



Office of the
Merit Commissioner

Service Plan

Fiscal Years

2019/20 – 2021/22

Presented to
The Select Standing Committee on Finance and Government Services
Legislative Assembly of British Columbia

November 21, 2018



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Overview

I am pleased to present this service plan for the Office of the Merit Commissioner (the Office). This plan highlights the work completed by the Office over the past year and identifies plans for the coming years.

In May 2018 the Speaker was presented with the Office's 2017/18 Annual Report. That report included summaries of: the results of the 2016/17 Merit Performance Audit which involved audits of 257 appointments to and from within the BC Public Service, and 17 staffing reviews conducted during the year.

The Office has concluded the 2017/18 Merit Performance Audit of 259 appointments for the period of April 1, 2017 to March 31, 2018. Individual findings were communicated to deputy ministers, organization heads, and the Head, BC Public Service Agency (the Agency) in early October 2018. An analysis of the overall results and findings, and recommendations related to these findings was finalized and delivered to the Speaker in mid-November and was published on the Merit Commissioner's website.

In the 2017/18 fiscal year, I received 25 staffing review requests, eight of which were ineligible. In 13 of the 17 reviews conducted, the ministry's hiring decision was upheld. In four cases, deputy ministers were directed to reconsider the staffing decisions.

On April 17, 2018, the *Public Service Act* (the *Act*) was amended to assign responsibility to the Merit Commissioner for the oversight of processes related to BC Public Service just cause dismissals. Since that time, we have been developing the practices and procedures to enable the conduct of this work.

The priority for the coming year is to remain focused on the core lines of business: auditing appointments, conducting staffing reviews, and reviewing eligible dismissals processes. The Office will provide relevant and timely feedback on hiring processes to managers, deputy ministers, organization heads, the Agency, and to employees, to encourage improvement in the system and to uphold fair hiring. Fair and efficient practices and procedures for the review of dismissal processes will be established, reviews of eligible dismissals processes will be conducted, and findings will be communicated to relevant parties.



Responsibilities

All appointments to and from within the BC Public Service must be made on the principle of merit. Merit means that appointments are made on the basis of an assessment of competence and ability to do the job, and are not influenced by patronage.

The Merit Commissioner provides independent oversight of appointments to and from within the BC Public Service. This oversight role applies to appointments made in accordance with section 8 of the *Act*.

The Merit Commissioner has four responsibilities under the *Act*:

- To monitor the application of merit by conducting random audits of appointments and reporting the audit results to the deputy ministers or heads of the organizations in which the appointments were made;
- To provide a review of the application of merit as the final step in a staffing review process for bargaining unit positions;
- To monitor the application of government practices, policies and standards to just cause dismissals by conducting reviews of eligible dismissal processes; and
- To report annually to the Legislative Assembly on the application of the merit principle and the conduct of dismissal processes.

The Merit Commissioner may also undertake special audits or studies of systemic issues related to areas where there may be potential risk to merit-based hiring.

The Office provides credible and relevant information about staffing on which the employer may act to produce positive changes. The outputs all support the long-term goal of building public confidence and a strong consensus that the BC public Service is qualified, and hired fairly according to the principle of merit. An overview of the Office's structure is provided in Appendix A.

Context

Merit Performance Audit

BC Public Service Workforce

As of September 22, 2018, there were 36,976 employees in the BC Public Service, which is an increase of 1,868 employees in the 12 months since reporting at this time last year. These employees work in ministries and other organizations across the public service.



Employees are appointed under the *Act* on a regular or auxiliary (temporary) basis. They may be unionized, excluded managers or other non-unionized employees. The distribution of the population by these categories is shown below in Charts 1 and 2.

Chart 1 – Employees Appointed Under the *Public Service Act* – By Status

(As of September 22, 2018)

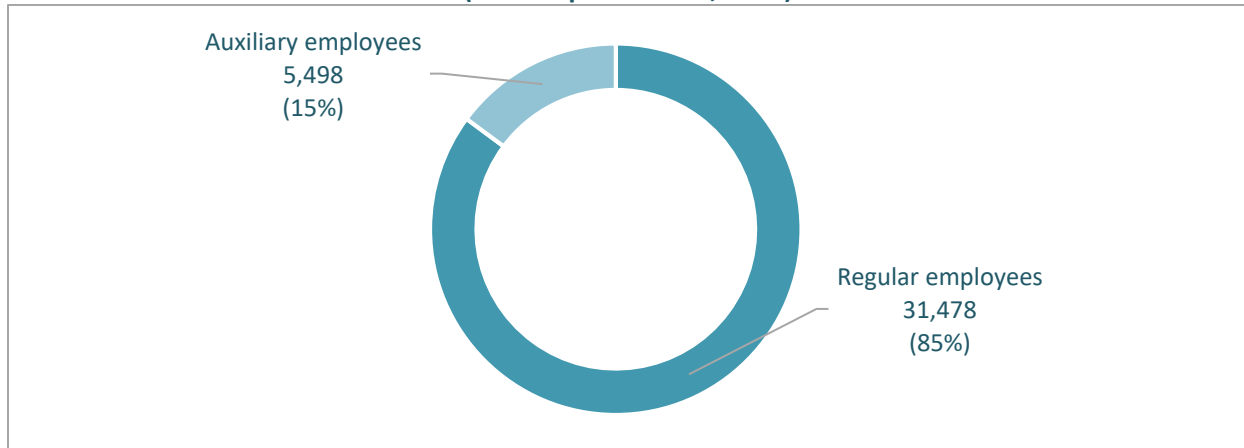
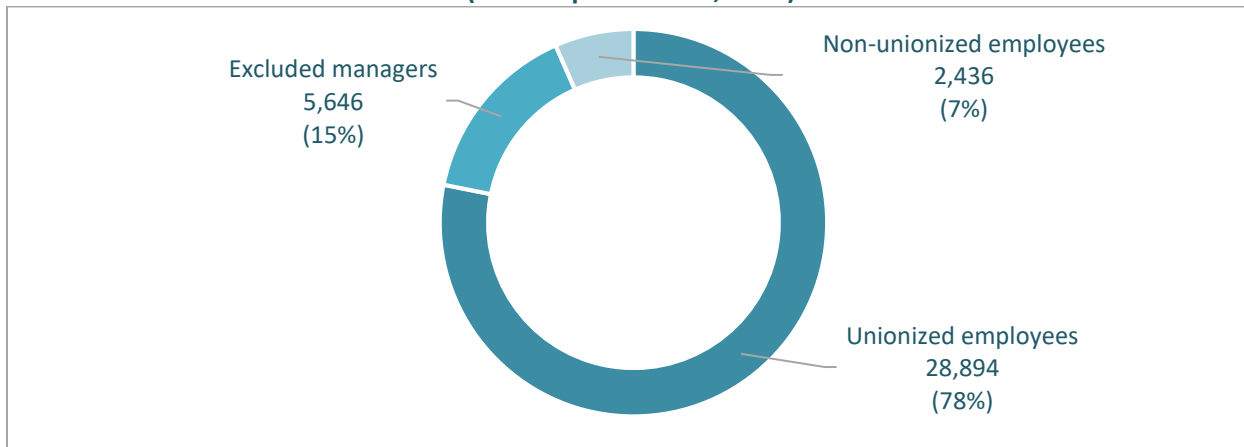


Chart 2 – Employees Appointed Under the *Public Service Act* – By Type

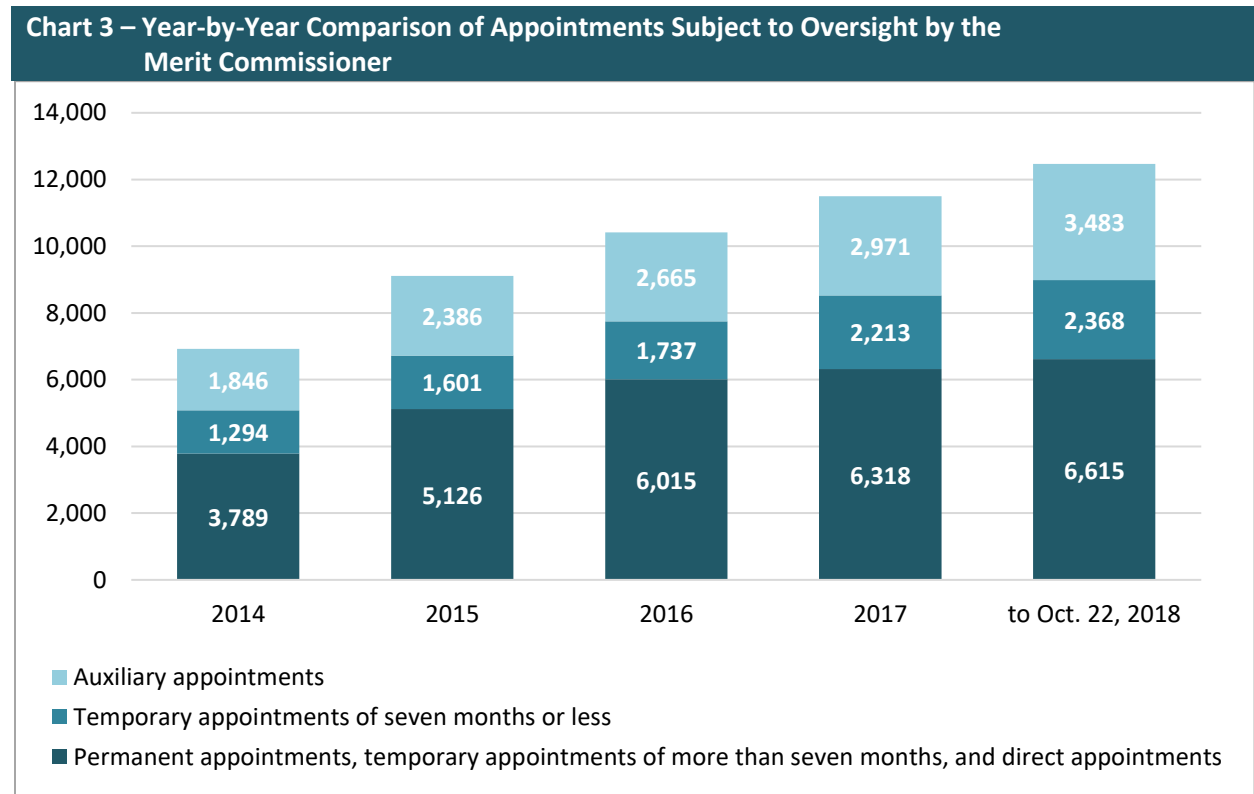
(As of September 22, 2018)





Appointment Activity

The Office audits appointments to and from within the public service that are made under section 8 of the Act. A complete list of organizations subject to oversight by the Merit Commissioner appears in Appendix B. Chart 3 shows the total numbers of these appointments, by appointment type, for the last five years.





Indicators of Merit-based Hiring

Merit-based hiring requires the commitment of all public servants. The framework shown in Chart 4 provides an overview of indicators of merit-based hiring.

Chart 4 – Indicators of Merit-based Hiring		
	Indicator	Office of the Merit Commissioner Related Responsibilities
Regulatory Framework	BC Public Service hiring complies with hiring policy, legislation and relevant collective agreement provisions	<ul style="list-style-type: none"> Report annually on the status of BC Public Service hiring to the Legislative Assembly and the BC Public Service Agency
	Organization heads and hiring managers are aware of hiring policy, legislation and relevant collective agreement provisions	<ul style="list-style-type: none"> Public annual report of merit performance audit, special audits and studies, and staffing review findings and recommendations
Hiring Practices	Hiring practices are transparent, fair, and decisions are reasonable and job related	<ul style="list-style-type: none"> Conduct merit performance audits, special audits and studies, and report results Available for and carry out staffing reviews Increase awareness of merit-based hiring practices by reporting out to organizations and to the public by publishing on the Office of the Merit Commissioner’s website Provide comment and/or recommendations on hiring practices
Workplace Culture	Organization heads are seen and believed to be committed to merit-based hiring	<ul style="list-style-type: none"> Report audit findings to organizations Monitor organizational responses to audit and review findings
	Managers and supervisors uphold merit in hiring	<ul style="list-style-type: none"> Perform individual audits and report findings Conduct individual staffing review investigations and report findings
	Use of the staffing review process	<ul style="list-style-type: none"> Provide clear and easily accessible information for employees Monitor and report review process usage
	Employee responses to staffing related questions on work environment surveys	<ul style="list-style-type: none"> Analyze related responses Carry out special studies



Dismissal Process Review

The new function conferred upon the Merit Commissioner relates to all just cause dismissals beginning April 1, 2018. The legislation requires that a review of the process resulting in a dismissal for just cause occur after all avenues to challenge that decision have been exhausted, and a set time period has elapsed. Given these parameters, the workload associated with actual process reviews will be variable as the number of dismissals that may occur cannot be predicted, just as it cannot be predicted if any avenue of redress may be pursued and, if so, when such action might be completed. In recent years, the average number of applicable dismissals from the BC Public Service has been approximately 25 annually.

While the legislation does not specify how the Merit Commissioner should conduct the reviews or the number of dismissal processes that must be reviewed, it is intended that all such processes that occurred during the period from April 1, 2018 to March 31, 2020 will be reviewed.

Performance Measures and Targets

The Office establishes and publishes performance measures and targets in a number of areas; holds itself accountable for respecting and achieving these targets; and examines practices and procedures regularly with a view to continuous improvement.

Merit Performance Audit

The goal in the annual merit performance audits is to have a sample size that is sufficiently robust to allow the audit results to be confidently generalized to the population of all appointments made within the same time period.

Detailed audit results are reported to deputy ministers, heads of organizations, and the Deputy Minister of the Agency. Summary results are contained in the Merit Commissioner's annual report to the Legislative Assembly which is publicly available on the Office's website. Detailed analyses and a final report are also made available on the website.



Performance Measures	Target and Results			
	2017/18		2018/19	2019/20
	Target	Results	Target	Target
Generalizable audit results	Simple random sampling	Simple random sampling	Simple random sampling	Simple random sampling
Confidence level	95%	95%	95%	95%
Margin of error	6%	6%	6%	6%
Report audit results to organization heads and Agency within six months of audit period	September 2018	October 2018	September 2019	September 2020
Publish annual audit findings within four months of reporting individual results	November 2018	November 2018	November 2019	November 2020

Special Audits and Studies

Results of special audits and studies are reported as soon as possible so that follow-up action may be taken as required and appropriate. Information is made public through the Office’s website.

Performance Measures	Target and Results	
	Auxiliary Appointments	Direct Appointments
	Target	Target
Report findings of special audits and studies to organization heads and Agency within 30 days of conclusion, where applicable	Original target: May 2018 Revised target: November 2018	December 2018
Publish information on website within 60 days of conclusion	Original target: July 2018 Revised target: December 2018	February 2019



Staffing Reviews

It is important to the employer, and to the employee who may request the Merit Commissioner to undertake a review of an appointment decision, that a thorough review takes place and a timely decision is rendered.

Performance Measures	Target and Results			
	2017/18		2018/19	2019/20
	Target	Results	Target	Target
Complete reviews within an average of 30 days	30 days	36 days	30 days	30 days

Dismissal Process Review

The results of the dismissal process reviews will be reported annually. As internal procedures are currently under development, once the review program is in place, additional performance measures are expected to be established and reported in future service plans.

Performance Measures	Target and Results	
	Target	Results
Report review findings annually	May 2019	

Progress on Key Commitments

Merit Performance Audit (2017/18)

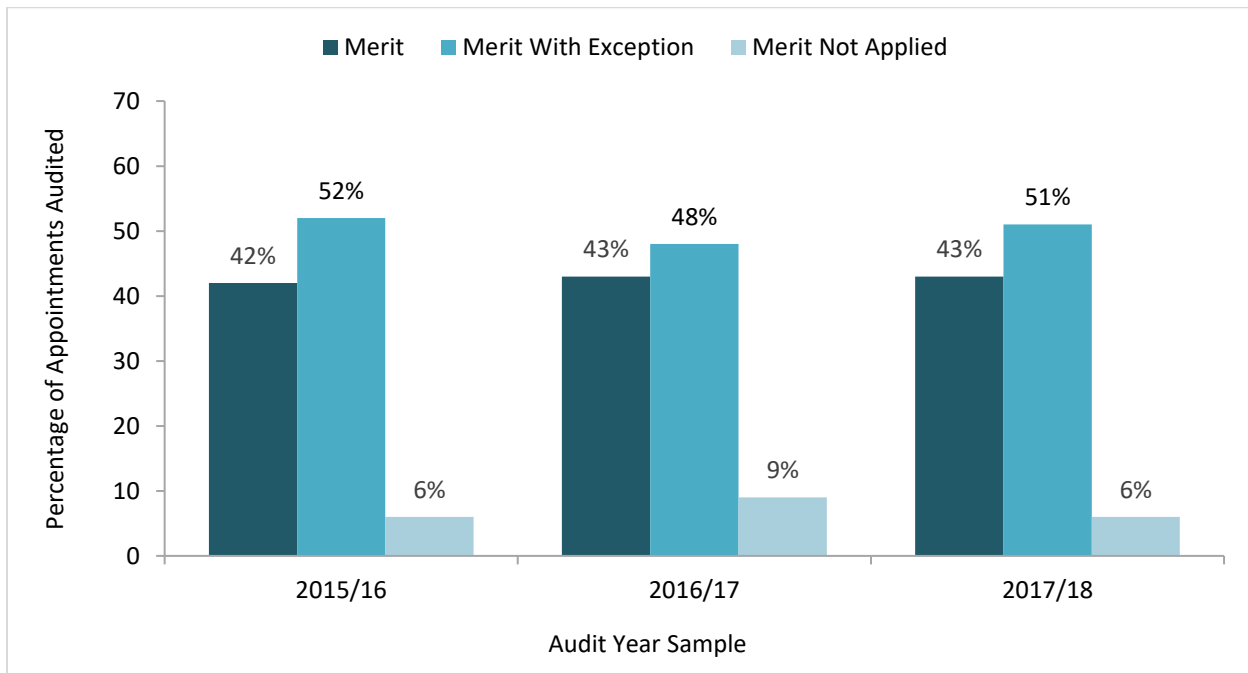
This year, a robust full-year audit was undertaken of 259 appointments to allow for results to be generalized to all appointments of the same type across the BC Public Service. The appointments were selected randomly from organizations across the public service and from all employee groups and levels.

Organization heads received detailed reports and the Deputy Minister of the Agency received the overall results of the audit in October 2018. The overall report of the analyses of audit results and recommendations to address identified areas of weakness or concern was provided to the Speaker and released publicly mid November 2018.



Chart 5 reflects the merit performance audit results for the past three completed audit cycles.

Chart 5 – Previous Audit Results



Staffing Reviews

During the 2017/18 fiscal year, the Merit Commissioner received 25 staffing review requests, eight of which were found to be ineligible for consideration. In light of the grounds submitted, the appointment decision was upheld in 13 of the 17 reviews conducted and the reviews were dismissed. In the other four cases, a reconsideration of the appointment decision was directed.

There were some common issues raised in the requests for review related to insufficient consideration of education and/or experience, unfair marking of test or interview responses, and unfair evaluation of past work performance. Reconsiderations were directed due to unreasonable approaches to short-listing applicants, the compromised integrity of a written test, and lack of assessment of past work performance prior to the issuance of an offer.

The average time taken to complete the reviews and respond to the requests 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 this year, as well as the complexity of some of the issues raised.



Priorities for Fiscal 2019/20

Merit Performance Audit 2018/19

An audit of appointments made in 2018/19 has commenced. A random sample of appointments made throughout the province, in all organizations, in bargaining unit and excluded management positions, and all occupational groups will be audited. The sample size is fixed to a robust value to not only ensure results are valid and generalizable, but also to enable efficient management of the audit activity and associated costs. The 2018/19 audit will be composed of a fixed sample size of 280 (70 appointments per quarter). The results from this merit performance audit will be reported in the fall of 2019.

Staffing Reviews

The Office gives priority to conducting staffing reviews when requested. Only unsuccessful employee applicants for bargaining unit positions are eligible to request a review by the Merit Commissioner. As appointments are normally held in abeyance pending the Merit Commissioner's decision, the Office makes every effort to respond to requests for review within a 30 day timeframe. There is no way of predicting the number or complexity of staffing reviews the Merit Commissioner may receive in a year; however, as of the beginning of November 2018, the Office had received 16 requests.

Dismissal Process Reviews

This year the Office will focus on building the procedures, systems, tools and resources in order to be prepared to conduct reviews of dismissals as soon as any dismissals become eligible for review, currently estimated to be in the late spring of 2019.

Special Audits and Studies for Fiscal 2019/20 and Beyond

The Office is focusing resources on its new mandate of dismissal process oversight as well as its existing mandate of conducting merit performance audits and staffing reviews. The results of these merit performance audits often guide the Office in determining where special audits or studies may be appropriate to address potential areas of risk to merit-based hiring. Possible areas for study include hiring trends, and the creation and use of eligibility lists.



Review of the *Public Service Act*

The Office considers that merit-based hiring could be enhanced, and fairness and transparency in the recourse process improved if some amendments were made to the *Act*. As indicated last year, the Office is considering possible proposals for change based on knowledge and experience gained through the audits and reviews conducted in the 13 years since the Office was established. As there was no opportunity to pursue changes when the *Act* was amended to include provisions related to the dismissal process oversight, the Office continues to review possibilities to advance proposed improvements.



Appendix A

Office Structure





Appendix B

Organizations Subject to Oversight by the Merit Commissioner

(As of March 31, 2018)

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
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 Human Rights Tribunal
BC Pension Corporation
BC Public Service Agency
BC Review Board
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
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