

# **Public Service Staffing Tribunal**

**2010 – 2011**

**Report on Plans and Priorities**

---

The Honourable James Moore, P.C., M.P.  
Minister of Canadian Heritage  
and Official Languages





# Table of Contents

Chairperson’s Message . . . . .	iii
Section I: Departmental Overview . . . . .	1
Raison d’être . . . . .	2
Responsibilities . . . . .	2
Strategic Outcome and Program Activity Architecture (PAA). . . . .	2
Planning Summary. . . . .	3
Contribution of Priorities to Strategic Outcome . . . . .	4
Risk Analysis . . . . .	5
Expenditure Profile . . . . .	7
Voted and Statutory Items. . . . .	8
Section II: Analysis of Program Activities by Strategic Outcome . . . . .	9
Program Activity by Strategic Outcome . . . . .	10
Planning Highlights . . . . .	12
Benefits for Canadians . . . . .	13



## Chairperson's Message



As Chairperson of the Public Service Staffing Tribunal, I am pleased to present this Report on Plans and Priorities.

Established on December 31, 2005 with the enactment of the *Public Service Employment Act* (PSEA), the Tribunal is an independent, quasi-judicial body with a mandate to consider and dispose of complaints related to internal appointment and lay-off processes in the public service.

The Tribunal may provide mediation services at any stage of the complaint process in order to resolve a complaint. In keeping with the intent and spirit of the PSEA, the Tribunal provides a number of opportunities to resolve complaints as informally as possible. I am extremely proud of the Tribunal's record in this regard: Over 90 per cent of all complaints received since the Tribunal's establishment have been resolved without having to proceed to a formal hearing.

In assisting the parties resolve their differences through informal means, the Tribunal has played a key role in upholding the staffing values contained in the PSEA – namely, effective dialogue, respect for employees and recourse aimed at resolving appointment issues. Moreover, through its decisions, the Tribunal has contributed to an understanding of fair and transparent staffing practices by determining what constitutes an abuse of authority in the context of an appointment process.

The coming year is a critical one for the Tribunal in that a review of the PSEA and its administration and operation will be conducted. In the interest of ensuring that all Canadians continue to benefit from a public service that is based on merit and able to deliver services of the highest quality and in both official languages, the Tribunal will focus on refining its complaint process and internal procedures and will also identify and analyze any issues arising from the review of the Act.

I look forward to the opportunities that lie ahead to ensure continued progress towards the modernization of the internal appointment process in the federal public service.

Guy Giguère  
Chairperson and Chief Executive Officer





**Section I**

*Departmental Overview*

## Raison d'être

The Public Service Staffing Tribunal ("the Tribunal") is an independent, quasi-judicial body established under the *Public Service Employment Act* (PSEA) to deal with complaints related to internal appointments and lay-offs in the federal public service. The Tribunal conducts hearings and provides mediation services in order to resolve complaints.

## Responsibilities

The Tribunal derives its mandate from the PSEA and is responsible for the impartial and timely consideration and disposition of complaints submitted under the Act with respect to internal appointment and lay-off processes in the Government of Canada.

By providing transparent, impartial and sound decision-making for complaints as well as the support necessary to help parties resolve staffing disputes as informally as possible, the Tribunal is both accessible and responsive to its stakeholders – namely, deputy heads, human resources specialists, bargaining agents and public servants – and contributes to the effective management of human resources to the benefit of federal public service departments and agencies, managers, employees and Canadians at large.

## Strategic Outcome and Program Activity Architecture (PAA)

<b>Strategic Outcome</b>	<b>Fair and impartial resolution of disputes related to internal appointments and lay-offs in the Government of Canada</b>
<b>Program Activity</b>	Adjudication and mediation of complaints filed under the <i>Public Service Employment Act</i>
<b>Expected Results</b>	<ul style="list-style-type: none"> <li>• Tribunal decisions are timely, sound and well reasoned</li> <li>• Optimal utilization of Tribunal's dispute resolution services by parties</li> </ul>
<b>Outputs</b>	<ul style="list-style-type: none"> <li>• Complaints processed</li> <li>• Mediation sessions conducted</li> <li>• Mediation training courses delivered</li> </ul>



## Planning Summary

### Financial Resources (\$ thousands)

2010–2011	2011–2012	2012–2013
5,463	5,466	5,466

### Human Resources (Full-Time Equivalent)

2010–2011	2011–2012	2012–2013
39	39	39

### Strategic Outcome: Fair and impartial resolution of disputes related to internal appointments and lay-offs in the Government of Canada

Performance Indicator	Targets
Percentage of complaints referred to judicial review on the grounds that the Tribunal failed to observe a principle of natural justice, procedural fairness or other procedure	3%

Program Activity	(\$ thousands)				Alignment to Government of Canada Outcomes
	Forecast Spending 2009–2010	Planned Spending			
		2010–2011	2011–2012	2012–2013	
Adjudication and mediation of complaints filed under the <i>Public Service Employment Act</i>	3,500	3,884	3,887	3,887	The Tribunal's activities are aligned with the "Government Affairs" outcome. The resources allocated to the Tribunal contribute to supporting a public service that reflects excellence and leadership.
Internal Services: Human Resources, Finance, Information Management, Communications, Information Technology and Administrative Services	1,500	1,579	1,579	1,579	
<b>Total Planned Spending</b>	5,000	5,463	5,466	5,466	

## Contribution of Priorities to Strategic Outcome

Operational Priorities	Type	Links to Strategic Outcome	Description
Efficient and simplified processes	Ongoing	Fair and impartial resolution of disputes related to internal appointments and lay-offs in the Government of Canada	The Tribunal intends to implement additional informal means of resolving complaints – i.e. settlement conferences – so that Tribunal members may proceed as informally and expeditiously as possible.
80% of Reasons for Decision issued within four months of the hearing	Ongoing		The Tribunal will analyze data from its case management system in order to identify and implement ways of streamlining its internal process for issuing decisions.

Management Priorities	Type	Links to Strategic Outcome	Description
A workplace where people feel valued and know the importance of their contribution	Ongoing	The Tribunal has a sole strategic outcome: Fair and impartial resolution of disputes related to internal appointments and lay-offs in the Government of Canada	The effective management of the Tribunal's human resources is crucial to the Tribunal's ability to carry out its mandate. Training opportunities will be provided to ensure continued, high-quality performance.

## Risk Analysis

As part of the Government of Canada's strategy to modernize human resources management, including staffing and staffing recourse, the *Public Service Modernization Act* (PSMA) was enacted in 2003. It included a restructured PSEA which came into force on December 31, 2005 and established the Public Service Staffing Tribunal on the same date.

The PSEA also contains a provision that calls for a review of the Act and its administration and operation to be conducted five years after its coming-into-force. Since the impending review is likely to engender considerable discussion over the coming months regarding the Act and the Tribunal's mandate and operations, the Tribunal will monitor and analyze any emerging issues.

As is the case with most other administrative tribunals under both provincial and federal jurisdiction, the unpredictability of the Tribunal's caseload represents a constant challenge. Originally, it was expected that 400 complaints would be submitted to the Tribunal annually and the Tribunal's organization was set up accordingly – that is, with a small number of multi-skilled employees and members. However, since the second year of operations, the number of complaints has exceeded that number by a significant margin. In fact, in each of the past two calendar years, the Tribunal has received over 800 complaints.

In order to avoid a backlog of cases due to the unexpected volume of complaints, the Tribunal has filled all of its positions on an indeterminate basis and practises effective case management to track files and avoid unnecessary delays in the process. Furthermore, it is hoped that the Tribunal will have additional Tribunal members in the coming year, which will help to ensure that pre-hearing motions by the parties are dealt with, complaints heard and decisions rendered in a timely fashion.

Given that very few of the Tribunal's decisions have been referred to the Federal Court for judicial review, and even fewer quashed, it is expected that the Tribunal will continue to issue well reasoned and comprehensive decisions. Nevertheless, new and current members will continue to receive training designed to ensure that its decisions are sound and well reasoned.

The Tribunal offers a number of opportunities to resolve complaints without having to proceed to a formal hearing. The various steps in the complaint process such as the exchange of information, mediation and the pre-hearing conference allow the parties to discuss the issues related to the complaint informally; a frank discussion of the issues often results in a withdrawal of the complaint. Having completed the planning phase, the Tribunal will conduct a pilot project in 2010 during which settlement conferences will be held as another means of resolving a complaint informally.

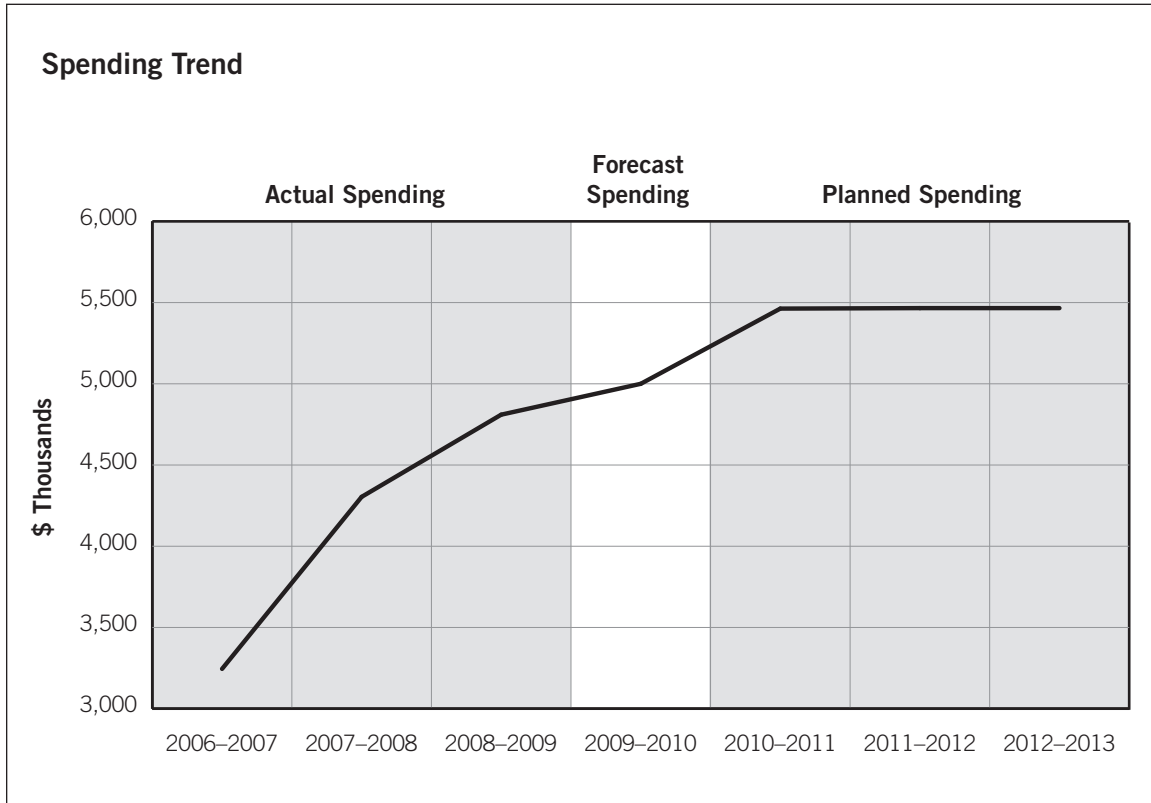
Providing such opportunities for the informal resolution of complaints has proven to be quite successful in that less than ten per cent of all complaints have proceeded to a formal hearing by the Tribunal since its establishment in 2005. Resolving complaints through informal means not only contributes to improved dialogue between the parties, but also helps to keep the number of hearings held and the associated costs at an acceptable level.

While many of the factors affecting the number of complaints submitted to the Tribunal are beyond its control, the Tribunal will continue its efforts to increase the efficiency and effectiveness of its own operations through measures such as: an improved case management system and the development of new tools and processes – namely, a revised procedural guide and settlement conferences.

As in other micro-agencies, the added demands of certain government-wide initiatives continue to pose a challenge to the Tribunal's limited resources. In order to fulfill its obligations related to these demands, the Tribunal has developed a strategic plan for the next three years, strengthened its performance measurement framework and increased its information management capacity.

## Expenditure Profile

The figure below illustrates the Tribunal's spending trend from 2006–2007 to 2012–2013. For the 2006–2007 to 2009–2010 periods, the total spending includes all Parliamentary appropriation sources: Main Estimates, Supplementary Estimates, transfers from Treasury Board Votes and also includes carry forward adjustments. For the 2010–2011 to 2012–2013 periods, the total spending corresponds to the planned spending.



## Voted and Statutory Items

(\$ thousands)

This table illustrates the way in which Parliament approved the Tribunal's resources.

<b>Vote &amp; Statutory Item</b>	<b>Public Service Staffing Tribunal</b>	<b><u>2009-2010 Main Estimates</u></b>	<b><u>2010-2011 Main Estimates</u></b>
105	Program expenditures	1,567	4,916
(S)	Contributions to employee benefit plans	12	547
	TOTAL	1,579	5,463

The increase of \$3.9 M between the current and the previous Main Estimates is mainly attributed to funding received through Budget 2009 to carry out the Public Service Staffing Tribunal mandate under the *Public Service Employment Act*.



**Section II**

*Analysis of Program Activities  
by Strategic Outcome*

## **Strategic Outcome:**

Fair and impartial resolution of disputes related to internal appointments and lay-offs in the Government of Canada

## **Performance Indicator:**

Percentage of complaints referred to judicial review on the grounds that the Tribunal failed to observe a principle of natural justice, procedural fairness or other procedure

## **Target:**

3%



## Program Activity by Strategic Outcome

---

**Program Activity: Adjudication and mediation of complaints filed under the *Public Service Employment Act***

---

**Human Resources (FTEs) and Planned Spending (\$ thousands)**

2010–2011		2011–2012		2012–2013	
FTEs	Planned Spending	FTEs	Planned Spending	FTEs	Planned Spending
30	3,884	30	3,887	30	3,887

Program Activity Expected Results	Performance Indicators	Targets
Tribunal decisions are timely, sound and well reasoned	• Percentage of decisions where Reasons are issued within four months of the hearing	80%
	• Percentage of Tribunal decisions upheld on judicial review	95%
Optimal utilization of Tribunal's dispute resolution services by parties	• Percentage of mediations resulting in withdrawal of complaint	70%

---

**Program Activity: Internal Services**

---

**Human Resources (FTEs) and Planned Spending (\$ thousands)**

2010–2011		2011–2012		2012–2013	
FTEs	Planned Spending	FTEs	Planned Spending	FTEs	Planned Spending
9	1,579	9	1,579	9	1,579

## Planning Highlights

The Tribunal has identified the following operational priorities for the coming three years:

### 1. Efficient and simplified processes

In order to identify and achieve efficiencies, the Tribunal will review its internal processes and make any adjustments deemed necessary. First and foremost, having completed the planning phase of the project, the Tribunal will begin to hold settlement conferences in 2010 in order to provide the parties with an additional opportunity to resolve complaints informally. They will be offered as part of a pilot project in 2010 and fully implemented, if successful, in 2011 after a review and evaluation of their effectiveness.

Following a training session for Tribunal members and mediators on conducting mediation over the telephone, the Tribunal will examine the possibility of using this method for resolving staffing complaints.

Technology will be used as much as possible to facilitate the Tribunal's operations. In compliance with the Common Look and Feel Guidelines 2.0, the Tribunal has begun to convert its complaint forms to *html*. The conversion will also permit the forms to be filled out on-line. As well, the Tribunal has undertaken a needs analysis with respect to the management of its case files. In order to provide all employees and members with ready access to records and data, the existing electronic case management system will be evaluated against the needs analysis and the necessary corrective measures will be taken to ensure the capture of accurate data and the ability to track case files.

Based on consultation with its main stakeholders, the Tribunal will develop new tools (e.g. a tool-kit for unrepresented complainants) or revise existing ones (e.g. the Procedural Guide) in order to provide information regarding the complaint process.

Finally, the Tribunal will follow the progress of discussions related to the review of the PSEA in order to be able to address any concerns raised during the review and better prepare for upcoming challenges.



## 2. Eighty per cent of reasons for decision issued within four months of the hearing

Due, in large part, to a reduced number of members available in 2009-2010 to hear cases and render decisions, the Tribunal was unable to meet its target of issuing 80 per cent of its reasons for decision within four months of the hearing. The Tribunal intends to reduce the time it takes to render a decision after a hearing by:

- using the information from the case management system to monitor the time for issuing decisions;
- monitoring internal procedures for issuing decisions on an ongoing basis to ensure the best use of resources; and
- ensuring knowledge transfer for Tribunal members and legal counsel.

The following management priority has been established by the Tribunal:

### 1. A workplace where people feel valued and know the importance of their contribution

To achieve this objective, the Tribunal plans to implement a strategy for ensuring appropriate and timely communications and to provide work-related training as required to employees and members related to the Tribunal's mandate and role in the Government of Canada.

## **Benefits for Canadians**

Through the fair and impartial resolution of complaints filed under the PSEA, the Tribunal contributes to the building of a public service characterized by fair, transparent employment practices, respect for employees, effective dialogue and recourse aimed at resolving appointment issues.