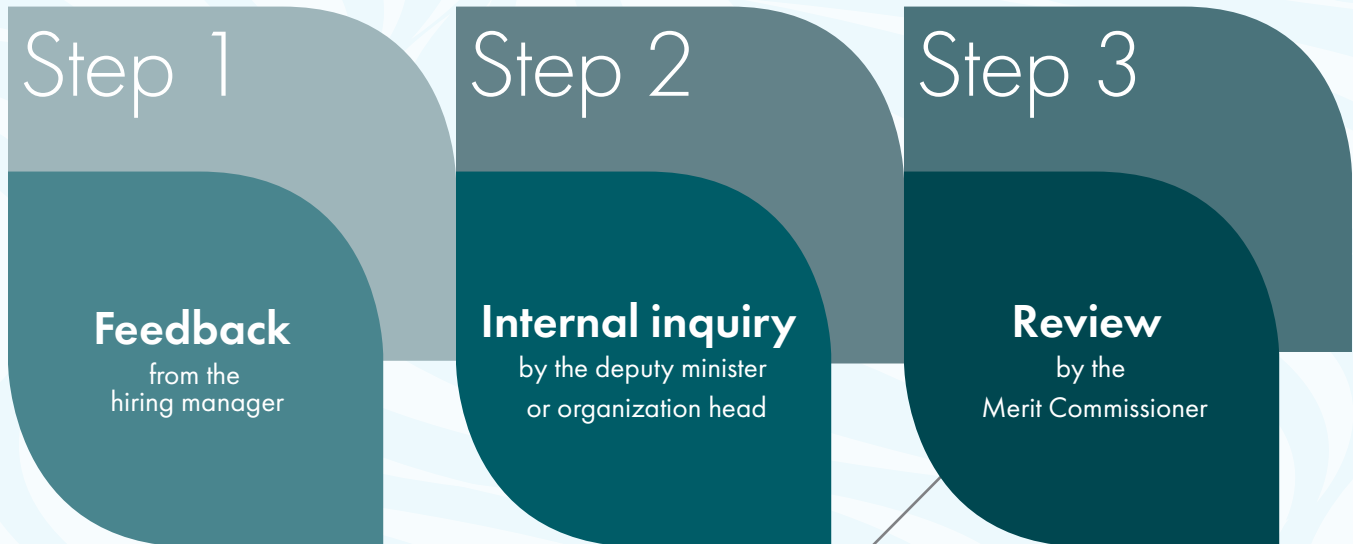
A list of direct appointments for this period provided to the Office was reconciled with BC Public Service Agency records. A total of 45 individuals were approved for direct appointment during the audit period. Although a number of discrepancies were initially found (19), all were resolved and attributed to miscoding within the Corporate Human Resource Information and Payroll System (CHIPS). Overall, it was determined that there was no risk to merit-based hiring given the very small number of this type of appointment, and that all appointments had received the appropriate approval by the Agency Head.

Staffing Reviews

Overview

The Act provides employee applicants who are unsuccessful in competitions for permanent appointments or temporary appointments exceeding seven months, with the right to request a review of the appointment

decision. There is a three-step staffing review process, which an employee may initiate when notified of a competition outcome.



The third step in the process, a review by the Merit Commissioner, is available to employees who are applicants for bargaining unit positions. Should an employee proceed to this step, the Merit Commissioner conducts an independent review. Each review involves a detailed analysis of the documented evidence contained within the competition file, supplemented by information obtained through discussions with the employee requesting the review, the hiring manager, and where necessary, other relevant individuals such as hiring panel members. Each review is guided by the requirements of legislation, collective agreement provisions, and hiring policies. Consideration is given as to whether the hiring process was fair and transparent, the assessment conducted was relevant to the job, and the decisions made were reasonable.

Each decision determines whether the aspects of the selection process related to the employee's grounds comply with the requirements of section 8(1) of the Act. If these aspects do comply, the Merit Commissioner upholds the appointment decision; if not, she directs a reconsideration of the appointment decision. The Merit Commissioner's decision is final and binding. In general, decisions are issued within 30 days following receipt of the documents necessary to conduct the review.

Work Completed

2017–2018 Report on Staffing Reviews

In 2017–2018, 25 requests for a staffing review were received, which is the highest number of requests submitted in a one-year period since the creation of the Office. For the 17 requests found eligible, a review was undertaken. Following the end of the fiscal year, a general analysis of all of the reviews was completed, with the report of the findings published on our website in July 2018. The examination found the grounds were similar to those identified in previous years and included: insufficient or inappropriate consideration of education and/or experience, unfair marking of test or interview responses, improper consideration of past work performance, and bias in the hiring process either against or towards candidates. While representative of unsuccessful applicant concerns, no broad conclusions can be drawn given the consistently low number of reviews requested in comparison to the number of appointments made within the BC Public Service.

In 13 of the cases, the Merit Commissioner dismissed the review and upheld the original appointment decision. In four reviews, the Merit Commissioner found a serious flaw with the short-listing process, interviewing and testing components, or the assessment of past work performance, and directed a reconsideration of the appointment decision.

Some candidates also raised concerns (e.g., labour relations matters) which were outside the Merit Commissioner's authority and therefore not considered when conducting the review. Where appropriate, these matters were raised to the deputy minister or head of the organization for consideration.

The average time taken to complete each review and respond to a request was 36 days following receipt of the required documentation. Delays beyond the Office's targeted response time of 30 days were due to the workload associated with the unusually high number of review requests received in 2017–2018, as well as the complexity of some of the issues raised.

2018–2019 Staffing Reviews

In 2018–2019, the Merit Commissioner received 25 requests for review of appointments within 10 different ministries or organizations. One of these requests was withdrawn and another five were deemed ineligible. For four of the ineligible cases, the required prior step, an internal inquiry, had not been completed either because a formal request had not been sent to the deputy minister or because the competition in question had been cancelled. In the fifth instance, a reconsideration directed by the deputy minister as a result of the internal inquiry was in progress at the time of the request for a review. With respect to the remaining 19 requests, a review was undertaken.

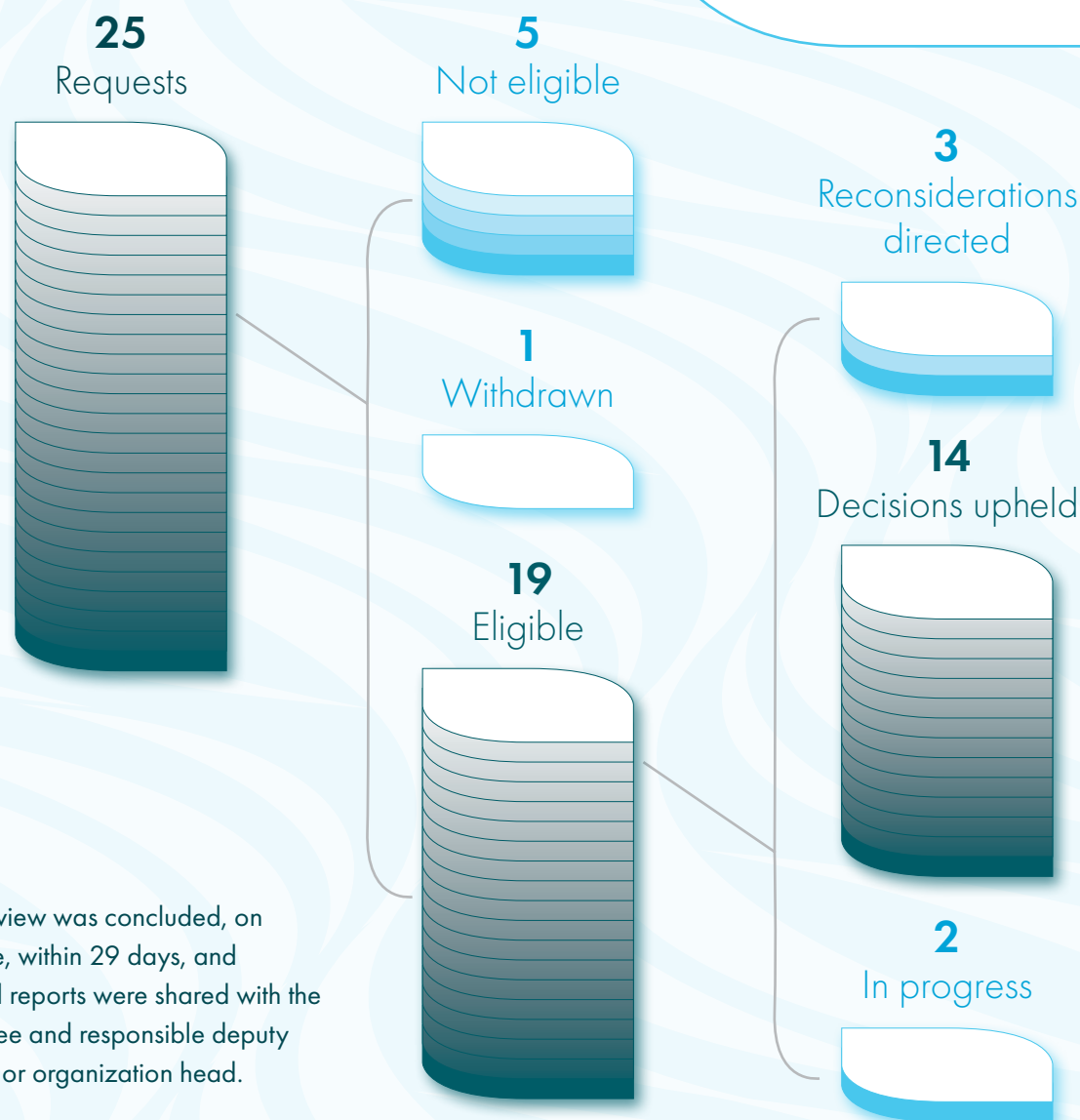
Unsuccessful employee applicants choosing to exercise their right for an internal inquiry and a request for review must detail the specific grounds. A review studies the grounds put forward and considers evidence related to the grounds. It is therefore essential that employees be given a clear account of their performance and assessment in the competition process, in order for them to make an informed decision about exercising their right to request a review and to effectively outline their concerns.

The Merit Commissioner issued 17 decisions. In 14 of these cases she upheld the ministry decision; in the other three cases she did not. In these latter cases, the Merit Commissioner found that the aspects of the selection processes related to the employees' grounds did not comply with section 8(1) of the Act, and she directed the responsible deputy minister or organization head to reconsider the appointment. In one review it was found the short-listing was unreasonably restrictive; in the other two reviews the interview and testing designs and marking were flawed. Two reviews were in progress as of March 31, 2019.

Grounds for Review 2018–2019

Common grounds for review in the fiscal year included:

- insufficient or inappropriate consideration or weight given to education and/or experience;
- incorrect marking of test or interview responses; and
- unfair evaluation of past work performance.



Each review was concluded, on average, within 29 days, and detailed reports were shared with the employee and responsible deputy minister or organization head.

Work Underway

2018–2019 Report on Staffing Reviews

An analysis of the staffing reviews conducted in 2018–2019 will be undertaken and a final report published in the summer of 2019. Recurring themes in

employees' grounds provide the Office with insight into areas where future audits or studies of specific aspects of the hiring process may be warranted.



Dismissal Process Reviews

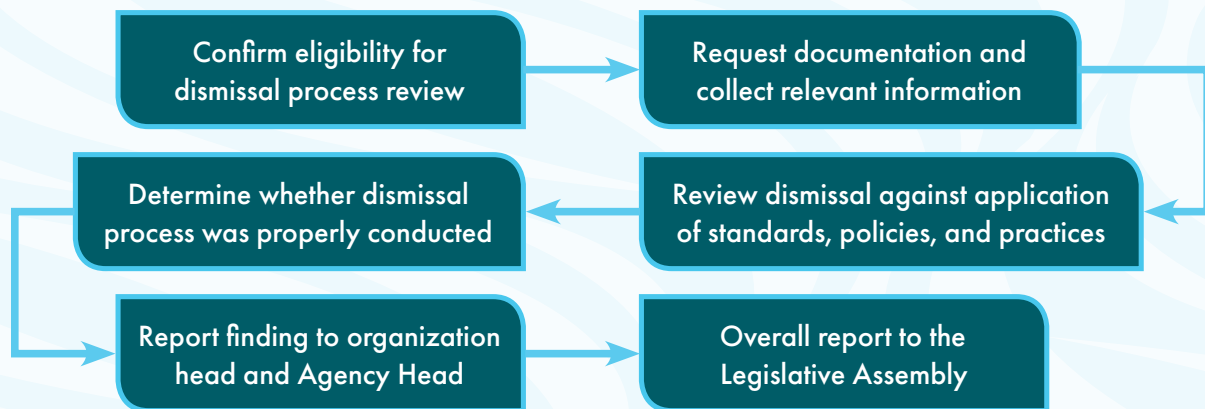
Overview

Amendments to the *Public Service Act* in April 2018 conferred upon the Merit Commissioner the responsibility to review processes related to eligible just cause dismissals from the public service. For the process to be eligible for review by the Merit Commissioner, all avenues of redress or recourse must be expired or exhausted. Should no challenge to a dismissal occur, the earliest the process would come before the Merit Commissioner is 12 months following the dismissal. Should the concerned employee choose to challenge the dismissal, the process would not come before the Merit Commissioner until six months after all redress or recourse proceedings are complete.

Once a dismissal process comes to the Merit Commissioner, all associated documentation and relevant information is obtained, to enable the conduct of a full and complete review. The review entails an examination to determine whether the dismissal process adhered to all necessary practices, policies, and

standards. The review will not determine whether the dismissal met the legal standard for a just cause dismissal. Results of each individual review are shared only with the BC Public Service Agency, as it is the organization responsible for managing dismissals from the public service, and with the deputy minister or organization head of the body where the dismissal decision was made.

In May of each year, the Merit Commissioner will report to the Legislative Assembly on the activities undertaken with respect to dismissal process reviews. The Merit Commissioner also intends to report annually on the overall results of the review of dismissal processes, as well as any observations or recommendations related to how policy and procedures are being implemented in the public service. The privacy of affected individuals will be protected in all public communication – results will be summarized and no identifying information will be included.



Work Completed and Underway

Since amendments to the *Act* were introduced, the Office of the Merit Commissioner has been preparing to undertake this work. With the advice and assistance of professionals with specialized expertise, internal procedures and systems have been established, a program to ensure comprehensive and consistent review has been developed, and protocols and agreements with respect to information sharing have been negotiated. Work continues with respect to finalizing the complete list of organizations which are subject to this review.

Historically, there have been, on average, approximately 25 dismissals for just cause from the BC Public Service per year. Given the time necessary prior to eligibility, no dismissals would come to the Merit Commissioner for process review prior to April 1, 2019. After that date, any reviews will be undertaken at the Merit Commissioner's discretion.

The general process for conducting reviews of dismissal processes is illustrated above.

Budget

The Office's budget and expenditures for the 2018–2019 fiscal year are shown below by expenditure type. In November 2018, the Merit Commissioner met with the Select Standing Committee on Finance and Government Services to review results of the work of the Office over the previous year, establish priorities for the year ahead, and review budget requirements for the next three fiscal years. In this presentation the Merit Commissioner also sought access to supplementary funding of up to \$75,000 to respond to the change in legislation and the

additional authority to review all public service just cause dismissal processes. These funds were granted through access to contingencies.

The Committee acknowledged the work of the Office and endorsed the Service Plan as it was presented. Subsequently, the Office was allocated a budget of \$1,365,000 for fiscal 2019–2020. Details of this budget allocation are also shown below.

Budget and Expenditures

	Approved budget 2018–2019 with supplementary funding	Projected expenditures 2018–2019 as of February 28, 2019	Approved budget 2019–2020
Salaries & benefits	\$ 662,000	\$ 688,484	\$ 728,000
Travel expenses	\$ 17,000	\$ 19,500	\$ 17,000
Operating expenses	\$ 321,000	\$ 307,885	\$ 404,000
Professional services	\$ 141,000	\$ 181,923	\$ 216,000
Access to contingencies	\$ 75,000		
Total	\$ 1,216,000	\$ 1,197,792*	\$ 1,365,000

*The contingency funding used is included in projected expenditures for 2018–2019.

Appendix A

Organizations Subject to the Merit Commissioner's Oversight of Appointments

(as of March 31, 2019)

Ministries

Advanced Education, Skills and Training
Agriculture
Attorney General
Children and Family Development
Citizens' Services
Education
Energy, Mines and Petroleum Resources
Environment and Climate Change Strategy
Finance
Forests, Lands, Natural Resource Operations
and Rural Development
Health
Indigenous Relations and Reconciliation
Jobs, Trade and Technology
Labour
Mental Health and Addictions
Municipal Affairs and Housing
Public Safety and Solicitor General
Social Development and Poverty Reduction
Tourism, Arts and Culture
Transportation and Infrastructure

Independent Offices

Auditor General
Elections BC
Human Rights Commissioner
Information and Privacy Commissioner
Merit Commissioner
Ombudsperson
Police Complaint Commissioner
Representative for Children and Youth

Courts of British Columbia

BC Court of Appeal
Provincial Court of BC
Supreme Court of BC

Other Public Sector Organizations

Agricultural Land Commission
Auditor General for Local Government
BC Farm Industry Review Board
BC Human Rights Tribunal
BC Pension Corporation
BC Public Service Agency
BC Review Board
Civil Resolution Tribunal
Community Care and Assisted Living Appeal Board
Destination BC
Employment and Assistance Appeal Tribunal
Environmental Appeal Board
Financial Institutions Commission
Financial Services Tribunal
Forest Appeals Commission
Forest Practices Board
Health Professions Review Board
Hospital Appeal Board
Independent Investigations Office
Islands Trust
Mental Health Review Board
Office of the Premier
Oil and Gas Appeal Tribunal
Property Assessment Appeal Board
Public Guardian and Trustee
Public Sector Employers' Council Secretariat
Royal BC Museum
Safety Standards Appeal Board
Surface Rights Board
Workers Compensation Appeal Tribunal



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3. Civil service reform - British Columbia - Periodicals.
4. Patronage, Political - British Columbia - Periodicals.
5. Civil service - British Columbia. I. Title. II. Title: Office of the Merit Commissioner annual report. III. Title: Merit Commissioner, annual report.

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