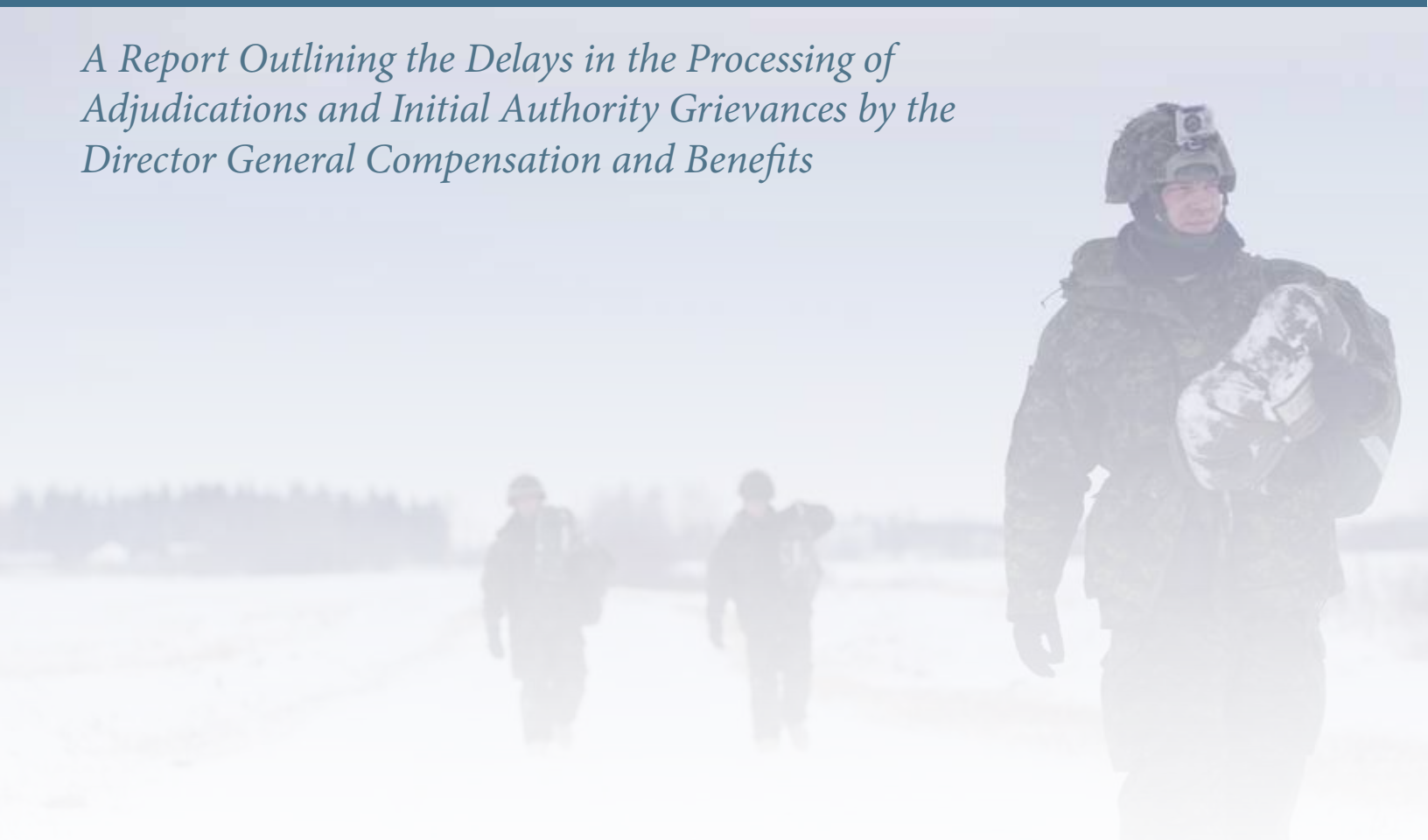


SPECIAL REPORT TO THE MINISTER OF NATIONAL DEFENCE

May 2013



*A Report Outlining the Delays in the Processing of
Adjudications and Initial Authority Grievances by the
Director General Compensation and Benefits*



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General Compensation & Benefits***

May 2013

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DND/CF Ombudsman***

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1 **Background**

2 *“Soldiers are not second class citizens. They are entitled to be treated with respect, and in the case of the grievance process, in a procedurally fair manner. This is a fundamental principle that must not be lost in a bureaucratic process, even a military one.”¹*

 – The Right Honourable Antonio Lamer

3 Since 2010, the Office of the Ombudsman for the Department of National Defence and the Canadian Forces (CF) has received a number of complaints from CF members related to delays in the adjudication of financial claims associated with door-to-door relocations (postings). Similar complaints were also submitted regarding delays in the handling of related grievances. At present, CF members are being informed by auto-reply emails from the Directorate of Compensation and Benefits that adjudication requests take a minimum of 18 months to process for non-priority files. Should members wish to grieve the decision ultimately rendered on their adjudication request, they are told to expect an additional 12- to 15-month wait for a determination of their grievances.

4 In June 2011, the Ombudsman’s office raised concerns about these delays directly with the Chief of Military Personnel and recommended that an action plan be put in place to improve the timeliness in processing claims and grievances (Annex A).

5 The Chief of Military Personnel responded that measures had been put in place to improve processing times and to reduce the backlog. The measures included: improving capture and tracking of adjudication claims and grievances; designating personnel as subject matter experts to expedite the review of claims and grievances submitted on similar issues; and providing additional personnel to assist in processing files (Annex B).

6 Despite the measures put in place, the delays with adjudication requests and grievances persist. Given that these substantial delays likely have a direct negative impact on the financial health of CF members and their families, the Ombudsman directed that a full investigation be completed into the delays.

7 As of February 1, 2013, the Director General Compensation and Benefits (DGCB) has some 1,700 adjudications of claims in the queue and more than 200 grievances awaiting action. If a file is not deemed to be a priority, CF members are waiting a minimum of 18 months for an adjudication claim to be decided and a minimum of 12 months for a grievance to be determined.²

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8 **Investigation**

9 The scope of the investigation was to:

- 10 • Determine why there is such a large caseload and lengthy delays to process
adjudication requests and grievances at DGCB;
- 11 • Assess the actions that have been or will be taken to reduce the caseload and
processing times; and
- 12 • Assess whether these actions will be effective and, if necessary, make appropriate
recommendations.

13 DGCB provides the first level review on all grievances related to compensation and benefits.
The investigation reviewed the processes of two sections within DGCB, namely Directorate
Compensations and Benefits Administration 2 (DCBA 2) and Compensation and Benefits
Grievance Section (CBGS).

14 DCBA 2 is the departmental authority for the administration of the Canadian Forces
Integrated Relocation Program (CF IRP). The intent of the CF IRP is to facilitate door-to-
door moves for CF members by ensuring reimbursement of necessary relocation expenses.

15 CBGS is the section responsible for the administration and analysis of grievances determined
by DGCB.

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Director Compensation and Benefits Administration 2

The Problem

The CF moves approximately 16,000 members each year under the provisions of the CF IRP. The investigation revealed that the number of adjudication requests peaked at 2,323 in 2009 and has now stabilized at approximately 1,500 per year. At the present time, about 10% of all forces-wide relocations result in an adjudication request.³

As of February 1, 2013, an auto-reply email sent to individuals seeking status updates regarding their financial claims stated that DCBA 2 was working on files from August 2010 and that their caseload was at 1,702 files; with a minimum 18-month waiting period. Investigators were advised that the majority of DCBA 2's efforts have been focused on reviewing priority files, which are processed on an urgent basis depending on the circumstances of the case. The bulk of the files, however, do not receive priority treatment and, as noted above, members are experiencing significant delays in waiting for a reply.

Policy and Responsibility

DCBA 2 has two main functions. First, it is responsible for the administration of the CF IRP policy, primarily through responding to adjudications and/or clarification requests. Some examples of adjudication requests include reimbursement of home equity loss, extension of timeline associated with Intended Place of Residence relocation, and reimbursement of real estate costs or commission.⁴ Its second function is to propose changes to the CF IRP to Treasury Board Secretariat (TBS), as required.

In recent years, there have been a significant number of policy and authority changes that have contributed to a high number of adjudication requests at DCBA 2. Prior to 2008, and according to the relocation policy, a member could only submit an adjudication request to DCBA 2 in exceptional circumstances. An exceptional circumstance was defined as rare, extreme, and unforeseen. Since 2008, the criteria for the submission of an adjudication request have become less restrictive and members are more likely to avail themselves of this process.⁵

While there are still some provisions in the CF IRP that allow Base Commanders to approve move related benefits, in 2008 the authority for Base Commanders/Base Administration Officers to approve some relocation entitlements was rescinded.

The revised 2009 CF IRP was published in the spring of 2009. In July 2009, a major overhaul of the policy occurred and there were over 100 changes to relocation benefits. Since that time, there have been no less than five substantive announcements that changed the CF IRP. DCBA 2 has made efforts to clarify the changes, including putting frequently asked questions

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on their website, offering domestic benefits training seminars, publishing forces-wide messages (CANFORGENS) and conducting briefing sessions delivered by the relocation contractor.⁶

25 In 2011, the CF Grievance Board found that some parts of a DCBA 2008 Aide-Memoire (a widely available DCBA internal working guide) were inconsistent with some provisions of the Compensation and Benefit Instructions. In effect, the Aide-Memoire was being used to calculate benefits that had not been approved by TBS. The Chief of the Defence Staff (CDS) directed DGCB “to review the inconsistencies between the Compensation and Benefit Instructions and the Aide-Memoire and to inform Director General Canadian Forces Grievance Authority (DGCFGA) of its action plan.”⁷ The Aide-Memoire was cancelled in January 12, 2012, and CF members were advised that relocation entitlements were to be granted pursuant to TBS approved policy only.

26 As a result, a number of benefits previously approved under the Aide-Memoire were either reduced or eliminated. Even with the cancellation and release of related CANFORGENS, CF members continued to submit both adjudication requests and grievances based on the Aide-Memoire.⁸

27 Despite the efforts of DCBA 2, the provisions of the CF IRP remain confusing, vague, contradictory and difficult to understand all of which has contributed to a high number of adjudication requests.

28 ***Structure***

29 DCBA 2 has the following personnel:

- 30 • Two policy analysts,
- 31 • One support clerk,
- 32 • Five adjudication analysts,
- 33 • One relocation adjudicator for Reserve Officer files, (a Reserve Force Warrant Officer),
- 34 • One adjudication supervisor (Regular Force Master Warrant Officer), and
- 35 • One unit supervisor, a Regular Force Major.

36 The section reports to the DCBA, a Lieutenant-Colonel, who in turn reports to the DGCB. The total number of positions at DCBA 2 is 11 (Annex C).

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37 ***Process***

- 38 Regular Force and Reserve Force members on Class “B” or “C” contracts (serving or released) who are entitled to relocation benefits under the CF IRP must submit their adjudication request, with all required supporting documentation, to DCBA through their local Relocation Coordinator.⁹
- 39 There are 87 Relocation Coordinators across Canada and most are senior non-commissioned CF members. Being a Relocation Coordinator is usually a secondary duty, with some exceptions during active posting season. Relocation Coordinators assist members in the preparation and coordination of their adjudication requests, provide guidance regarding policy clarifications, and liaise with the relocation contractor.¹⁰
- 40 If an issue cannot be handled locally, Relocation Coordinators forward the adjudication requests to the DCBA 2 support clerk. The support clerk retrieves the file from an inbox and enters the information into a Microsoft Access (Access) database. The support clerk does an initial triage to confirm that the information is complete. If any documents are missing, DCBA staff will contact the appropriate Relocation Coordinator or the Base Commander to request the documents.
- 41 The support clerk also makes an initial recommendation on the priority level of incoming files and assignment to an analyst. Priority files normally concern a large amount of money or require a quick decision to facilitate an urgent relocation issue.
- 42 There are three priority levels. A priority one file is processed on an urgent basis and is normally completed within two weeks. Priority two files are normally processed within 30 days. Priority three files require rapid processing but can wait beyond 30 days. Only 8% of files are prioritized and the rest are considered caseload.¹¹ Of note, there are no formal timeframes or policies in place for the processing of adjudication requests.
- 43 If CF members wish to seek an update on their adjudication request once it has been sent to DCBA 2, they must contact their Relocation Coordinator. They can also send an email to the DCBA 2 Adjudication inbox, but it will only generate the previously mentioned auto-reply email outlining the expected processing time for non-priority files. CF members do not have direct access to DCBA 2 staff to discuss the status or the adjudication of their file.
- 44 In terms of processing adjudications, DCBA 2 staff identified missing information or documents as a major reason for the delays. It was estimated anecdotally by the staff at DGCB 2 that approximately 30% of adjudication requests are missing information. Missing information has resulted in some files being placed on hold for up to a year or more. Investigators were informed that missing information was not a problem prior to 2008 when it was the responsibility of the relocation contractor to coordinate and submit adjudication requests.

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- 45 To manage data, DCBA 2 uses an ad hoc electronic records management system. Prior to April 2011, DCBA 2 had been using an Excel spreadsheet to record and track adjudication files. This use of the spreadsheet was discontinued when it became unstable and some files were lost.¹²
- 46 The spreadsheet was replaced by an Access database, which also has its limitations. For example, if a record is deleted it cannot be retrieved, so the database must be backed up onto a USB storage device (i.e. a memory stick) on a daily basis. In addition, only one person can enter file information at a time. As a result of these limitations and the large volume of incoming requests, there is an ongoing backlog of approximately 500 files at the intake level waiting to be inputted into the database. Of note, a separate Excel spreadsheet is also used by the Adjudication Supervisor to input and track priority files.¹³
- 47 Finally, some Relocation Coordinators advised that, at times, large files cannot be emailed to the DCBA 2 inbox because it is full. In order to free up the inbox for incoming files, the Support Clerk stores intake backlog files in monthly email folders until they can be entered into the database.
- 48 Investigators were unable to assess the efficiency of DCBA 2 methodology of work because the only documented performance measure found during the investigation was the estimate that each Analyst should process 16.75 files per month.
- 49 Investigators also did not find any formal standard operating procedures. However, efforts were made by DCBA 2 staff to develop standard operating procedures with the establishment of a common hard drive to which all analysts have access. This hard drive contains a collection of emails on various issues relating to best practices, such as procedures for the administration of files and the impact of policy changes.
- 50 ***Staffing***
- 51 Staffing has been a key challenge in DCBA 2. High staff turnover and low experience levels have contributed to delays and increased caseloads.
- 52 Investigators were informed that in early 2007, DCBA 2 was fully staffed with five analysts. Since then, there have been significant vacancies and high turnover, with only brief periods when the section was fully staffed. For example, the Support Clerk has been replaced eight times since 2008.¹⁴
- 53 The classification level (AS-02) of the analyst positions in DCBA 2 was identified as one reason for the high turnover of personnel. DCBA 2 staff informed investigators that positions with similar functions in DGCB are classified at the AS-04 level. Investigators were advised that senior analysts have left DCBA 2 for these promotional opportunities in other sections at DGCB.

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54 To address the delays and increasing caseload at DCBA 2, DGCB prepared a Staffing Surge briefing note in April 2012 for approval by the Chief of Military Personnel. The request outlined a need for increased staff on a short term basis at both DCBA 2 and CBGS. The request sought approval for the creation of one military and two AS-02 analyst positions for CBGS and three AS-02 analyst positions and one CR-04 administrative support position within DCBA 2 to reduce the adjudication caseload. The requested resources were based on a projected processing rate of 16.75 files per month per analyst in order to eliminate the caseload in 36 months. The DGCB received approval in November 2012 to create these positions. To date, approval has not yet been granted to staff them.¹⁵

55 The average number of adjudication requests received on a yearly basis has stabilized at 1,500. Based on their existing standards and the number of staff available, DCBA 2 does not have the capacity to process the yearly workload. This means that without an improved level of efficiency, an increase to the establishment, or a combination of both, the caseload will likely continue to grow once the staffing surge has expired.

56 In the Business Plan for 2012-2013, DCBA 2 has identified the need for two permanent full-time adjudication analysts over and above the surge request positions. This proposed addition will not be sufficient in itself to address and eliminate the caseload.

DCBA 2 Remedies to Date

58 Several mitigation strategies were implemented in fiscal year 2011-2012 in order to improve the efficiency of processing requests and to alleviate the caseload:

- 59 • Subject matter experts were created to concentrate on files with similar issues of concern. The success of this initiative has been limited so far due to high staff turnover and vacant positions.
- 60 • DCBA 2 has reduced non-essential staff training to limit the absence of staff from their duties. Training was not provided to the Relocation Coordinators in February 2013, as has been done in the past, due to a lack of funding and the fact that the bulk of the CF IRP remains unchanged.
- 61 • The auto-reply email was put in place to reduce the number of updates and phone enquiries, thereby allowing adjudication staff to focus more of their time on the processing of files. Auto-reply emails are concerning given they provide no specific information and do not engender trust that requests are being addressed in a timely manner.

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62 Ombudsman's Findings

- 63 The delays at DCBA 2 are negatively impacting CF members financially as they must wait a minimum of 18 months before their file is reviewed. If a CF member chooses to grieve the adjudication decision, the total wait time could easily add up to four years or more for the entire process to run its course. This time frame for an administrative decision is not in line with the principles of procedural fairness and has to be remedied as soon as possible. As it stands, DCBA 2 does not have the ability to eliminate the existing caseload of 1,700 files, nor to manage the annual influx of 1,500 new adjudication requests.
- 64 Investigators were informed that, in 2007, there were no delays, and analysts were lined up at the fax machine waiting for adjudication requests to arrive.¹⁶ In 2008, the caseload began to grow and delays became an issue due to a combination of factors, including: shortage of staff, centralisation of responsibilities, incomplete files, poor information management systems, and a lack of rigour in established processes.
- 65 Persistent personnel vacancies, high turnover and the inability to find experienced personnel have had a detrimental impact on the ability of DCBA 2 to process adjudication requests in an efficient and timely manner. Recently, two experienced analysts left DCBA 2 to accept promotions to AS-04 positions within DGCB. In the last few years, adjudication analysts were also seconded to work on other priorities, such as the CF IRP review in the summer of 2012.
- 66 The 2009 CF IRP was published in the spring of 2009. In July 2009, a major overhaul of the policy occurred and there were over 100 changes to relocation benefits. Since that time, there have been no less than five substantive announcements that changed the CF IRP.
- 67 The current CF IRP (2009-2012) has not been reviewed in its entirety since 2009 and continues to generate a high number of adjudication requests. Lately, DCBA 2 has been working on the revision of the CF IRP and has advised investigators that many of the most contentious issues will be clarified in the next version. The revised CF IRP is expected to be approved by TBS for active posting season 2014.¹⁷
- 68 The delegation of authority for relocation benefits remains highly centralized at DCBA. Base Commanders only have limited authority to approve benefits in 12 areas of the CF IRP, but some stakeholders have suggested that they be authorized to approve common sense benefits that are straight forward issues. Many cases that have to go to DCBA could be adjudicated by the Base Commanders more effectively. Investigators were informed that DCBA 2 should only be dealing with more complex cases and the ones that are outside of the policy. Some decentralization would save time, resources and reduce delays.

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69 Another reason for delays is that a number of adjudication requests are missing information. However, there are no statistics available to assist investigators in determining the extent to which missing information is delaying the processing of files. Investigators were advised that this problem coincides with the transfer of responsibilities from the relocation contractor to the Relocation Coordinators in 2008.¹⁸

70 Weaknesses were found in the information management of adjudication files. There are significant concerns that the tools being used are not stable, that key information could be lost and that it is taking too long to enter information into the system. Although the auto-reply email may save time, it does not provide adequate or timely information to CF members on the status of their adjudication requests. We have determined that DCBA 2 does not have an efficient and effective information management infrastructure to support their program and service delivery.

71 There are no substantive performance measures, service standards or standard operating procedures in place to either assess the efficiency or effectiveness of DCBA 2's program or provide guidance to staff administering the process. DCBA 2 has instituted some measures in order to better understand the processing of their files, such as prioritization, a common hard drive to store directional emails and the monthly reporting of statistics.

72 **Ombudsman's Recommendations**

73 1. DCBA 2 must provide timely adjudication of claims. The adjudication process should not exceed 90 days. To that effect, the surge request that was approved in November 2012 must be staffed immediately to eliminate the caseload.

74 2. DCBA 2 should maintain staff stability until the caseload has been eliminated.

75 3. DCBA 2 should consider increasing the authority to Base Commanders to improve the efficiency of the adjudication process.

76 4. DCBA 2 should resume an annual training/situational awareness session for Relocation Coordinators regarding policy coverage and file generation in order to increase frontline staff's understanding of the adjudication process and to reduce the delays incurred from the back-and-forth involved when files are incomplete.

77 5. DCBA 2 should develop a comprehensive communications strategy to ensure that CF members have a clear understanding of all relevant regulations, directives and policy documents related to relocation and the associated complaint process.

78 6. DCBA 2 must pursue vigorously the approval of a revised CF IRP with TBS in order to ensure that it is in place before the 2014 active posting season.

79 7. DCBA 2 should review its information management practices and tools in order to establish an effective, stable and secure case management system.

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- 80 8. DCBA 2 must review its existing processes in order to maximise effectiveness. This includes the creation of service standard, performance measures, and standard operating procedures.

81 **Compensation and Benefits Grievance Section**

82 **The Problem**

83 The CBGS receives approximately 170 grievances each year. At the start of fiscal year 2012-2013, CBGS had a caseload of 232 files. As of December 31, 2012, the caseload was reduced to 209 files. Based on the statistics provided to investigators in November 2012, the average processing time for a grievance file is 385 days.¹⁹

84 Article 7.07 of the *Queens Regulations & Orders* (QR&O) sets out the regulatory obligations of an Initial Authority (IA), including imposing a time limit of 60 days to render a decision. CBGS and, by extension, DGCB is not meeting that requirement.

85 As of November 2012, there were 196 files that had been with CBGS for longer than 60 days: 23 of those files were initiated in 2010. The backlog has stabilized at approximately 200 files for the past three years.

86 ***Policy and Responsibilities***

87 Designated as an IA within the Canadian Forces Grievance System (CFGs), DGCB provides the first level review on all grievances related to compensation and benefits. CBGS is the section responsible for the administration and analysis of grievances determined by DGCB.

88 According to the QR&O, if the IA cannot determine a grievance within 60 days, the grievor may request that the IA submit the grievance to the CDS for consideration and determination via the Canadian Forces Grievance Authority. Defence Administrative Orders and Directives (DAOD) 2017-0 and 2017-1 amplify the QR&O and state that if the IA is unable to meet this time limit he/she shall:

- 89 • Send a letter to the grievor explaining why the time limit cannot be met;
- 90 • Request an extension and a new deadline; and
- 91 • Advise the grievor of the right to request that their file be forwarded to the Final Authority (FA) for determination.

92 Based on the principles of procedural fairness, the IA must provide disclosure and allow the grievor sufficient time to provide his or her written representation prior to the IA rendering a decision. Technically, the grievor has 21 days from the date of the receipt of the disclosure package to respond in writing. If an extension is requested, the IA is supposed to accept any

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reasonable requests. Following disclosure and representation, the IA must provide written reasons for the decision to the grievor.

Structure

CBGS has the following personnel:

- One grievance support clerk,
- Two civilian grievance analysts,
- One military grievance analyst (Regular Force Captain),
- One military grievance analyst (Reserve Force Captain),
- One military grievance analyst (Reserve Force Captain – Surge position), and
- One senior military grievance analyst (Reserve Force Major)

The section reports to a Regular Force Lieutenant-Colonel, who also fulfills the Chief of Staff role for DGCB. The total number of positions at CBGS is 7. (Annex D)

Process

At the strategic level, DGCFGA receives and registers all grievances before sending them to the appropriate IA. Once CBGS accepts the file, a letter is sent to the grievor acknowledging receipt of the file and requesting an automatic 12-month extension to the 60-day time limit. This practice was initiated for two reasons: the realization by CBGS leadership that files were realistically taking 14 to 15 months to process, and the anticipation that additional resources would reduce the processing time to 12 months. Prior to the automatic 12-month extension request, multiple subsequent three month extensions requests were being sent to grievors.²⁰

Any files identified at the intake stage as a priority are promptly assigned to an analyst. Generally, files are processed on a first-in first-out basis. Files that have large financial implications that could create further financial hardship for a member if a decision is not taken in a timely fashion are designated as exceptions and priorities.

Any file that remains to be assigned to an analyst is kept in a cabinet where files are sorted by subject matter and by date received. Analysts carry, on average, about 15 files at a time and the senior military grievance analyst regularly reviews analysts' case loads and assigns new files.

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- 106 Once a file is assigned to an analyst, he or she will contact the grievor to request any important or missing information or source documents. There is the potential for delay at this stage because it can sometimes be difficult to locate the grievor and/or some grievors will request additional time to respond to the disclosure. The need for input from other CF authorities can also add to the delays.
- 107 Once all the required documentation has been compiled, analysts prepare a Staff Summary Sheet outlining key facts, policies and interpretations for submission to the Senior Military Grievance Analyst and the Chief of Staff for review and approval. Once the Staff Summary Sheet is approved, a grievance synopsis is prepared and also submitted for approval to the Senior Military Grievance Analyst and the Chief of Staff. Following approval of the synopsis, all documents used to make the decision are disclosed to the grievor. The grievor has 21 days to make a representation or request an extension to provide representation. Historically, analysts were reluctant to enforce the 21-day time limit but recently have been directed to be more rigorous in following up with grievors after 21 days.²¹ Once the disclosure/representation process is complete, the staff prepares a decision letter. It is then submitted for approval to the IA (DGCB).
- 108 During the investigation, some process issues were raised by CBGS staff. For example, the use of a Staff Summary Sheet was questioned because it can take a considerable amount of time to draft and be reviewed/approved. It was also suggested by staff that there exists some bottlenecks at the approval stage which can further delay the administration of files.
- 109 Investigators were informed that there are no actual performance measures or service standards other than the 60-day time limit imposed at the IA level. However, some performance measures were found in the standard operating procedures; for example, that analysts should carry 15 files per month.
- 110 In interviews, grievance analysts stated that the nature and complexity of the files made it difficult to consistently keep up with the incoming caseload. Anecdotally, CBGS staff noted that there were files that required significant work to ensure all required documentation was obtained and that the file was complete upon submission to them.
- 111 The CBGS 2013-2014 Business Plan stated that the number of changes made to TBS approved policies over the past few years have resulted in a reduction or elimination of benefits to which CF members had previously been entitled. The Business Plan stated that these changes resulted in a record-breaking increase in grievance submissions.
- 112 DGCFGA advised investigators that delays at CBGS have resulted in grievors increasingly requesting that their grievance be sent directly for the FA. DGCFGA also advised that, in 2012, 36 CF members denied the DGCB's request for an extension and their grievances were forwarded to the FA, in what DGCFGA calls the "backlog dump." DGCFGA noted that this increases the number of files in the queue at the FA level and creates a backlog for them.

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113 Finally, it should be noted that in November 2010, the CDS approved a change in the regulatory requirement from 60 to 120 days for processing a grievance at the IA level. To date, this directive has not yet been implemented at CBGS. DGCFGA staff report that the QR&O reflecting the change will not be formally amended until after the passage of C-15, an *Act to amend the National Defence Act and to make consequential changes to other Acts*.²²

114 ***Staffing***

115 According to DGCB 2013-2014 Business Plan, staffing capacity was reduced due to a loss in personnel, both military and civilian. In interviews it was noted that approximately two years ago, two new analysts were hired to bring the unit back up to full strength. Prior to the hiring, the unit was significantly understaffed, with two of five analyst positions vacant.

116 Also, two staff members (one administrative support person and one analyst) from another section were loaned to CBGS to try to help with the grievance backlog. It was felt by leadership that having even one extra grievance analyst would have a significant impact on their ability to process grievances.²³

117 Investigators were informed that a key challenge for CBGS is finding experienced employees. Casual employees can only be hired for up to 90 days, which does not provide adequate time for training. They have looked at hiring recently released CF members, but report that it is difficult to find those who understand compensation and benefits and the grievance process, and who also possess good writing skills. They have casual employees for the clerical side, but have not been successful in finding analysts with the required skills and knowledge.²⁴

118 CBGS receives an average of 170 grievances per year and analysts are expected to process 4.5 files per month. In the Staffing Surge request dated April 2012, DGCB sought approval for the creation of three additional analysts (two civilians and one military) to assist with the elimination of the backlog. With these additional resources, CBGS estimates that, based on an average monthly output of 4.5 files per analyst, the backlog could be eliminated in 21 months.²⁵

119 **CBGS Remedies to date**

120 The following mitigation strategies were implemented in fiscal year 2011-2012 to increase the processing of grievances and reduce the backlog:

- 121 • Each grievance analyst was assigned an area of subject matter expertise;
- 122 • The military position requested in the Staffing Surge request has been staff and assigned as a subject matter expert to the CF IRP portfolio; and

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- There was a grievance support position, filled by a Warrant Officer, that was staffed to centralize all of the administration processes and tracking of files and to meet requirements for statistical reporting.²⁶

Without substantive data and statistics to assess the processing of files at each stage, it is impossible to determine the effectiveness of these mitigation strategies.

Ombudsman's Findings

The office is very concerned about the length of time that it is taking to process a grievance. The delays at CBGS are having a negative financial impact on CF members who must wait a minimum of 12 months to have their grievance adjudicated by the IA. These extended delays are not in line with the principles of procedural fairness and must be remedied as soon as possible.

According to the QR&O, it is a requirement that all grievances be processed within 60 days by the IA. With few exceptions, the CBGS had not been able to meet this requirement. The average processing time for grievances within DGCB itself is 385 days.

The reasons for the current backlog and high number of grievances involve a combination of several issues, including: policy changes, the requirement to manage expectations as benefits are changed or reduced, vacant positions, bottlenecks at the approval stage, redundancy, and a lack of rigour at the disclosure stage.

While the CBGS has the capacity to process as many grievances as they receive in a year, they are clearly not able to tackle the backlog of files that has built up over time. The Ombudsman's office agrees with the assessment by CBGS that they do not have the resources to quickly eliminate the backlog without a surge capacity. The Staffing Surge request, while approved in principle, is still awaiting approval to staff the two civilian positions.

There are no formal performance measures in place. The standard operating procedures provided by CBGS staff were considered to be a good start, but further in-house development and refinement in-house is necessary.

Ombudsman's Recommendations

1. CBGS must deploy all efforts to meet its obligations as an IA and render decisions in a timely fashion, as stipulated in CF regulations. The surge request that was approved in November 2012 must be staffed immediately to assist with the elimination of the backlog.
2. CBGS should maintain staff stability until the backlog has been eliminated.
3. CBGS must review its existing processes in order to maximise its effectiveness. This

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includes the creation of service standards, performance measures and standard operating procedures.

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135 **Final Reflections**

136 This investigation was launched after numerous attempts to raise the issue with senior CF leadership failed to result in any concrete action. Delays in adjudication and grievances related to relocation benefits have been growing for five years and they are having a significant impact on CF members and their families.

137 The office is concerned that the CF IRP, with its changing entitlements and approval authorities, has become a complex moving target for individual service members to access. The burden often falls on the CF member to make financial decisions where policies are confusing or uncertain – ultimately requiring adjudication to determine what can and cannot be claimed during a mandatory relocation. Plain language policy and clarity would clearly help CF members to make informed financial decisions associated with stressful relocation moves.

138 This report contains 11 concrete recommendations to assist with the creation of the proper framework and to achieve long-lasting results. Ombudsman staff have also shared workflow documents with both DCBA 2 and CBGS, which were created during the investigation to assist them with the implementation of effective and efficient processes.

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Annex A: Copy of the letter from the Ombudsman's office to the former Chief of Military Personnel, June 2011



June 27, 2011

Rear-Admiral A.M. Smith, OMM, CD
Chief of Military Personnel
National Defence Headquarters
MGen Pearkes Building
101 Colonel By Drive
Ottawa, Ontario
K1A 0K2

Dear Rear-Admiral Smith:

Thank you for meeting with me on June 24, 2011. I am writing to follow-up on our concerns with regard to the current delays at the office of the Director General Compensation and Benefits (DGCB).

As discussed at our meeting, it has been brought to our attention, through several complaints, that DGCB is experiencing significant delays in responding to requests for adjudication on claims for benefits. Similar concerns have been raised regarding the delays in responding to first level grievances.

The Office of the DGCB has advised us that, as of April 2011, there were approximately 700 claims pending for adjudication and that they were responding to files from April 2010. With regard to grievances, we were advised that there are currently 206 outstanding grievances at DGCB and that it takes an average of 12 months to respond to a grievance.

Given that these claims and grievances are all related to some form of compensation and/or benefit, the impact of this backlog is significant. As such, I recommend that an action plan be developed in an effort to address this backlog and provide timely responses to members of the Canadian Forces.

Thank you for your attention to this important matter. I would appreciate a reply by July 27, 2011.

Yours truly,

A handwritten signature in dark ink, appearing to read "Nathalie Neault".

Nathalie Neault
Director General Operations

100, RUE METCALFE STREET, 12^E ÉTAGE, OTTAWA, CANADA, K1P 5M1 • TEL./Tél. : 613 992-0787 • FAX/TELEC. : 613 992-5167

TOLL-FREE - SANS FRAIS : 1 888 828-3626

Canada

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Annex B: Copy of the letter from the former Chief of Military Personnel to the Ombudsman's office, July 2011

Chief Military Personnel



National Defence
Headquarters
Ottawa, Ontario
K1A 0K2

Chef Personnel Militaire

COPY

Quartier général de
la Défense nationale
Ottawa (Ontario)
K1A 0K2

18 July 2011

Nathalie Neault
Director General Operations
Office of the Ombudsman
Department of National Defence and Canadian Forces
Urbandale Building, 12th Floor
100 Metcalfe St
Ottawa ON K1P 5M1

Reçu / Received

JUL 26 2011

**Office
Ombudsman**

Dear Ms Neault,

Thank you for your letter dated 27 June 2011. The purpose of this letter is to provide context to the delays perceived by your office with respect to the Director General Compensation and Benefits (DGCB) adjudications and grievances referred to in your letter. Notwithstanding the complaints that you have received at your office, an enormous number of adjudications and grievances are processed each year. Nevertheless, I am cognizant of recent delays experienced in processing all files and DGCB is making efforts to improve the current process.

In view of the above, as of 1 June 2011, DGCB Grievances section has been reorganized. This restructuring includes establishing subject matter experts (SMEs) in various areas of compensation and benefits policy. This will allow for individuals to be familiar with specific topics, minimizing the requirement for duplicate extensive research on each file. Furthermore, a support clerk has been assigned to assist the analysts with file administrative functions. With these changes, it is expected that the timeframe to process grievances will significantly reduce.

With respect to adjudications, due to the high turnover and restructuring within Brookfield Global Relocation Services (BGRS), there has been a surge in the number of adjudications coming forward to DGCB this fiscal year. Moreover, in order to deal with the current backlog of pending adjudications, Director Compensation and Benefits Administration (DCBA) will also be reorganizing in much the same fashion as the DGCB Grievance Section, implementing SMEs in various topics within the relocation policy, as well as establishing an in-take clerk to minimize administrative functions in file preparation.

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National Defence
Défense nationale

Canada

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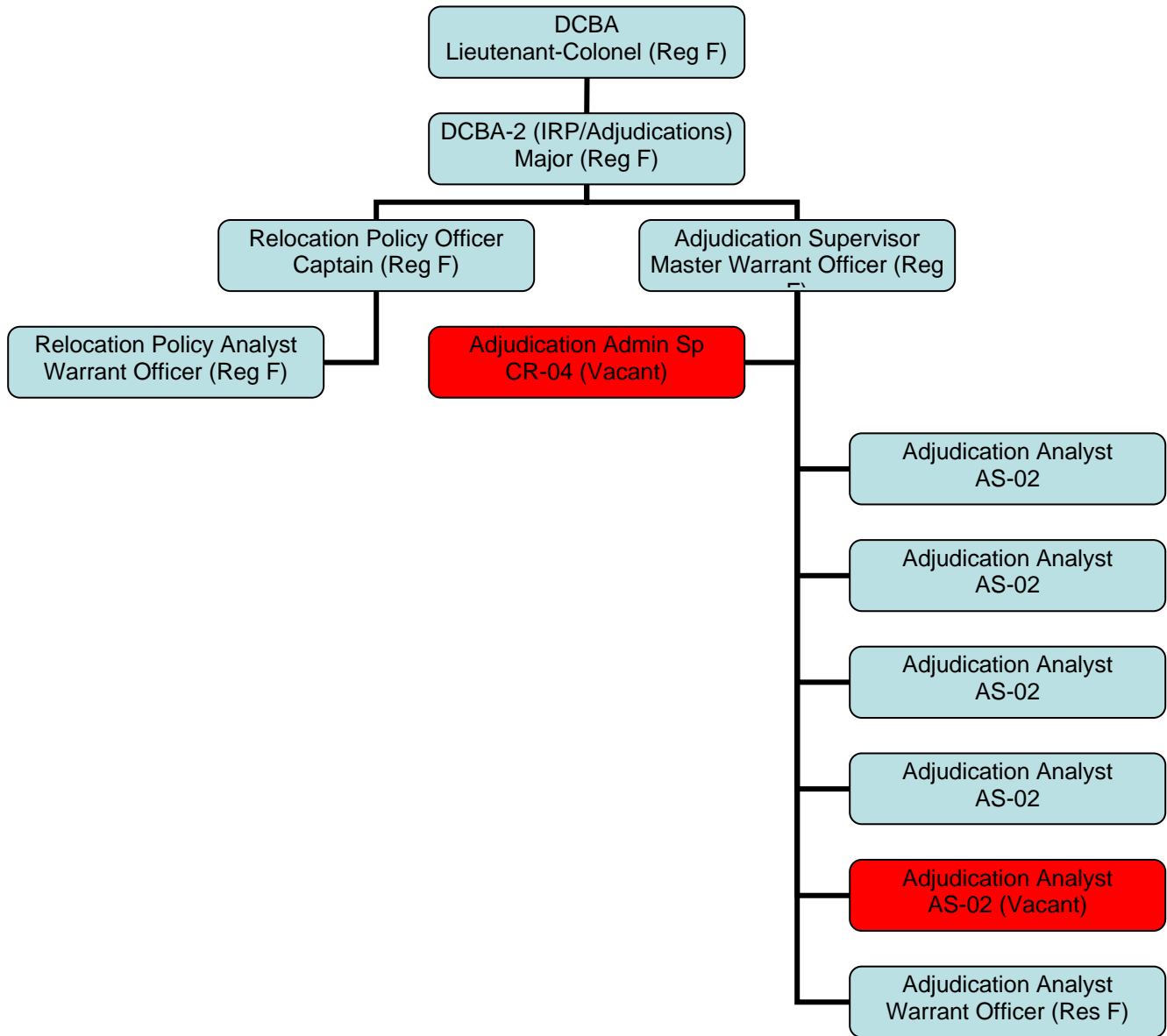
It is expected to take some time for rate of closure to be felt and approximately six months for any true affect to be seen. As such, DGCB has been directed to provide me a status update no later than 1 November 2011. I will be happy to share these results with you at that time.


A. Smith
Rear-Admiral

2/2

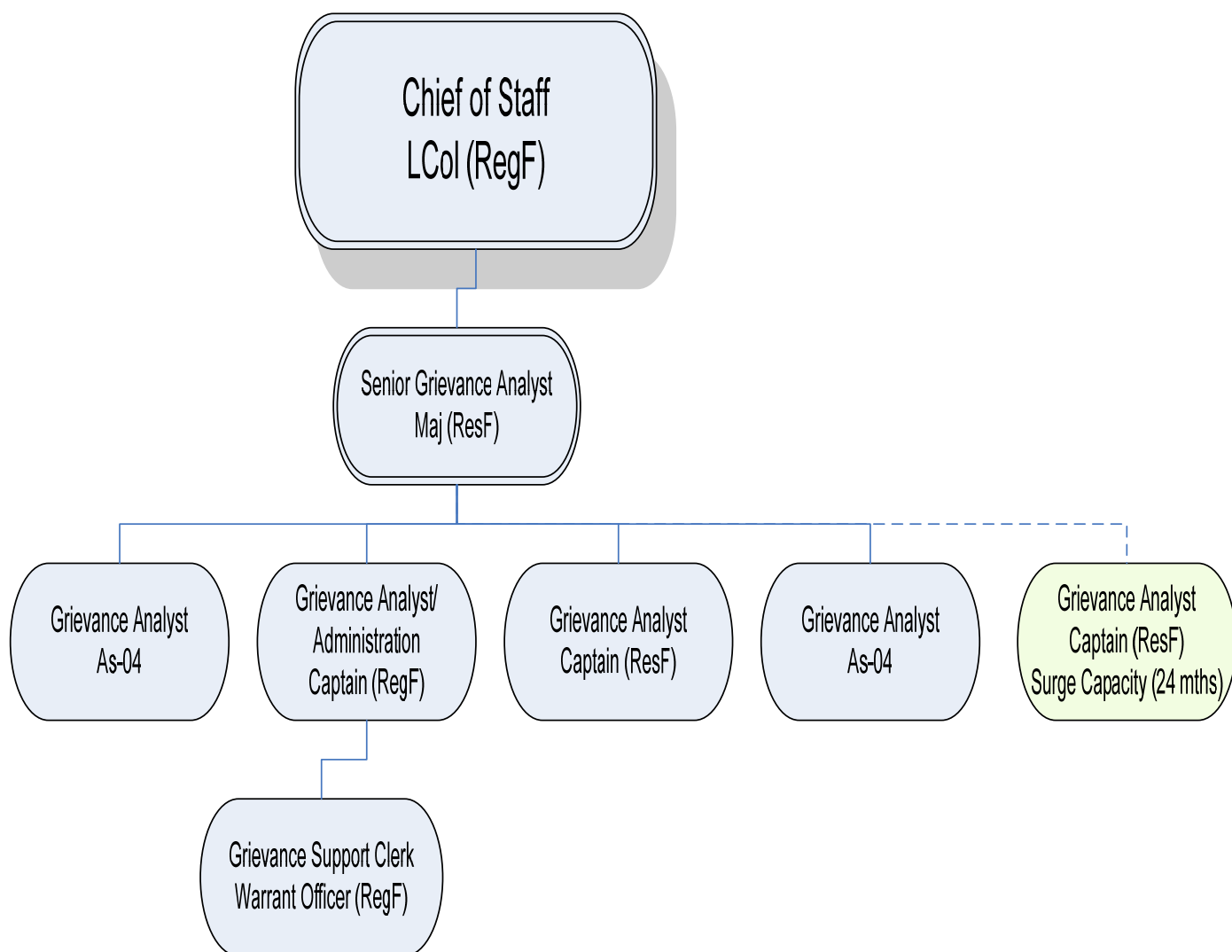
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Annex C: Organizational Chart of DCBA 2



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Annex D: Organizational Chart of CBGS



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Annex E: Recommendations

DCBA 2

1. DCBA 2 must provide timely adjudication of claims. The adjudication process should not exceed 90 days. To that effect, the surge request that was approved in November 2012 must be staffed immediately to eliminate the caseload.
2. DCBA 2 should maintain staff stability until the caseload has been eliminated.
3. DCBA 2 should consider increasing the authority to Base Commanders to improve the efficiency of the adjudication process.
4. DCBA 2 should resume an annual training/situational awareness session for Relocation Coordinators regarding policy coverage and file generation in order to increase frontline staff's understanding of the adjudication process and to reduce the delays incurred from the back-and-forth involved when files are incomplete.
5. DCBA 2 should develop a comprehensive communications strategy to ensure that CF members have a clear understanding of all relevant regulations, directives and policy documents related to relocation and the associated complaint process.
6. DCBA 2 must pursue vigorously the approval of a revised CF IRP with TBS in order to ensure that it is in place before the 2014 active posting season.
7. DCBA 2 should review its information management practices and tools in order to establish an effective, stable and secure case management system.
8. DCBA 2 must review its existing processes in order to maximise effectiveness. This includes the creation of service standards, performance measures and standard operating procedures.

CBGS

1. CBGS must deploy all efforts to meet its obligations as an IA and render decisions in a timely fashion, as stipulated in CF regulations. The surge request that was approved in November 2012 must be staffed immediately to assist with the elimination of the backlog.
2. CBGS should maintain staff stability until the backlog has been eliminated.
3. CBGS must review its existing processes in order to maximise its effectiveness. This includes the creation of service standards, performance measures and standard operating procedures.

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Annex F: Formal Response from the Chief of Defence Staff

Chief of the Defence Staff



Chef d'état-major de la Défense

National Defence
Headquarters
Ottawa, Ontario
K1A 0K2

Quartier général de
la Défense nationale
Ottawa (Ontario)
K1A 0K2

Reçu / Received

MAY 11 6 2013

Ombudsman

3 May 2013

Mr. Pierre Daigle
Ombudsman
Office of the Ombudsman
Department of National Defence and Canadian Forces
Urbandale Building
100 Metcalfe St, 12th Floor
Ottawa, ON K1P 5M1

Dear Mr. Daigle,

Thank you for your correspondence of 15 April 2013 pertaining to the delay in the staffing of requests for adjudication of relocation files and in processing grievance submissions. Your report titled, "Justice Delayed is Justice Denied" accurately brought to light the many hurdles the Director General Compensation and Benefits (DGCB) is facing. I appreciated you meeting with my staff and discussing possible solutions.

In your report you raised several specific concerns for which you offered recommendations. These findings were discussed at length during a meeting held on 16 April 2013 between our respective staffs and your vision is fully supported, as are a number of the specific recommendations in your report. More detailed commentary by recommendation will be provided in the Management Action Plan that is being developed to put recommendations of your report into practice.

The most critical hurdle, which you identified as your number one recommendation, is insufficient manning dedicated to address relocation adjudications and requests for redress of grievances. To that end, I have approved the immediate hiring of civilian employees from external sources to augment the staff within DGCB. The need to eliminate the backlog and comply with the timelines imposed on the Initial Authority is fully recognized and this critical issue remains a high priority for the Canadian Armed Forces (CAF).

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As a proactive measure, recognizing that many of the grievances are associated with outdated policies, DGCB is aggressively pursuing the approval of a revised CAF Integrated Relocation Program with TBS in order to ensure that it is in place

before the 2014 annual posting season. A team solely dedicated to this task was stood up in late April to ensure this happens, which is in full agreement with another of your recommendations.

As a further enhancement to our processes, DGCB has incorporated the workflow diagrams provided in your report into their operating procedures. These diagrams will serve as a useful contribution to establishing improved performance measurement of both grievance and adjudications processing timelines. Similarly, options regarding how best to establish the 'effective, stable, and secure case management system' recommended in your report are being considered by the Director General and will be a key element of the Management Action Plan.

Thank you again for your report, as well as your very genuine concerns for the welfare of our CAF members. Your office will be informed of the successful elimination of our backlog as it is realized.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'T. J. Lawson'.

T. J. Lawson
General

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Endnotes

¹ *The First Independent Review by the Right Honourable Antonio Lamer P.C., C.C., C.D., of the provisions and operation of Bill C-25, An Act to amend the National Defence Act and to make consequential amendments to other Acts, as required under section 96 of Statutes of Canada 1998, c.35*

² Auto reply email dated February 1, 2013, and CBGS statistics

³ Statistics provided by DCBA 2 staff

⁴ CF IRP Manual 2012-2013

⁵ Article 2.09 of CF IRP manual 2006-07

⁶ CANFORGENS 130/09, 032/11, 033, 11, 008/12, 145/12, 159/12 and 015/13

⁷ 5080-1-08-R-41299 (CDS) dated March 9, 2011

⁸ CANFORGEN 008/12

⁹ Request for clarification/adjudication - Article 1.3.02 of the CF IRP Manual 2012-13

¹⁰ The list of Relocation Coordinators can be found on the DCBA Website

¹¹ DCBA 2 statistics

¹² DCBA 2 staff interview

¹³ DCBA 2 staff Interview

¹⁴ DCBA 2 staff Interview

¹⁵ Staffing Surge Briefing note of April 2012

¹⁶ DCBA 2 staff interview

¹⁷ DCBA 2 staff interview

¹⁸ DCBA 2 staff interviews

¹⁹ DGCFGA, Level 1 reports, November 15, 2012

²⁰ CBGS staff interviews

²¹ CBGS staff interviews

²² AFC decision, November 2010, and interview with DGCFGA staff

²³ Chief of Staff interview

²⁴ Chief of Staff interview

²⁵ Staffing Surge Briefing note of April 2012

²⁶ CBGS Chief of Staff interview