

Canadian Human Rights Tribunal

2005–2006 Estimates

Part III—Report on Plans and Priorities

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Section 1 Overview

1.1 Chairperson's Message

For the fourth consecutive year, the number of cases referred by the Canadian Human Rights Commission has continued to increase. This level of workload poses a significant challenge for the Tribunal, particularly because of the number of parties appearing before the Tribunal without legal assistance or representation. Many complainants are people of modest means and are not able to afford legal representation. Respondents at the federal level, however, are mostly large corporations or government departments, well resourced and well represented at Tribunal hearings.

One of the results is that cases that proceed to hearing take longer to complete as lay litigants struggle to cope with an unfamiliar process. Another result is an extra burden on Tribunal staff, to whom unrepresented parties turn for guidance for dealing with pre-hearing procedures and for presenting their case at the hearing.

As a response, the Tribunal has prepared guides designed to assist unrepresented parties in understanding the Tribunal's process. The Tribunal will also be introducing new technology to assist in better management of the cases that come before it.

In late 2003, the Tribunal's Chairperson was appointed to the Federal Court. This position was only recently filled in December 2004 by a promotion from the Vice-Chairperson position. The position of Vice-Chairperson is vacant.

The Tribunal also experienced a transition in management during the last year. A new Registrar was appointed in May 2004 to replace the retiring Registrar, who had 26 years of corporate history and had been with the Tribunal since its creation as a separate, independent body from the Commission.

The increased caseload will again challenge the Tribunal over the next year. However, I am sure that the Tribunal is well positioned to meet these challenges and to continue to offer Canadians a full and fair hearing in a timely fashion.

J. Grant Sinclair

1.2 Tribunal Overview

Summary Information

Raison d'être—The Canadian Human Rights Tribunal is a quasi-judicial body that hears complaints of discrimination referred by the Canadian Human Rights Commission (CHRC) and determines whether the activities complained of violate the *Canadian Human Rights Act* (CHRA). The purpose of the Act is to protect individuals from discrimination and to promote equal opportunity. The Tribunal also decides cases brought under the *Employment Equity Act* (EEA) and, pursuant to section 11 of the CHRA, determines allegations of wage disparity between men and women doing work of equal value in the same establishment.

The Tribunal's priorities are largely dictated by its straightforward and singular mission:

Individuals have equal access, as determined by the *Canadian Human Rights Act* and the *Employment Equity Act*, to the opportunities that exist in Canadian society through the fair and equitable adjudication of human rights and employment equity cases that are brought before the Canadian Human Rights Tribunal.

We will therefore continue to do what we do well: provide Canadians with a fair and efficient inquiry process through the adjudication of human rights disputes. Tribunal members will provide well-reasoned decisions and, where appropriate, order suitable remedies for those who have suffered discrimination. The Tribunal's decisions will also provide guidance and direction to employers and service providers on the development of policies and practices that are consistent with respect to human rights.

Financial Resources (Millions)

2005–2006	2006–2007	2007–2008
4.7	4.2	4.2

Human Resources (Full-Time Equivalents)

2005–2006	2006–2007	2007–2008
26	26	26

In addition to its usual business, the Tribunal plans to pursue the goals summarized in the following chart:

Tribunal Priorities

	Type	Planned Spending		
		2005–2006	2006–2007	2007–2008
Priority 1 Review existing performance targets.	Ongoing	N/A	N/A	N/A
Priority 2 Reinforce Modern Comptrollership initiatives.	Ongoing	N/A	\$25,000	\$50,000
Priority 3 Prepare for modernization of human resources management.	New	\$30,000	N/A	N/A
Priority 4 Review and revise tools for informing the public of the Tribunal process.	Ongoing	\$10,000	\$10,000	\$10,000
Priority 5 Continue to work, as required, with the Department of Justice on possible amendments to the <i>Canadian Human Rights Act</i> , in response to the La Forest report.	Ongoing	Dependent on mandated requirements	Dependent on mandated requirements	Dependent on mandated requirements
Priority 6 Investigate and develop technological enhancements for automating case and information management.	Ongoing	\$30,000	\$30,000	\$50,000

Tribunal Plans and Priorities

1. Review existing performance targets.

Planned activities	Results and time lines
Assess the adequacy of existing targets, analyse case statistics and service levels, monitor the Tribunal's case management initiative, and, if appropriate, develop new measures.	Measures confirmed or re-established by March 2006 that will appropriately assess the timeliness, effectiveness and efficiency of the inquiry process.

Over the past four years, the Tribunal established three leading performance targets for ensuring the timely and effective delivery of the Tribunal's hearing process to clients:

- ?? Commencing hearings within six months of receiving a complaint referral.
- ?? Concluding complaint inquiries within twelve months of referral.
- ?? Rendering decisions within four months of the close of the hearing.

Statistics compiled for 2004 indicate that we continue to have difficulty achieving these targets. This is in large part the result of the increased number of litigants appearing before the Tribunal without expert legal assistance and the greater complexity of the complaints being referred for inquiry.

The record high number of cases that continue to be referred by the Commission also has an impact on the Tribunal's ability to meet its stated performance targets. The Tribunal's efforts to meet hearing time frames that are convenient to the parties, however, continues to be satisfactory.

The appointment of the Tribunal's Vice-Chairperson to the position of Chairperson by the Minister of Justice in 2004 and the renewal of other full- and part-time Governor-in-Council members will strengthen the Tribunal's ability to meet its performance targets. The Tribunal has also asked the Minister to consider additional appointments to the Tribunal.

The Tribunal will continue to offer mediation services. The Tribunal will also use case conferences with the parties more frequently, and in a more structured manner, in cases where mediation is declined or does not succeed in resolving the complaint. Such conferences help the parties focus more clearly on the facts and issues most relevant to the complaint. The parties—particularly lay litigants—receive better guidance on the Tribunal's inquiry processes and are therefore better able to meet their pre-hearing obligations and to build their cases.

We will continue to monitor these performance targets to determine whether they reflect the reality of the Tribunal's process. This monitoring will be particularly important if, as

expected, greater investment in pre-hearing case management saves time at the hearing phase. Continued examination of the performance targets will also help to identify adjustments that need to be made to the Tribunal's processes.

The Tribunal expects that a more active approach to the management of its cases in 2005–2006 will improve the quality of its services. This new approach should also enhance accessibility to the Tribunal's services, reinforce the fairness and credibility of the Tribunal's processes and, ultimately, result in increased savings to Canadians.

2. Reinforce Modern Comptrollership initiatives.

Planned activities	Results and time lines
Implement the Tribunal's Results-based Management Accountability Framework (RMAF) and monitor the Modern Comptrollership (MC) Sustainability Plan.	Assessment and adjustment by March 2006 of performance measurement mechanisms and practices for sound and modern management of resources and effective decision-making.

In 2004–2005, the development of an RMAF was the only initiative outstanding from our Modern Comptrollership Action Plan (available at www.chrt-tcdp.gc.ca). The RMAF was completed as planned in 2004–2005.

In 2005–2006, the Tribunal will implement the management practices, performance indicators and targets set out in the RMAF, monitor their effectiveness, and address any weaknesses.

In 2006–2007, a consultant will be hired to assist in further assessing the effectiveness of the RMAF. Specifically, the consultant will help us determine whether individual components of the RMAF and the MC Sustainability Plan—such as targets, indicators and risk management practices—should be changed. This assessment will be a preamble to a program evaluation in 2007–2008.

3. Prepare for modernization of human resources management.

Planned activities	Results and time lines
Inform staff of changes to their roles, responsibilities and accountabilities; review and revise applicable authority delegations; ensure necessary monitoring, reporting and mechanisms for modern human resources management and for human resources and business planning.	Managers and employees are aware of their roles, responsibilities and accountabilities. The Tribunal has a process of integrated human resources and business planning in place for the coming into force in 2005 of legislative changes relating to human resources management.

The new *Public Service Labour Relations Act* and revisions to the *Financial Administration Act* and *Public Service Employment Act* will come into force in 2005. These Acts are a cornerstone of the modernization of human resources management in the public service. Together with other initiatives, these Acts will position the public service in general, and the Tribunal in particular, to provide better programs and services to Canadians. Thus, it is essential that the Tribunal carefully assess its readiness for implementing these Acts.

In 2005–2006, the Tribunal will ensure that managers and staff are aware of their new roles, responsibilities and accountabilities in human resources management. The Tribunal will put a labour-management consultation and informal conflict resolution process in place. The Tribunal will also review and revise all applicable policies related to human resources to reflect the legislative changes and the modernized approach to leadership, values and ethics in human resources management.

These changes will also include the implementation of a modernized human resources management approach to the Tribunal’s business planning and the framework identified in [priority 2](#). To ensure that modernized human resources practices continue into the future and become embedded in the culture of the Tribunal, a human resources sustainability plan will be developed for implementation in 2006–2007 and monitored regularly in upcoming years.

4. Review and revise tools for informing the public of the Tribunal process.

Planned activity	Results and time lines
Review current information packages.	Canadians have access to the Tribunal and an enhanced awareness of the Tribunal’s role and procedures.

Information packages on the role and procedures of the Tribunal have been developed in recent years and distributed to parties appearing before the Tribunal. Changes noted under [priority 1](#) will necessitate a review and revision of these information packages in 2005–2006.

In 2005–2006, the Tribunal will examine its new information tools to give our clients easy access to accurate and up-to-date information. Once the process changes noted in [priority 1](#) have been fully tested, the Tribunal will also consider drafting a comprehensive communications strategy.

5. Continue to work, as required, with the Department of Justice on possible amendments to the *Canadian Human Rights Act*, in response to the La Forest report.

La Forest Report:
<http://www.justice.gc.ca/chra/en/toc.html>

Planned activity	Results and time lines
Develop operational models based on the changes proposed to the Tribunal's structure and role in amendments to the CHRA.	More timely access for Canadians to the human rights process. Continuity in the provision of services as CHRA amendments are enacted.

This priority has been continued from years 2003–2004 and 2004–2005. The Minister of Justice has yet to move forward with the introduction of amendments to the CHRA. We have had some very preliminary discussions with the department but no specific timetable has been announced. If and when the Minister of Justice decides to submit amendments to Parliament on the CHRA, the Tribunal is prepared to work with the department on developing operational procedures.

6. Investigate and develop technological enhancements for automating case and information management.

Planned activities	Results and time lines
Develop an automated case management system, investigate improved electronic document filing capabilities, and prepare for implementation of the government-wide Records, Documents and Information Management System (RDIMS).	Ongoing savings to parties appearing before the Tribunal. Optimization of resources in managing case proceedings; tracking and referencing documentation; and implementing the government-wide RDIMS by 2006–2007.

In 2004–2005, the Tribunal undertook an ambitious project to improve its electronic case management capability. With the dramatically increased caseload experienced by the Tribunal over the past four years, our computerized system became inadequate for providing the information needed for sound management. Managers require rapid access to case information to make decisions on case scheduling, disclosure timetables and assignment of cases to members and staff.

Several computerized case management packages are available on the market, some of which are in use in other administrative tribunals. In 2004–2005, the Tribunal researched the market, consulted with similar organizations, and considered government-wide policies and practices on the utility and implementation of computerized case management systems. In consultation with other federal institutions with experience in computerized case management, the Tribunal acquired and installed inexpensive automated case management software in 2004–2005. The software meets our current needs and is compatible with our plan to change over to a more robust and fully integrated information management system by 2007–2008.

The Tribunal is continuing to work with other federal organizations to implement the government's Records, Documents and Information Management System (RDIMS) at the Tribunal. When this work will be completed depends on the nature of the RDIMS and how much of the Tribunal's limited resources can be dedicated to this work. The Tribunal intends for the RDIMS to evolve into a system that integrates the management of corporate and case information.

More and more courts and administrative agencies are developing time-saving and cost-effective systems for filing documents electronically. As lawyers become more familiar with these systems, they are demanding similar services from boards and tribunals. We will continue in 2005–2006 to explore innovations in this area; this includes seeking advice from federal institutions who already have experience with electronic filing, thereby avoiding the unnecessary costs of adopting technologies not suited to the Tribunal.

Section 2 Analysis of Program Activities by Strategic Outcome

2.1 Detailed Analysis by Program Activity

The Tribunal's two program activities (described below), together with its management and corporate administration activities, achieve these strategic outcomes and results for Canadians as shown in the logic model (Figure 2.1 on page 11).

Program Activity: Public Hearings Under the *Canadian Human Rights Act*

Financial Resources (Millions of Dollars):

2004–2005	2005–2006	2006–2007
4.7	4.7	4.2

Human Resources (Full-Time Equivalents):

2004–2005	2005–2006	2006–2007
26	26	26

Description:

Inquire into complaints of discrimination to decide if particular practices have contravened the CHRA.

Results:

Clear and fair interpretation of the CHRA, an adjudication process that is efficient, equitable and fair to all who appear before the Tribunal, and meaningful legal precedents for the use of employers, service providers and Canadians.

This program activity will action all the priorities identified in Section 1.

Performance Indicators:

Client satisfaction
 Serving Canadians
 Number of cases commenced, pending, completed, withdrawn/discontinued, by time lines
 Number of cases heard/decided/settled
 Number of judicial reviews (overturned/upheld)

Program Activity: Review Directions Given Under the *Employment Equity Act*

Financial Resources (Millions of Dollars):

2004–2005	2005–2006	2006–2007
0	0	0

Human Resources (Full-Time Equivalents):

2004–2005	2005–2006	2006–2007
0	0	0

Description:

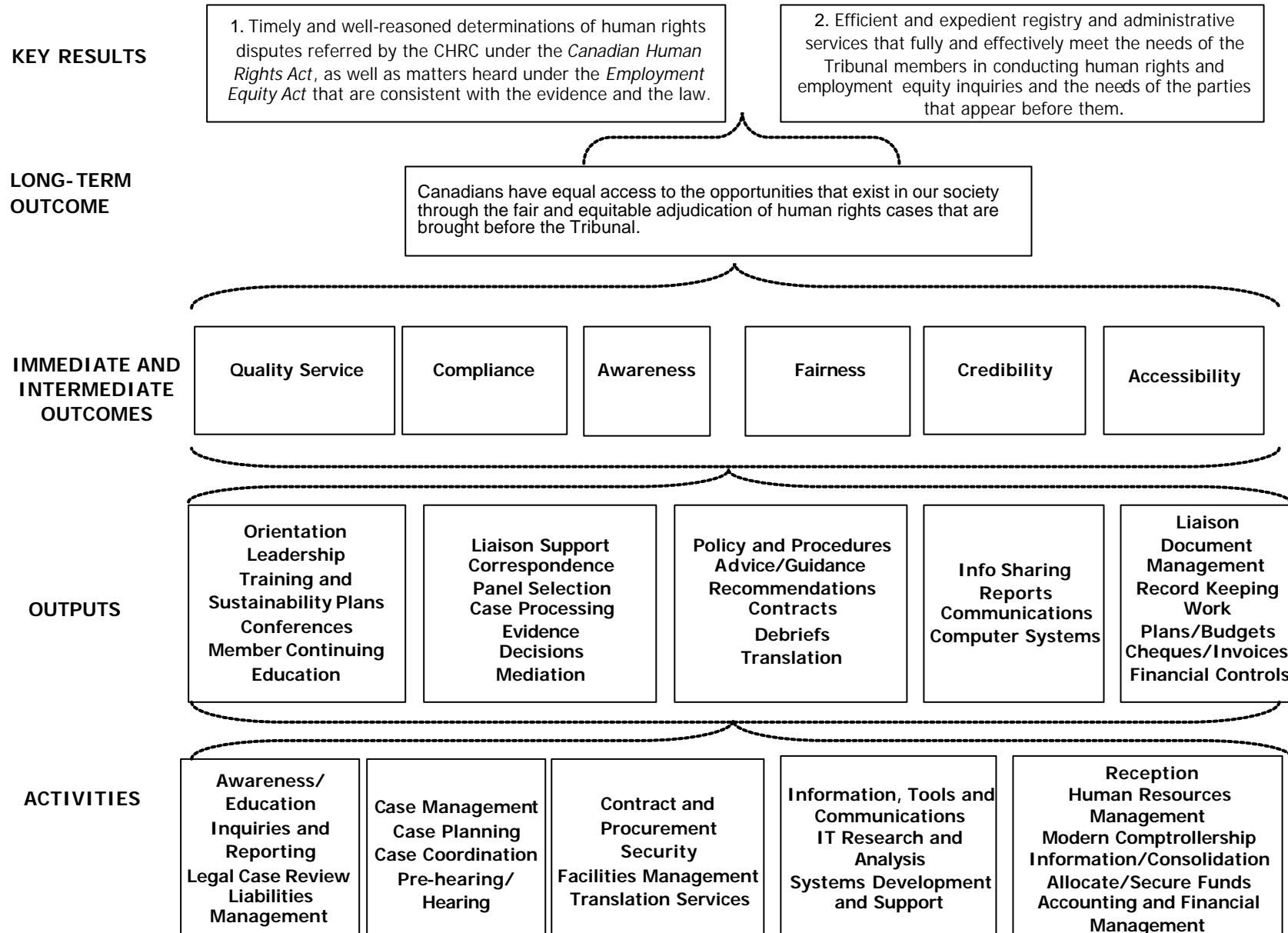
Conduct hearings into requests from employers to review decisions issued to them by the Canadian Human Rights Commission (CHRC) or into applications from the CHRC to confirm directions given to employers.

Results:

Clear and fair interpretation of the EEA, an adjudication process that is efficient, equitable and fair to all who appear before the Tribunal, and meaningful legal precedents for the use of employers, service providers and Canadians.

No activity is anticipated to occur during the planning period covered by this document.

Figure 2.1: Logic Model



Section 3 Supplementary Information

3.1 Management Representation Statement

MANAGEMENT REPRESENTATION STATEMENT

I submit, for tabling in Parliament, the *2005–2006 Report on Plans and Priorities* (RPP) for the Canadian Human Rights Tribunal.

This document has been prepared based on the reporting principles contained in the *Guide to the Preparation of Part III of the Estimates: Reports on Plans and Priorities*.

- ?? It adheres to the specific reporting requirements outlined in the TBS guidance;
- ?? It uses an approved program activity architecture (PAA) structure;
- ?? It provides a basis of accountability for the results achieved with the resources and authorities entrusted to it; and
- ?? It reports finances based on approved planned spending numbers from the Treasury Board Secretariat.

Name: _____

Title: Chairperson

Date: February 21, 2005

3.2 Organizational Information

Role of the Tribunal

The Canadian Human Rights Tribunal is a quasi-judicial body created by Parliament to inquire into complaints of discrimination and to decide if particular practices have contravened the *Canadian Human Rights Act*. The Tribunal also decides cases brought under the *Employment Equity Act* (EEA) and, pursuant to section 11 of the CHRA, determines allegations of wage disparity between men and women doing work of equal value in the same establishment.

The Tribunal considers matters concerning employment or the provision of goods, services, facilities or accommodation. The CHRA makes it an offence for anyone to discriminate against any individual or group on 11 grounds:

- \$ race;
- \$ national or ethnic origin;
- \$ colour;
- \$ religion;
- \$ age;
- \$ sex (includes pay equity, pregnancy, childbirth and harassment, although harassment can apply to all grounds);
- \$ marital status;
- \$ family status;
- \$ sexual orientation;
- \$ disability (can be mental/physical and includes disfigurement and past, existing or perceived alcohol or drug dependence); or
- \$ conviction for which a pardon has been granted.

The Tribunal's jurisdiction covers matters that come within the legislative authority of the Parliament of Canada, including those concerning federal government departments and agencies, as well as banks, airlines and other federally regulated employers and providers of goods, services, facilities and accommodation. The Tribunal holds public hearings to inquire into complaints of discrimination. Based on evidence and the law (often conflicting and complex), it determines whether discrimination has occurred. If it has, the Tribunal determines the appropriate remedy to compensate the victim of the discriminatory practice and policy adjustments necessary to prevent future discrimination.

The majority of discriminatory acts that the Tribunal adjudicates are not malicious. Many conflicts arise from long-standing practices, legitimate concerns by employers, or conflicting interpretations of statutes and precedents. The role of the Tribunal is to discern the positions of the parties and establish fair and appropriate "rules" to resolve the dispute.

The Tribunal may only inquire into complaints referred to it by the Canadian Human Rights Commission, usually after a full investigation by the Commission. The Commission resolves most cases without the Tribunal's intervention. Cases referred to the Tribunal generally involve complicated legal issues, new human rights issues, unexplored areas of discrimination or multi-

faceted evidentiary complaints that must be heard under oath, especially in cases with conflicting evidence where issues of credibility are central.

The Tribunal is not an advocate for the CHRA; that is the role of the Commission. The Tribunal has a statutory mandate to apply the Act based solely on the evidence presented and on current case law. If there is no evidence to support the allegation, then the Tribunal must dismiss the complaint.

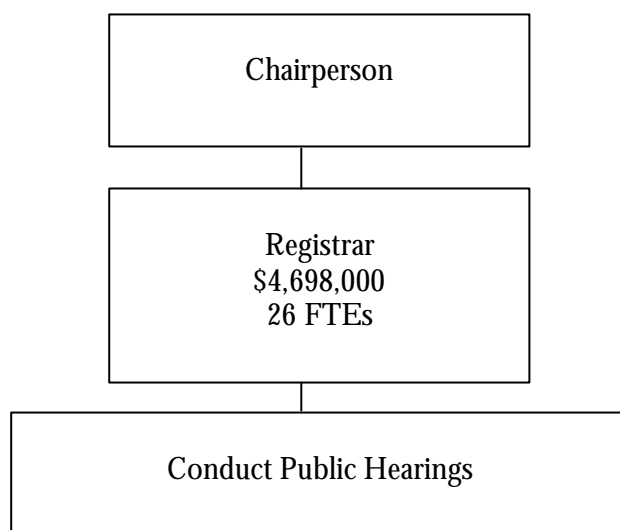
Organization and Accountability

The Canadian Human Rights Tribunal consists of two sections: the members of the Tribunal (the adjudicators) and the Registry.

The Tribunal currently consists of eight members appointed by the Governor in Council. The Chairperson, the Vice-Chairperson (currently vacant) and two additional members are, by statute, full-time members; there are also five part-time members. Members' backgrounds vary, but all have legal training and all must have experience, expertise and interest in, as well as sensitivity to, human rights issues.

The Registry's activities are entirely separate from the adjudication process. It is accountable for the resources allocated by Parliament. It plans and arranges hearings, acts as a liaison between the parties and members, and provides members with the full administrative support they need to carry out their duties. The Registry provides high-quality, effective services to the Canadian public. It comprises corporate, finance, information technology and communications sections. Figure 3.1 presents an accountability chart.

Figure 3.1: Accountability Chart



Funding

The Tribunal is funded by annual appropriations from Parliament through a program expenditures vote for hearings and administrative operating expenditures. Main reference levels are not usually sufficient to cover costs for cases requiring inordinately long hearings, such as cases to determine allegations of wage disparity between men and women doing work of equal value in the same establishment (i.e., pay equity cases); Treasury Board submissions are prepared as required to obtain additional funding for these cases.

3.3 What's New

Pay equity cases

Four new pay equity cases were referred to the Tribunal under s. 11 of the CHRA in 2004. *Gagné et al v. TQS Inc.* is currently in negotiation between the parties. *PSAC (Local 70397) v. National Gallery of Canada*, *PSAC (Local 70396) v. Canadian Museum of Civilization* and *Syndicat des communications de Radio-Canada (FCN/CSN) v. Société Radio-Canada* have entered the case management phase before the Tribunal. The time and resources that will be required to hear these cases over the next few years is unknown.

Canadian Telephone Employees' Association (CTEA) et al. v. Bell Canada

A notable change took place in this case in October 2002, when the CTEA settled, and then withdrew, its complaint against Bell Canada. The complaints of the Communications, Energy and Paperworkers Union of Canada and Femmes-Action are continuing. In 2003, the Supreme Court dismissed an appeal by Bell Canada with respect to the Tribunal's independence and impartiality, allowing hearings to continue. This case continued for 62 hearing days in 2004, for

a total of 237 days since hearings began in 1998. More than 65 hearing days have been scheduled for 2005. This case is expected to continue into at least 2006.

Public Service Alliance of Canada (PSAC) v. Canada Post

Lasting nearly a decade and taking up 415 hearing days, this has been the Tribunal's longest-running case. The parties finished presenting their evidence in 2003. Written final submissions were completed early in 2003 and final arguments were heard in the spring and summer of 2003. A final decision may be released in spring 2005.

3.4 Resource Requirements

Table 3.1: Tribunal Planned Spending and Full-Time Equivalent

(\$ millions)	Forecast Spending 2004–2005	Planned Spending 2005–2006	Planned Spending 2006–2007	Planned Spending 2007–2008
Public hearings under the CHRA	4.3	4.7	4.2	4.2
Review directions given under the EEA	—	—	—	—
Budgetary Main Estimates (gross)	4.3	4.7	4.2	4.2
Public hearings under the CHRA	—	—	—	—
Review directions given under the EEA	—	—	—	—
Non-Budgetary Main Estimates (gross)	—	—	—	—
Less: Respendable revenue	—	—	—	—
Total Main Estimates	4.3	4.7	4.2	4.2
<i>Adjustments:</i>				
Supplementary Estimates:				
Funding for administration and coordination of pay equity cases before the Canadian Human Rights Tribunal	.6	—	—	—
Operating budget carry forward (horizontal item)	.2	—	—	—
<i>Total Adjustments</i>	<i>.8</i>	<i>—</i>	<i>—</i>	<i>—</i>
Total Planned Spending	5.1	4.7	4.2	4.2
Total Planned Spending	5.1	4.7	4.2	4.2
Less: Non-Respendable revenue	—	—	—	—
Plus: Cost of services received without charge	1.1	1.2	1.2	1.2
Net Cost of Program	6.2	5.9	5.4	5.4
Full-Time Equivalent	26	26	26	26

Note: The decrease in planned spending from 2005–2006 to 2006–2007 and beyond is attributable to the fact that planned spending has not yet been approved for pay equity cases.

The figures above for 2005-2006 include a reduction in the amount of \$10,000 for procurement savings as directed by Treasury Board Secretariat.

Table 3.2: Program by Activity, 2005–2006

2005–2006							
Program Activity	Budgetary				Total Main Estimates	Adjustments (planned spending not in Main Estimates)	Total Planned Spending
	Operating	Gross	Revenue	Net			
Conduct hearings under the CHRA	4.7	4.7	—	4.7	4.7	—	4.7
Review directions given under the EEA*	—	—	—	—	—	—	—
Total	4.7	4.7	—	4.7	4.7	—	4.7

* No activity is anticipated under the program activity called *Review directions given under the EEA*; therefore, no funds have been allocated or approved.

Table 3.3: Voted and Statutory Items listed in Main Estimates

2005–2006			
Vote or Statutory Item	Truncated Vote or Statutory Wording	Current Main Estimates	Previous Main Estimates
15	Operating expenditures	4.3	3.9
(S)	Contributions to employee benefit plans	0.4	0.4
	Total Tribunal	4.7	4.3

Table 3.4: Net Cost of Tribunal for the Estimates Year

2005–2006	
(\$ millions)	Total
Total Planned Spending	4.7
<i>Plus: Services Received without Charge</i>	
Accommodation provided by Public Works and Government Services Canada	1.0
Contributions covering employers' share of employees' insurance premiums* and expenditures paid by TBS (excluding revolving funds)	.2
Worker's Compensation coverage provided by Social Development Canada	—
Salary and associated expenditures of legal services provided by Justice Canada	—
<i>Less: Non-responsible Revenue</i>	
2005–2006 Net Cost of Tribunal	5.9

* Calculations: Insurance Plans—8% of \$1,872,000 = \$149,760.

Section 4 Other Items of Interest

Contacts for Further Information and Web Site

Registrar
Canadian Human Rights Tribunal
160 Elgin Street
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Ottawa, Ontario
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Tel: (613) 995-1707
Fax: (613) 995-3484

e-mail: registrar@chrt-tcdp.gc.ca
Web site: www.chrt-tcdp.gc.ca

Legislation and Associated Regulations Administered

The Minister of Justice is responsible to Parliament for the *Canadian Human Rights Act* (R.S. 1985, c. H-6, as amended).

(<http://laws.justice.gc.ca/en/h-6/index.html>)

The Minister of Labour is responsible to Parliament for the *Employment Equity Act* (S.C. 1995, c. 44, as amended).

(<http://laws.justice.gc.ca/en/E-5.401/index.html>)

Statutory Annual Reports and Other Tribunal Reports

The following documents can be found on the Tribunal's Web site:

<i>Annual Report (2003)</i>	http://www.chrt-tcdp.gc.ca/pdf/annual03-e.pdf
<i>Modern Comptrollership Capacity Assessment—Final Report June 2002</i>	http://www.chrt-tcdp.gc.ca/pdf/capacityassessment-e.pdf
<i>Performance Report</i> (Period ending March 31, 2004)	http://www.chrt-tcdp.gc.ca/pdf/rpp04-05efinal.pdf
<i>Report on Plans and Priorities</i> (2004–2005 Estimates)	http://www.chrt-tcdp.gc.ca/pdf/rpp03-04-e.pdf
<i>Rules of Procedure</i>	http://www.chrt-tcdp.gc.ca/about/tribunalrules_e.asp