Office of the
**Merit Commissioner**

Upholding Fair Hiring in the BC Public Service

# 2019–2020
# 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 2019–2020 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,

Maureen Baird
Merit Commissioner

Victoria, British Columbia
May 2020

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# Message from the Merit Commissioner

I am honoured to have been appointed Merit Commissioner by the Legislative Assembly to contribute to building and sustaining a strong public service in British Columbia by upholding the principles of fair and merit-based hiring and providing oversight to ensure that dismissals for just cause are consistent with government practices, policies and standards. I consider it a privilege to be entrusted with these responsibilities.

I commenced my duties on January 13, 2020. I follow in the footsteps of my predecessor, Fiona Spencer, and take this opportunity to acknowledge her vision and dedication to the goals of this Office. As a result of her leadership, the Office is well equipped not only to meet the challenges ahead, but to do so with integrity, high standards and professionalism. Ms. Spencer's principled and purposeful approach to monitoring and measuring the application of merit to hiring practices in the BC Public Service has resulted in positive changes to hiring practices, which benefit not only employees, but also British Columbians who rely upon, and rightly expect and deserve, a high quality of service.

My recent appointment gave me cause to review and consider the reasons for the creation of the Office of the Merit Commissioner almost 20 years ago. In 2001, the BC government signaled its intent to renew and revitalize its public service, including a new means of safeguarding merit-based staffing. The goal was to enhance the efficiency and effectiveness of human resources systems and the ability to attract and retain qualified employees to better serve the needs of British Columbians. The government recognized that a professional, non-partisan public service was necessary to achieve this goal.

The Office of the Merit Commissioner was created by statute to monitor appointments to and from within the public service to ensure that those persons appointed to the public service are qualified and competent to do the job based on merit alone. The Merit Commissioner is an Independent Officer of the Legislature reporting directly to the Legislative Assembly. This ensures the

independence of the Commissioner in performing systemic oversight of the application of the merit principle in the BC Public Service. The first Merit Commissioner was appointed in October 2001.

Over the last 19 years, the work of the Office and its approach to oversight has evolved. In the past year, the Office continued to focus on its three main areas of responsibility: conducting merit performance audits, reviewing individual staffing decisions upon request by eligible individuals and reviewing processes which resulted in just cause dismissals.

This report contains the results of our 2018–2019 Merit Performance Audit, which is based on the auditing of the 273 appointments randomly selected from the approximately 7,500 appointments made over the 2018–2019 fiscal year. The overall findings, which can be extrapolated to all appointments of a similar type made throughout the BC Public Service in the 2018–2019 fiscal year, showed that 56 percent of appointments were found to be "merit" appointments, 41 percent were found to be "merit with exception" appointments and 3 percent were found to be "merit not applied" appointments. These findings are a positive indicator, with the overall estimated number of appointments found to be "merit" appointments having risen 13 percent from the 43 percent figure of the previous two years. In addition, the percentage of "merit not applied" appointments was less than the 2017–2018 figure. Findings concerning the qualifications of the individuals appointed continue to be excellent. In nearly all cases, the individuals whose appointments were selected for audit had the qualifications specified as required for the position. A finding of insufficient evidence to demonstrate that the individual was qualified arose with respect to only three appointments. Notwithstanding these positive and encouraging results, our *2018/19 Merit Performance Audit Report* made recommendations to deputy ministers and organization heads (for their delegated hiring managers) related to establishing qualifications and assessment standards, and preventing mistakes.

Since 2016–2017, the number of eligible requests for staffing reviews has almost doubled, with 20 requests being reviewed this year. Of the reviews completed this fiscal year, one resulted in a direction for a reconsideration of the appointment, compared with three for 2018–2019. Overall, the grounds presented covered every phase of a hiring process.

Our Office has now received the first files for review under our mandate to oversee just cause dismissals. The former Commissioner had undertaken the development of internal procedures to undertake this work. I am pleased to report that the final elements of a legal and policy pilot protocol to gather all of the information required for that oversight are now in place and that important work can now proceed with all the required information available.

As I commence my term, it is already clear that achieving the goals of this Office would not be possible without the diligence, dedication and support of the professionals who staff this Office, our contracted auditors and my Advisory Committee. I also want to acknowledge the members of the Legislative Assembly who had the foresight to create this unique Office dedicated to transparency and accountability for a qualified and non-partisan public service.

Lastly, I write this inaugural message in the midst of the COVID 19 pandemic. This crisis has given us all reason to reflect. In particular, it has highlighted the need for excellence in the public service whose members are called upon and relied upon in these difficult times, not only to maintain existing services, but also to provide increased levels of service where circumstances necessitate. This takes me back full circle to the reasons why this Office was created and to our resolve to rededicate our efforts to ensure that the principle of merit-based appointments is upheld and enhanced.

Maureen Baird, 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. The previous Merit Commissioner, Fiona Spencer, ended her third term on September 15, 2019. Merit Commissioner Maureen Baird was appointed on January 13, 2020.

With respect to our audit program and process, our 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.

**Merit Commissioner**
Maureen Baird

**Director, Audit & Review**
Catherine Arber

**Senior Program Manager**
Cathy Leahy

**Program Manager**
Claire Handley / Lucy Rutkauskas

**Analyst**
Zehra Pirani LeRoy

**Administrative Assistant**
Lorina Miklenic

**Advisory Committee**

With respect to eligible dismissal processes under the *Public Service Act* (the *Act*), the Office reviews the application of practices, policies, and standards. With respect to merit-based hiring and promotions, the Office provides oversight of provincial government organizations that have employees appointed under 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.

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 resources plan
- Create and lead a culture supportive of public service human resources principles
- Sub-delegate human resources responsibilities to line managers and supervisors
- Hold managers accountable for human resources 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 – the BC Government and Service Employees' Union (BCGEU), the Professional Employees Association (PEA), and the nurses' unions – as well as the BC Excluded Employees' Association (BCEEA), 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 areas of responsibility: 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 work of the Office was impacted by the Merit Commissioner position being vacant for approximately four months. As a result, the November 2019 publication and release date of the *2018/19 Merit Performance Audit Report* was delayed to March 2020, five staffing review requests were held in abeyance until a new Merit Commissioner was appointed, and no special audits or studies could be undertaken. The following sections include synopses of work completed during 2018–2019 and work in progress. Detailed reports related to the work completed in 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. Appointments in 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 the five common stages of a hiring process: 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.

#### 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 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.

**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 hiring panel in order to complete the audit.

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

#### Documentation Determination

**Good**

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

**Sufficient**

The hiring process was partially documented. Some documents were missing or incomplete and/or some aspects of the process required clarification. There was sufficient information to complete the audit.

**Insufficient**

The hiring process was insufficiently documented. Key aspects of the process were not documented and/or verbal evidence was required to complete the audit.

## Work Completed

### 2018–2019 Merit Performance Audit

A total of 7,556 permanent appointments and temporary appointments (those exceeding seven months) to and within the public service between April 1, 2018, and March 31, 2019, were identified for sampling. In order to be able to generalize the results of the audit to all of these appointments, a stratified random sample, based on a pre-determined sample size, was chosen each quarter from this population of appointments. A sample of 280 appointments was selected, of which seven were determined to be outside the scope of the audit and removed from consideration. The Office conducted audits of the hiring processes for the remaining 273 appointments.

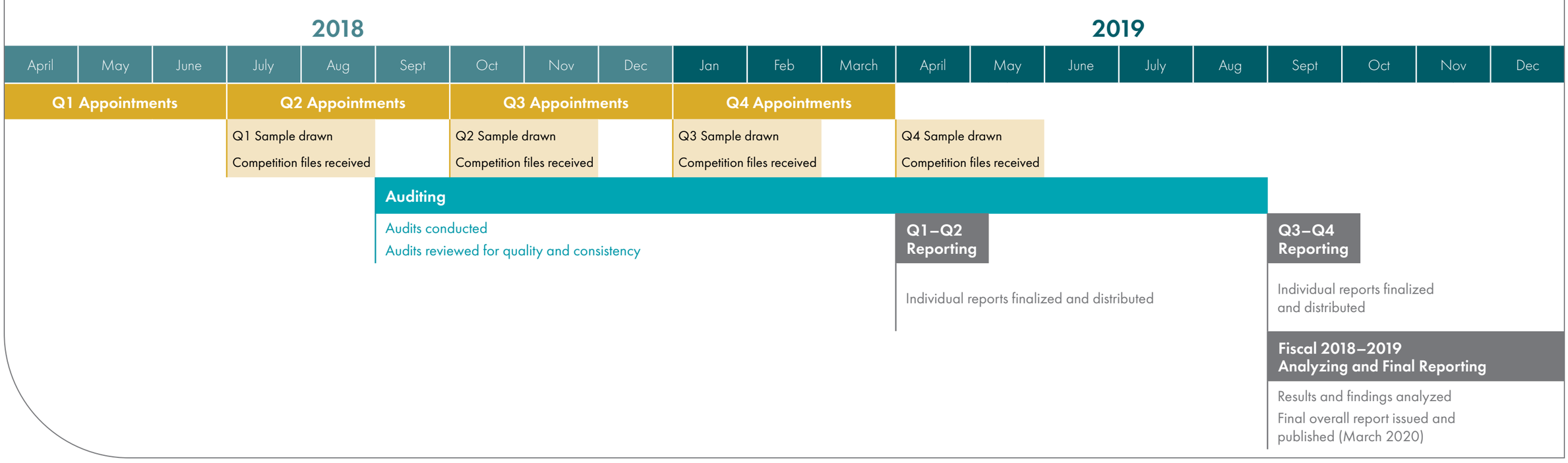
Where preliminary findings of "merit not applied" were made, we provided the responsible deputy minister or organization head with the opportunity to review the draft results and provide additional or clarifying information. All deputy ministers and organization heads received a final report for each 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 and made recommendations. These overall findings were reported to the Legislative Assembly and the Agency Head in March 2020, and were published on our website. The timeline for the 2018–2019 Merit Performance Audit is shown below.

*Individual Appointed*

The 2018–2019 Merit Performance Audit found that, in all cases except three, the individual appointed met the qualifications specified as required for the position at the time of appointment. For these three individuals, the finding was "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 273 appointments audited were the result of patronage.

2018–2019 Merit Performance Audit Timeline



*Recruitment and Selection Process*

The audit found that 56 percent of appointments in the sample were the result of a merit-based recruitment and selection process with no errors. A total of 41 percent 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 3 percent of the audited appointments, errors in the design or application of the hiring process had an identifiable negative impact on the outcome, resulting in a "merit not applied" finding. When these findings were extrapolated to the adjusted population of 7,363 related BC Public Service appointments for the 2018–2019 fiscal year, it is estimated that 4,103 appointments would have been merit-based, and 3,045 appointments would have been considered "merit with exception". An estimated 215 appointments would have resulted in a "merit not applied" finding.

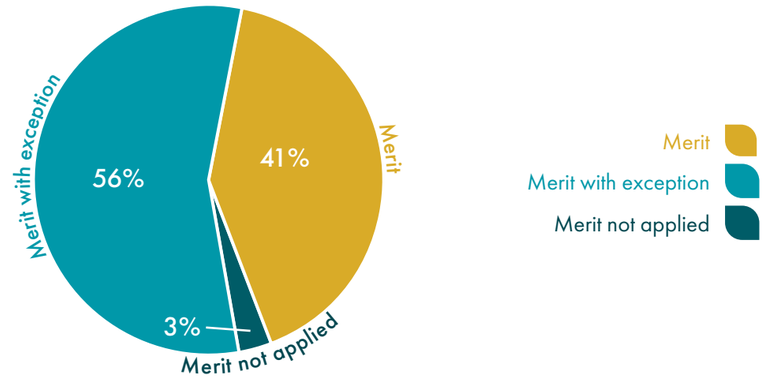
As shown below, only one overall recruitment and selection process finding is reported for each audit, although some appointments had more than one error and a few had multiple errors. Of note in the 2018–2019 audit is that the frequency of findings has shifted to indicate the relative proportion of appointments audited with no errors was over 50 percent. Further, this was the second consecutive audit with a reported overall decrease in the total number of errors identified, suggesting improvements in hiring practices.

We examined and categorized the types of errors according to the overall approach and five standard stages of hiring: short-listing, interviewing and testing, past work performance, years of continuous service, and notification. In comparison to the previous two Merit Performance Audits (2016–2017 and 2017–2018), all categories showed a decrease in the percentage of appointments with errors, with the exception of the past work performance stage, which remained the same. Although short-listing continued to be the stage with the highest percentage of errors, it also showed the largest overall decrease. Illustrated below are the types of errors as a percentage of all appointments audited.

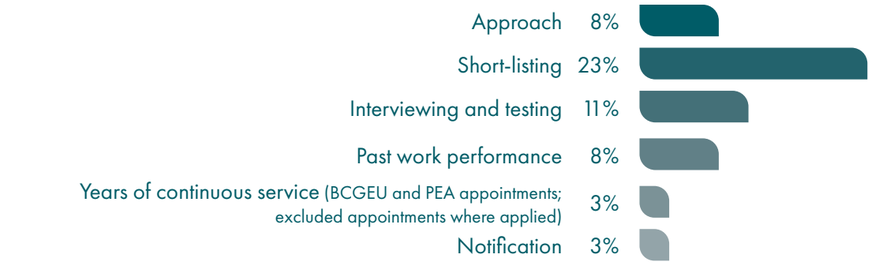
## Categories of Errors

| | |
|---|---|
| **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 appropriately notified of the final outcome of the hiring process? |

## 2018–2019 Overall Recruitment and Selection Process Findings




## Percentage of Audited Appointments with Errors per Category

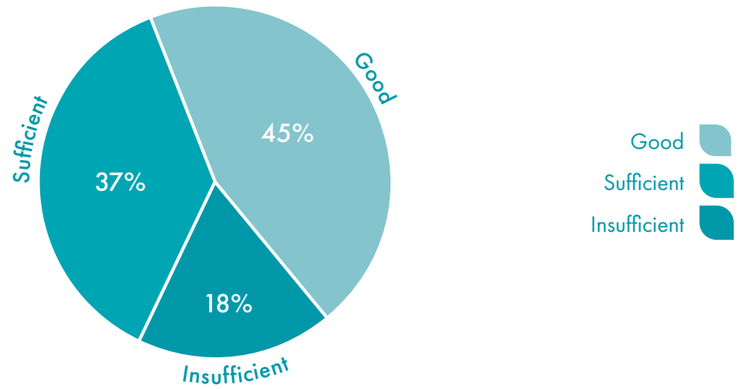



Note: As some appointments had more than one error, the percentages above do not total 100 percent.

*Documentation*

As illustrated below, the determinations related to documentation varied across the three categories, with 45 percent, 37 percent, and 18 percent of the audits described as having good, sufficient, and insufficient documentation, respectively. While documentation has improved, with less than 20 percent of the files determined to contain insufficient information, it is unclear whether this is due to an improvement in hiring practice or our own evolving approach to making audit observations in this area.

2018–2019 Overall Documentation Determinations




*2018–2019 Merit Performance Audit Recommendations*

Based on the analysis of the 2018–2019 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 education and experience qualifications prior to posting to accurately identify which are mandatory and which are preferred, and state where alternatives may be acceptable.
- Use substantive assessment or marking criteria to ensure candidates are objectively and consistently evaluated for each form or stage of selection.
- Adopt work practices (e.g., secondary review of work) to prevent avoidable errors with a focus on accurately tracking applicants, and on tabulating and transcribing point scores.

## Work Underway

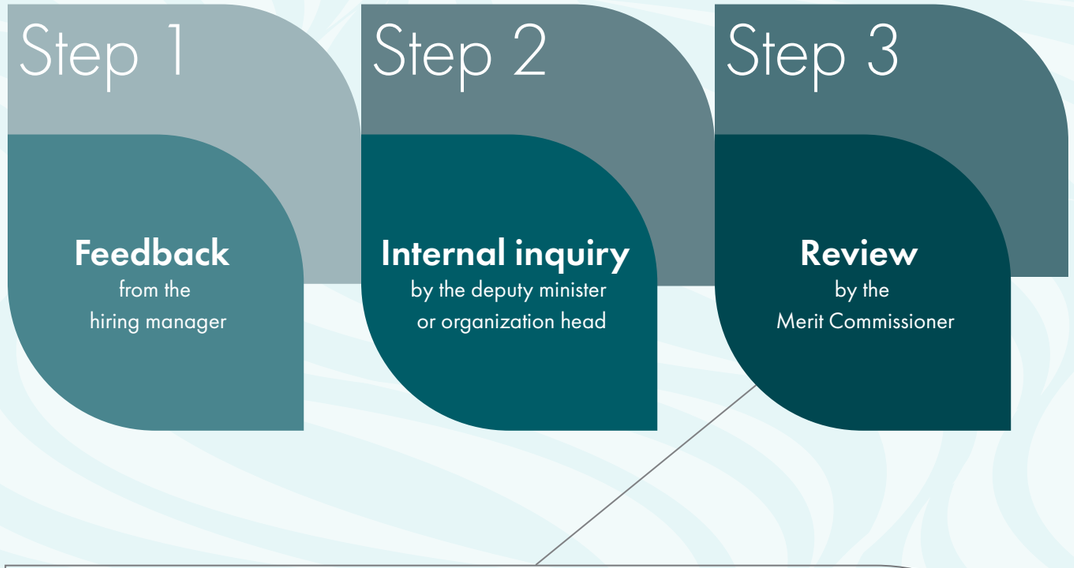
### 2019–2020 Merit Performance Audit

The 2019–2020 audit of appointments made from April 1, 2019, through March 31, 2020, is currently underway. Random samples of appointments were drawn for each quarter, and in April 2020 audit reports for 140 appointments audited from the first two quarters were provided to deputy ministers and organization heads. The audit reports for appointments audited in the last two quarters of the fiscal year are expected to be distributed in the fall of 2020. The final comprehensive report, including the analysis and summary of the overall audit results, is targeted for publication in November 2020.

## 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 panel chairperson 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, the Merit Commissioner directs a reconsideration of the appointment decision. The Merit Commissioner's decision is final and binding. The target to issue decisions is within 30 days following receipt of the documents necessary to conduct the review.

### Work Completed

#### 2018–2019 Report on Staffing Reviews

In 2018–2019, twenty-five requests for a staffing review were received, the same number as received in the previous fiscal year and a repeat of the highest number of requests submitted in a one-year period since the creation of the Office. One request was subsequently withdrawn and several were deemed ineligible. For the remaining 19 eligible requests, a review was undertaken. A general analysis of all of the reviews was completed at the conclusion of the fiscal year, with the report of the findings published on our website in August 2019. The examination found the most common grounds involved: unreasonable short-listing, incorrect marking of test or interview responses, insufficient credit given to an individual's experience, inappropriate consideration of past work performance, preferential treatment of other candidates, and administrative concerns (e.g., scheduling of a test). While 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, common grounds can help inform those involved in hiring how to ensure fairness and transparency.

In 16 of the cases, the Merit Commissioner dismissed the review and upheld the original appointment decision. In the remaining three reviews, the Merit Commissioner found a serious flaw with either the short-listing stage, or the interviewing and testing stage, and directed a reconsideration of the appointment decision.

Some candidates also raised concerns (i.e., inconsistency between competitions for similar positions, performance management, diversity, and career development) which were outside the Merit Commissioner's authority and therefore not considered when conducting the reviews.

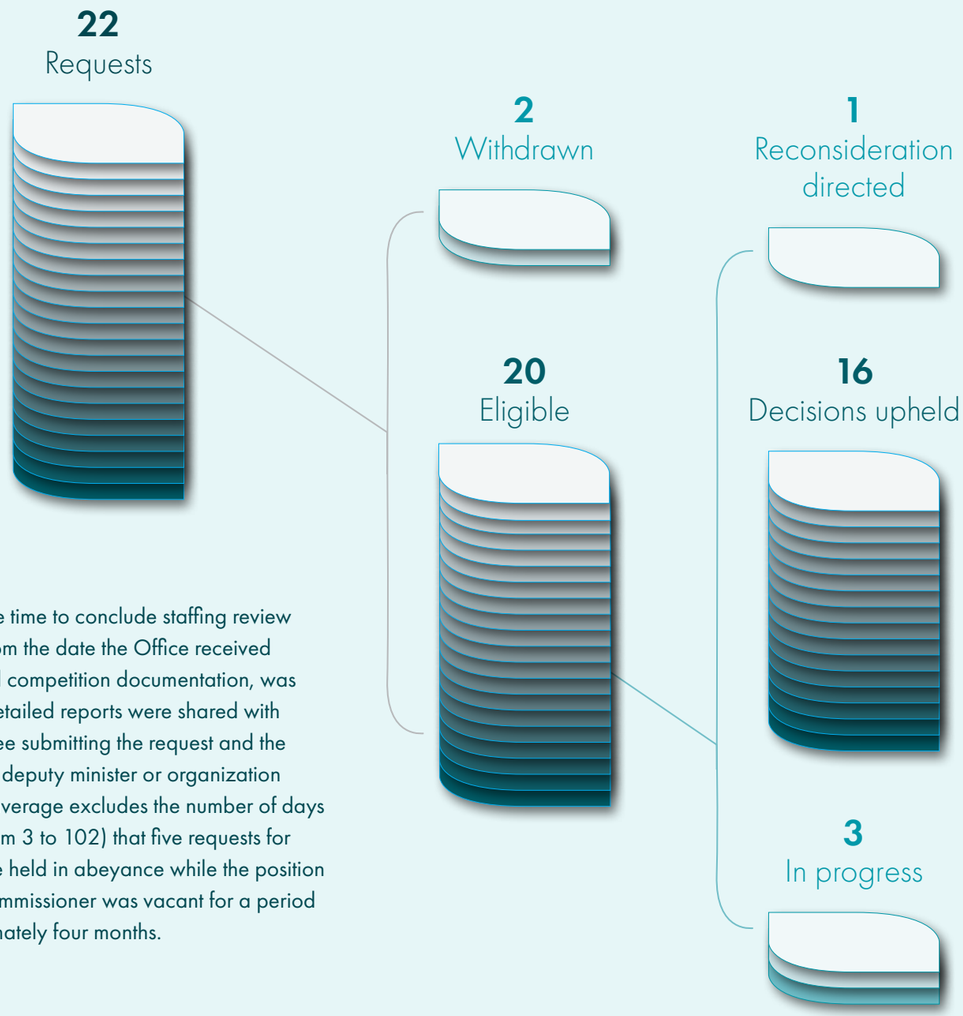
The average time taken to complete each review and respond to a request was 30 days following receipt of the required documentation.

#### 2019–2020 Staffing Reviews

In 2019–2020, the Merit Commissioner received 22 requests for review of appointments within nine different ministries or organizations. Two of these requests were withdrawn, leaving the Merit Commissioner to undertake 20 reviews: 11 by the former Merit Commissioner, Fiona Spencer and 9 by the new Merit Commissioner, Maureen Baird.

Unsuccessful employees routinely raise concerns about feedback received after a job competition, and 2019–2020 was no exception. Most of the concerns involved the provision of vague or generic feedback that lacked specifics, such as the number of points a candidate was awarded for interview questions. In one case, a candidate believed that they were discouraged to proceed with a review. Clear and sufficient feedback is important for unsuccessful employee applicants to decide if, and on what grounds, they wish to proceed with a staffing review. In addition, such feedback supports future employee development and impacts perceptions of fairness of the hiring process.

The Merit Commissioner issued 17 decisions in 2019–2020. In 16 cases, the ministry decision was upheld. With respect to the remaining case, the Merit Commissioner found an aspect of the selection process related to the employee's grounds did not comply with section 8(1) of the *Act*, and the responsible deputy minister was directed to reconsider the appointment. At the end of fiscal 2019–2020, three staffing reviews were still in progress.




The average time to conclude staffing review requests, from the date the Office received the required competition documentation, was 29 days. Detailed reports were shared with the employee submitting the request and the responsible deputy minister or organization head. This average excludes the number of days (ranging from 3 to 102) that five requests for review were held in abeyance while the position of Merit Commissioner was vacant for a period of approximately four months.

## Grounds for Review 2019–2020

Common grounds for review in the fiscal year included:

- Qualifications were greater than those of the successful candidate;
- Interview responses, specifically behavioural competencies, were incorrectly marked;
- Past work performance was inappropriately assessed (e.g., contacting an unsuitable reference);
- Factor(s) of merit, typically experience, were given insufficient consideration or weight; and
- Preferential treatment was given to one or more candidates.

### Work Underway

#### 2019–2020 Report on Staffing Reviews

An analysis of the staffing reviews conducted in 2019–2020 will be undertaken and a report published in the summer of 2020. 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

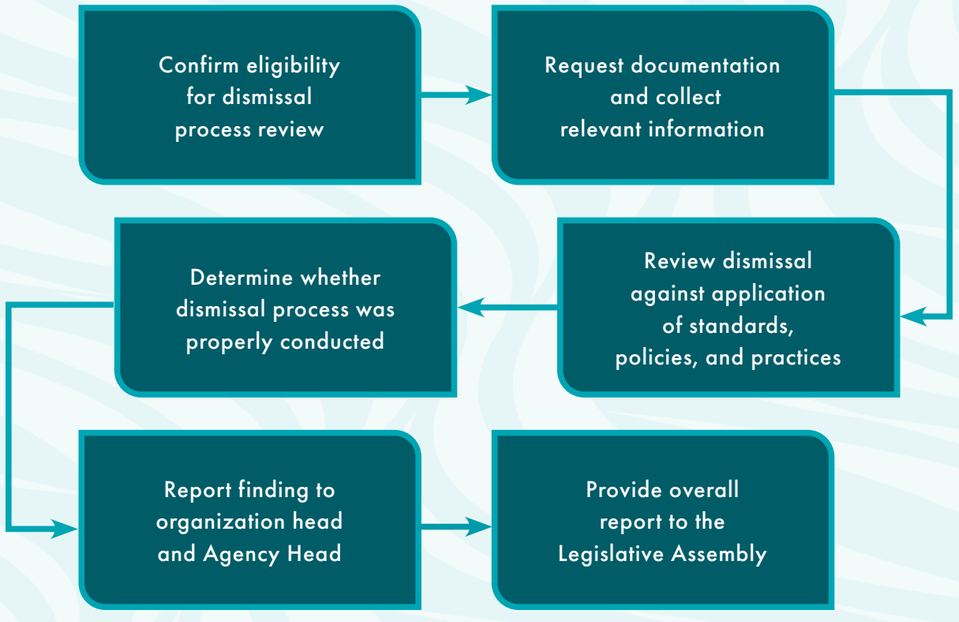
### Overview

Amendments to the *Act* in April 2018 conferred upon the Merit Commissioner the responsibility to review processes related to eligible just cause dismissals from the BC Public Service. For a 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 employee choose to challenge the dismissal, the process would not be subject to the Merit Commissioner's review 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 does not determine whether the action met the legal standard for a just cause dismissal. Results of each individual review are shared only with the deputy minister or organization head of the body where the dismissal decision was made and, where applicable, with the BC Public Service Agency.

In May of each year, the Merit Commissioner reports 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 on any observations or recommendations related to how policy and procedures are being implemented in the BC 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.

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




### Work Completed and Underway

Since amendments to the *Act* were introduced, the Office of the Merit Commissioner developed a program to ensure comprehensive and consistent reviews, and has undertaken information-sharing protocols and agreements.

In April and May of 2019, the Merit Commissioner received three dismissal files, which were reviewed in June based on the information provided by the BC Public Service Agency. The files had all references to legal information redacted, due to the delay in finalizing a protocol with the Ministry of Attorney General concerning privileged legal information. While a draft protocol was tentatively agreed to by early September, due to the former Merit Commissioner's departure in mid-September, it was put on hold until the new Merit Commissioner could review the draft agreement. As of March 31, 2020, a pilot protocol for the provision of privileged legal information has been agreed to for the first three cases.

The Office of the Merit Commissioner received five additional files before March 31, 2020. These files, and any additional files received during the course of the year, will be reviewed once the protocol has been finalized.

# Budget

The Office's budget and expenditures for the 2019–2020 fiscal year are shown below by expenditure type. In September 2019, the previous Merit Commissioner submitted the Office's budget requirements and service plan prior to her departure.

In October 2019, the Select Standing Committee on Finance and Government Services met to review this submission. Subsequently, the Office was allocated a budget of $1,365,000 for fiscal 2020–2021. Details of this budget allocation are shown below.

Budget and Expenditures

| | Approved budget 2019–2020 | Actual expenditures 2019–2020 | Approved budget 2020–2021 |
|---|---|---|---|
| Salaries & benefits | $ 728,000 | $ 640,945 | $ 703,000 |
| Travel expenses | $ 17,000 | $ 15,561 | $ 17,000 |
| Operating expenses | $ 404,000 | $ 395,411 | $ 373,000 |
| Professional services | $ 216,000 | $ 152,406 | $ 272,000 |
| **Total** | **$ 1,365,000** | **$ 1,204,323** | **$ 1,365,000** |



# Appendix A

## Organizations Subject to the Merit Commissioner's Oversight of Appointments

(as of March 31, 2020)

### 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, Economic Development and Competitiveness
- 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 Services Tribunal
- Forest Appeals Commission
- Forest Practices Board
- Health Professions Review Board
- Hospital Appeal Board
- Independent Investigations Office
- Industry Training Appeal Board
- 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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