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Defence

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ASSISTANT DEPUTY MINISTER (REVIEW SERVICES)



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Advisory Report on Civilian Grievance Process

May 2019

1259-3-0038 (ADM(RS))

Canada



Acronyms and Abbreviations

ADM(HR-Civ)	Assistant Deputy Minister (Human Resources - Civilian)
ADM(RS)	Assistant Deputy Minister (Review Services)
ADR	Alternative Dispute Resolution
CA	Canadian Army
CAF	Canadian Armed Forces
CBSA	Canada Border Services Agency
CSC	Correctional Service of Canada
DCLR	Director Civilian Labour Relations
DFO	Department of Fisheries and Oceans Canada
DGWM	Director General Workplace Management
DND	Department of National Defence
DSPA	Director of Strategic Planning and Accountability
DTHRC	Defence Team Human Resource Committee
HRMS	Human Resource Management System
ICCM	Integrated Conflict and Complaint Management
L1	Level 1 (ADM equivalent)
LRO	Labour Relations Officer
MILPERSCOM	Military Personnel Command
NJC	National Joint Council
OCI	Office of Collateral Interest
OGD	Other Government Departments
OPI	Office of Primary Interest
PSES	Public Service Employee Survey
UNDE	Union of National Defence Employees
VCDS	Vice Chief of the Defence Staff



Statement of Conformance

The review findings and conclusions contained in this report are based on sufficient and appropriate evidence gathered in accordance with procedures that meet the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*. The review thus conforms to the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* as supported by the results of the quality assurance and improvement program. The opinions expressed in this report are based on conditions as they existed at the time of the review and apply only to the entity examined.



Understanding the Complaint and Grievance Process

Complaints can turn into grievances if they are not resolved. Resolution of complaints at the lowest possible level is the responsibility of management. The goal is to find the cause of conflicts and prevent it happening again.

Difference between a complaint and a grievance

Complaints are an expression of dissatisfaction with the organization's procedures, charges, employees, agents or quality of service.¹ When an employee has a workplace dispute, he or she must choose between presenting a grievance and making a complaint under any applicable internal policy of the employer. However, this requirement to choose applies only if the internal policy expressly states that the employee gives up his or her right to grieve when he or she pursues relief under the policy, which is the case for the Department of National Defence (DND).

Grievances are related to the interpretation or application of a collective agreement,* a matter regarding the terms and conditions of employment, issues under the *Canadian Human Rights Act*, and situations in which the individual believes disciplinary action is not justified.² Within DND, grievances can be escalated through three levels to seek a resolution. For the purposes of this report we are classifying grievances into the following three categories:

1. Serious Nature - harassment, discipline, non-disciplinary termination
2. Administrative Nature - interpretation of collective agreement, job descriptions, performance management
3. Pay Related - underpayments, overpayments, acting pay issues, leave with pay issues

At any point during the grievance process Alternative Dispute Resolution (ADR) is available and offered. This process is used to resolve workplace conflicts early, informally and at the lowest level possible.

*These grievances can be individual, group or policy.

¹Treasury Board of Canada Secretariat.

²Federal Public Sector Labour Relations and Employment Board.



Civilian Grievance Process

DND Civilian Grievance Process ~ Labour Relation Grievances Only ~

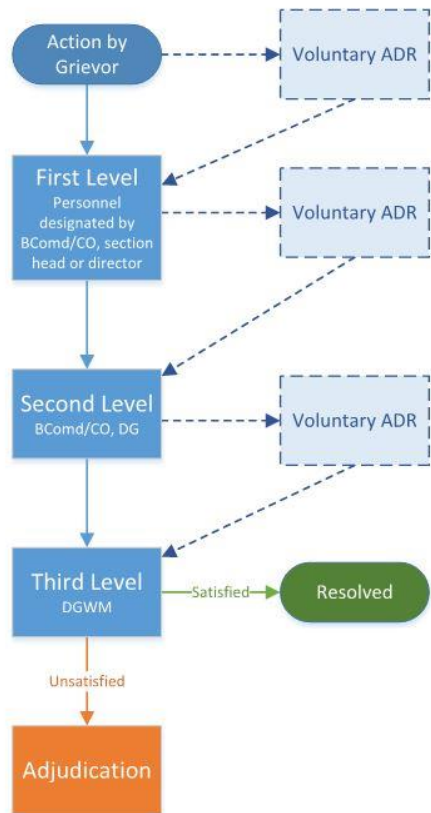


Figure 1. DND Civilian Grievance Process. This figure is a flow chart showing the civilian grievance process.

- There are 10 unions and 18 collective agreements within DND
 - Union of National Defence Employees represents approximately 65 percent of DND employees and 80 percent of grievances
- Labour relations grievance process has three levels at DND
- At the 3rd and final level,* grievances can be in one of the following stages:
 - Hearing – Director General Workplace Management (DGWM) and Union consultation
 - Proposed resolution – the facts are straightforward and the Labour Relations Officer (LRO) sends proposed response to Union for review
 - Abeyance – this is a state of temporary suspension
- If the issue remains unresolved at the 3rd level and where applicable, it will proceed to adjudication
- The grievance process involves many stakeholders including, but not limited to, the grievor, the person whose action or inaction is being grieved, the union representative (if applicable), DGWM and the designated LRO
 - * 3rd level final decision currently not delegated



Background

- In February 2018, the Deputy Minister requested an assessment of the civilian grievance process within DND to identify potential improvements to address concerns with the backlog at the 3rd level, to increase ADM/L1 organizations accountability, and as a means of benchmarking with other organizations to leverage noteworthy practices
- As a result, this advisory was added to the Risk-Based Audit Plan

Objective

- To review the civilian labour relations grievance process to identify potential improvements and to explore various accountability options for 3rd level grievances

Scope

- 3rd level labour relation grievances
- High-level review on the accountability structure of three proposed Assistant Deputy Minister (Human Resources-Civilian) (ADM(HR-Civ)) grievance process options and the hybrid grievance process that ADM(HR-Civ) began piloting in various DND organizations in September 2018
- Three major focus areas included:
 1. Timeliness of grievances
 2. Information for decision making and awareness, including Public Service Employee Survey (PSES) results
 3. Accountability structure
- Exclusions:
 - Human rights complaints, staffing complaints, National Joint Council (please refer to Annex A)



Key Messages

ADM(HR-Civ) could improve the management of the civilian grievance process by:

- Streamlining 3rd level grievances:
 - Refine the prioritization strategy for assignment of cases to LROs
 - Implement a user-friendly self-help portal to help resolve workplace conflicts at the lowest level possible
 - Further elaborate roles and responsibilities so that the involved parties know how and where to get information or updates
- Increasing ADM/L1 accountability:
 - ADMs/L1s become accountable for 3rd level grievances in their respective organizations with advice from LROs
 - Strengthen the communication strategy with ADMs/L1s to keep them apprised of any emerging trends, issues and/or process changes
 - Provide regular reports to each ADM/L1 in relation to status and number of grievances within their organization
- Improving data analysis to support decision making:
 - Implement a modern tracking system that supports data and trend analysis, monitoring and reporting
 - Ensure analysis of the PSES results for each ADM/L1 organization to identify any trends or risk areas with respect to grievances
 - Follow-up (on a regular basis) by ADM(HR-Civ) to determine which initiatives have been implemented by each ADM/L1 organization to address PSES results or other areas of concerns (i.e., the root cause in grievance nature and prevention)



Approach

- Interviews were conducted with a selection of DND organizations:
 - The top six organizations with most grievances per capita were selected, as well as one with a low number of grievances and relevant ADM(HR-Civ) staff
- Civilian grievance statistics from FY 2017/18
- Analysis of 2017 PSES results for insights and trends
- Review of Canadian Armed Forces (CAF) grievance process to compare approaches, leverage best practices and identify lessons learned
- Review of three other government departments' (OGD) (Department of Fisheries and Oceans Canada (DFO), Canada Border Services Agency (CBSA) and Correctional Service of Canada (CSC)) grievance processes
- A non-representative sample of 16 ADM(HR-Civ) 3rd level grievance files were reviewed with the following characteristics:
 - Grievance files closed within the last 12 months
 - Labour relation grievances only
 - At 3rd level for over 10 months
- The purpose of these file reviews was to help identify some potential causes for the grievance resolution delays
- Review of September 2018 ADM(HR-Civ) pilot project, in which ADM(HR-Civ) remains accountable for administrative 3rd level grievances (e.g., interpretation of collective agreement, work description content) while the respective DND organizations will be accountable for 3rd level grievances of a more serious nature (e.g., discrimination, discipline and non-disciplinary termination)



Number of 3rd Level Grievances³

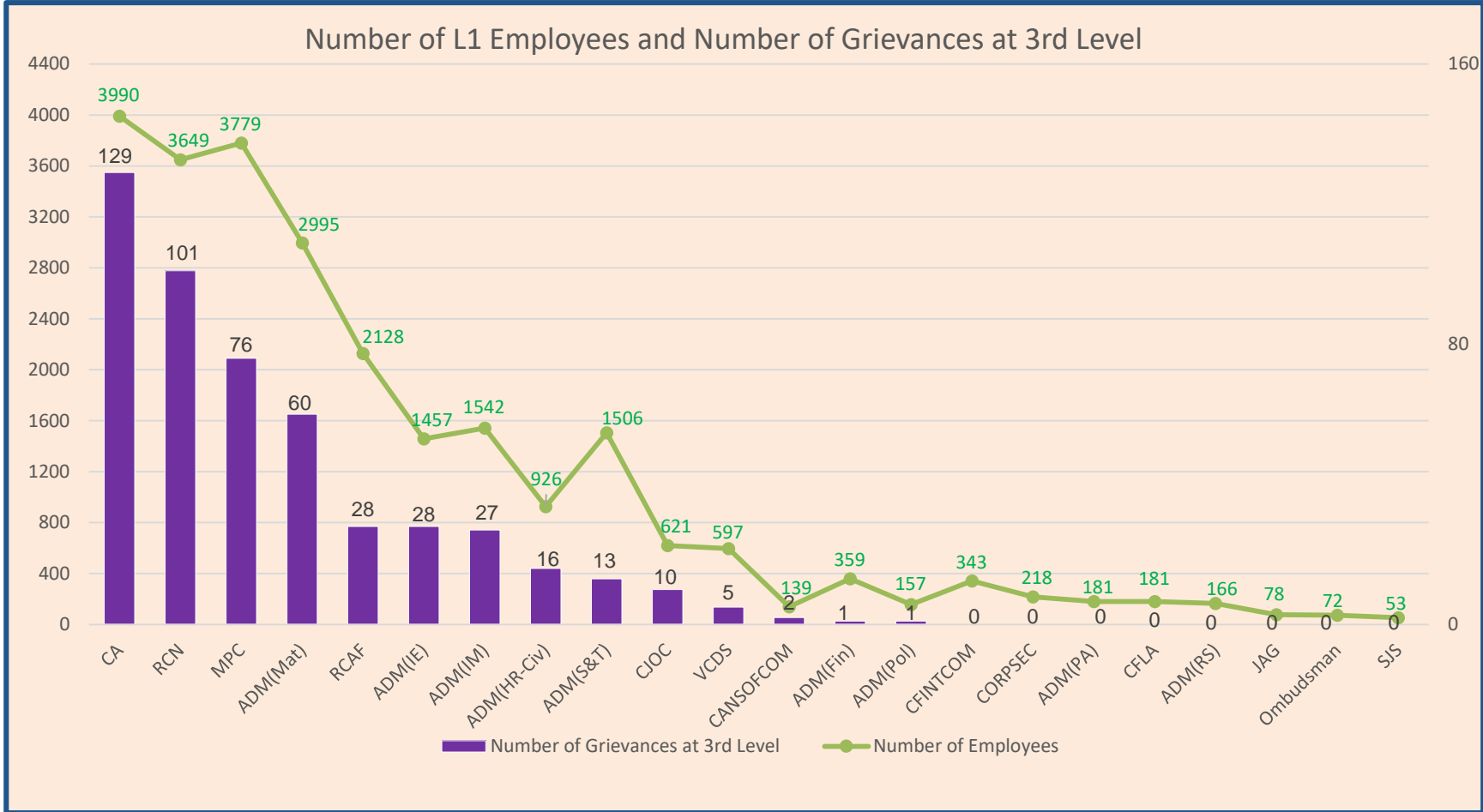


Figure 2. Number of Third Level grievances. This figure shows the number of 3rd level grievances and number of employees for each L1 organization.
³ Number of organization employees in ADM(HR-Civ) briefing deck to DM January 2018 and the number of grievances at 3rd level from ADM(HR-Civ)'s Defence Team Human Resource Committee (DTHRC) – Jun 18 v8 deck, data has not been validated.



PSES 2017 Grievance Data

What does it tell us?

- As of December 2017, ADM(HR-Civ) reported a total of 1,035 active grievances,* using available data:
 - 1st level: 303
 - 2nd level: 102
 - 3rd level: 630 - per capita this is generally lower than in other large government organizations with operational mandates
- The 2017 PSES results indicate the following concerns:
 - There is a 25 percent fear of reprisal in initiating a formal recourse process (out of 12,603 responses)
 - Top three reasons why a grievance or formal complaint was not filed when experiencing harassment and discrimination:

Grievance or formal complaint was not filed when experiencing:	Reasons		
	Had concerns about formal recourse complaint process	Fear of reprisal	Did not believe it would make a difference
Harassment (1,926 responses)	23%	39%	53%
Discrimination (767 responses)	25%	41%	64%

Table 1. PSES 2017 Grievance Data. This table summarizes the 2017 PSES result on why grievance was not filed.

- In some instances, another recourse mechanism (e.g., National Joint Council Grievances, Human Rights Complaints) was taken:
 - If the harassment route is taken over the grievance process, the data is handled differently as every ADM/L1 organization inputs their own data

See Recommendations #2 and #5.

* Sources provided by ADM(HR-Civ) dashboard, data has not been validated by Assistant Deputy Minister (Review Services) (ADM(RS))



CAF Grievance Process

The CAF Grievance process has significantly evolved since the 2015 External Review Report on the Sexual Misconduct and Sexual Harassment in the CAF

- Operation HONOUR was developed to support the implementation of 10 recommendations from the External Review Report
- Operation HONOUR is one of the four initiatives identified in Canada's defence policy: *Strong, Secure, Engaged* focused on eliminating harmful behaviours and ensuring a work environment free from harassment and discrimination

As a result, there has been a significant investment into the education and prevention of misconduct as well as into avenues for which individuals can seek advice and support, including but not limited to:

- Military grievance user-friendly portal that provides thorough information and guidance to all involved parties with detailed steps, forms, policies and directives related to the military grievance process;
- Integrated Conflict and Complaint Management (ICCM) group which is a one-stop shop mandated in the CAF to listen and guide the affected person as to where and how to proceed to resolve the issue;
- ICCM system that integrates the previously separate conflict resolution information systems for harassment, grievances, human rights and ADR to provide data and information for decision making; and
- Sixteen Conflict Complaint Management Service centres that opened in July 2018 to provide further guidance and support to all affected stakeholders



CAF vs DND Grievance Process

- Different approach in military and civilian grievance processes

Approach	CAF	DND
Final Level Accountability	Chief of the Defence Staff (With findings and recommendations from the Military Grievance External Review Committee)	DGWM (ADM(HR-Civ))
Levels	2	3
Assistance to complainant	YES (Assistance provided to member throughout)	YES (Assistance from Union Representative is available upon request)
		NO (for excluded/non-represented employees)
Alternative Dispute Resolution	YES (Integrated Conflict and Complaint Management)	YES
Information System	Complaint Management Services (Integrated system for various complaints and grievances)	HRMS and Excel (For labour relations related grievances)
User Interface	Self-help portal for all stakeholders (User-friendly portal with guidance on various conflicting situations, list of agents, guides, forms, policies)	DND Intranet Site
On-going support	16 centres for Conflict Complaint Management Services	16 centres are for CAF members but accept DND Civilians

Table 2. CAF vs DND Grievance Process. This table shows the different approaches in military and civilian grievance processes.



Known Challenges With the Civilian Grievance Process

In 2015, ADM(HR-Civ) contracted a consultant to review all three levels of the grievance process (both labour relations and National Joint Council) at DND and five OGDs (three of which we spoke with as part of this assessment). Thirty active files were reviewed for the purpose of determining where the files are held up and where the most elapsed time occurs. Findings included:

- Delays in:
 - transferring the file to NCR from various regions
 - coordination of consultation meeting with the union
 - time lapse after union consultation and the final response
- Lack of prioritization in case management
- National Standardized Grievance Process not up to date

Recommendations implemented since 2015

- Electronic transmission of files to reduce the transit time from the regions to Director Civilian Recourse (DCR)
- Prioritization of grievances

Recommendations not yet implemented as of early 2018

- Revise the National Standardized Grievance Process
- Grievances in abeyance should be tracked separately
- Case management system to be put in place

See Recommendations #1 and #4.



Other Government Departments Have Similar Challenges

- The backlog issues being experienced are not unique to DND
 - All three OGDs reviewed in this advisory are experiencing a large number of 3rd level grievances
 - No OGD had a streamlined approach nor a well documented plan to address backlogs

	DND	CSC	DFO	CBSA
Grievance levels	3	3	3	4
Final level authority	DGWM (ADM(HR-Civ))	Assistant Commissioner, HR Management	Sector Head or Deputy Commissioner	Vice-President, HR

Table 3. OGD Grievance Results. This table summarizes the number of grievance process levels at DND and OGDs.

- For an analysis of 2017 PSES results (DND vs OGDs), please refer to Annex B

Notable Practices from OGDs

- The final level of authority is delegated to each ADM/L1 organization
- A prioritization strategy is important (e.g., nature of grievances, a joint grievance reduction strategy and a queue approach: a termination grievance becomes the priority)
- Having access to a National Human Resources shop to support ADMs/L1s with grievances, to provide coherent advice and expertise, and to build consistent relationships across the regions with ADMs/L1s and unions is key
- A national case management committee can provide oversight and guidance, assess national consistency and identify emerging trends and common themes
- At the 3rd level, the senior LRO is swapped with one from another client group which provides independent perspective on files



Main Findings – 1. Timeliness of Grievances

Are grievances addressed in a timely manner?

1. To encourage resolving conflicts informally, in a timely manner and at the lowest possible level, ADR* is always offered
2. 1st and 2nd level grievances are processed in a timely manner
3. Grievances are not meeting timelines (as specified in collective agreements) at the 3rd level – this is creating a backlog
 - Interviews indicated that this is due, in part, to the under resourcing of LROs (many LRO positions are currently vacant) within the Department
 - Currently there are 12 of 30 funded positions in Directorate of Civilian Labour Relations that are vacant including 6 of 9 grievance officer positions
 - Further, 11 employees have left the Directorate in the last 10 months with two additional employees retiring in the next 3 months
 - The Director Civilian Labour Relations (DCLR) has also stated that they have received a number of extension requests from the Union of National Defence Employees (UNDE) and experienced some challenges in scheduling consultations
 - During our interview with Union of National Defence Employees they stated that they have four advisors to work with DND but the grievance backlog has still increased significantly over the past five years, citing the LRO turnover and vacant positions within DND as a contributing factor
4. Roles and responsibilities are not very descriptive which may contribute to delays (i.e., it is unclear who is responsible to take the next action throughout the process)

*Alternative Dispute Resolution (ADR)

Before any recourse mechanism has taken place, ADR is always available. This process is used to resolve workplace conflicts early, informally and at the lowest level possible. Benefits of ADR include, but are not limited to:

- Resolving conflicts informally in a timely manner
- Mutually-agreed solutions, rather than an imposed one
- Impartial third party facilitates discussions among the involved parties



Main Findings – 1. Timeliness of Grievances (p.2)

Are grievances addressed in a timely manner?

5. Although there is a prioritization strategy in place that is common to most Labour Relations shops (e.g., priority is given to termination, harassment and disciplinary cases), there is no centralized case management approach to deal with 3rd level grievances
- Interviews indicated that, typically, grievances are assigned to an LRO based on the region from which the grievance emanates with little to no consideration for grievance type/nature
 - There are specific types of grievances within the backlog that ADM(HR-Civ) have batched in order to deal with them in a consistent way (e.g., job content grievances, Phoenix grievances and certain policy grievances)
 - Each LRO is fully aware of their specific caseload; however the files are not tracked centrally to enable transparency and prioritization
 - Based on 11 of the 16 sample files reviewed, there was no visible evidence in the file explaining the delay at the 3rd level, ranging from 11 months up to 27 months

Opportunities for Improvement

- Develop a centralized case management approach to balance caseload distribution and further refine the prioritization strategy to improve timeliness at the 3rd level
- Further elaborate roles and responsibilities so that the involved parties know how and where to get information or updates



Main Findings – 1. Timeliness of Grievances (p.3)

Opportunities for Improvement

Considerations from the Military grievance process:

- The ICCM group is a one-stop shop mandated in the CAF to listen to and guide the affected person as to where and how to proceed to resolve the issue
 - The ICCM was designed to manage personnel conflicts and complaints more effectively, ensuring that every effort is made to resolve complaints early, locally and informally
 - The ICCM includes a self-help portal SharePoint site which provides:
 - List of agents and ICCM advisors for members
 - Definitions, step-by-step guides, applicable forms and relevant policies for various types of issues/complaints
- The Military grievance website:
 - Has been designed to provide information and guidance to specific audiences
 - Provides thorough information for all involved parties with detailed steps, forms, policies and directives related to the military grievance process
- Sixteen Conflict Complaint Management Service centres opened in July 2018 to provide further guidance or support
- CAF trend analyses observed:
 - An increased use of self-help along with the establishment of additional Conflict Complaint Management Service centres is helping to increase the number of grievances that are resolved informally
 - Identify potential areas of concerns by the number of self-help web hits

See Recommendations #1 and #4.



Main Findings – 2. Information for Decision Making and Awareness

Is information for decision making available?

- Grievance data is available in the Human Resource Management System (HRMS) but may not be reliable
- Given that there is limited functionality in HRMS (e.g., time is included while in ADR or all parties agreed to be in abeyance, no Phoenix-related grievance code) it is used primarily as a tracking tool for 1st and 2nd level grievances
 - HRMS requires manual intervention to perform trend analysis and is very time consuming
 - Grievance information is entered into MS Excel for trend analysis, monitoring and tracking of 3rd level grievances
 - Having two systems limits access to timely and relevant information for decision making and increases the risk of data input errors
- ADM(HR-Civ) is currently developing a new tracking tool with ADM(IM) to increase monitoring and reporting capacity

Opportunities for Improvement

- Implement a system to track grievances
- Analyze the PSES results and grievance data for each ADM/L1 organization to identify any trends or risks areas with respect to grievances

Considerations from the Military grievance process:

- The ICCM system integrates the previously separate existing conflict resolution information systems for harassment, grievances, human rights and ADR
- The ICCM system provides data analytics and trend analysis which is shared monthly with the Vice Chief of the Defence Staff (VCDS)
- There is also a SharePoint site that allows those involved to verify the grievance status, decision summary, as well as lessons learned

See Recommendations #2 and #4.



Main Findings – 2. Information for Decision Making and Awareness (p.2)

What are DND organization's awareness and engagement in the grievance process?

- Little to no organization specific awareness of civilian grievances
- Information on grievances at the 3rd level was not incorporated into monitoring and reporting processes
- During the review, the following changes took place:
 - In September 2018, ADM(HR-Civ) began rolling out a pilot project for 3rd level grievances
 - DGWM remains accountable for grievances that are more administrative in nature (e.g., work description)
 - Organizations, with DGWM recommendations, are now accountable for grievances of a more serious nature (e.g., discipline)

NOTE: As per ADM(HR-Civ), all organizations are involved in the pilot project, with the exception of Military Personnel Command (MILPERSCOM) and Canadian Army (CA) at their request

Notable Practice

In June 2018, ADM(HR-Civ) implemented a Sensitive Case Management Sub-Committee through Defence Team Human Resources Committee to engage senior management (ADMs/L1s) in oversight and management of serious grievance cases.

Opportunities for Improvement

- Providing a periodic report to all organizations of all level grievances within their organization to inform decision making (e.g., trend analysis to facilitate any necessary action)
- Develop and monitor performance measures for the grievance process (including timeliness)

See Recommendation #2.



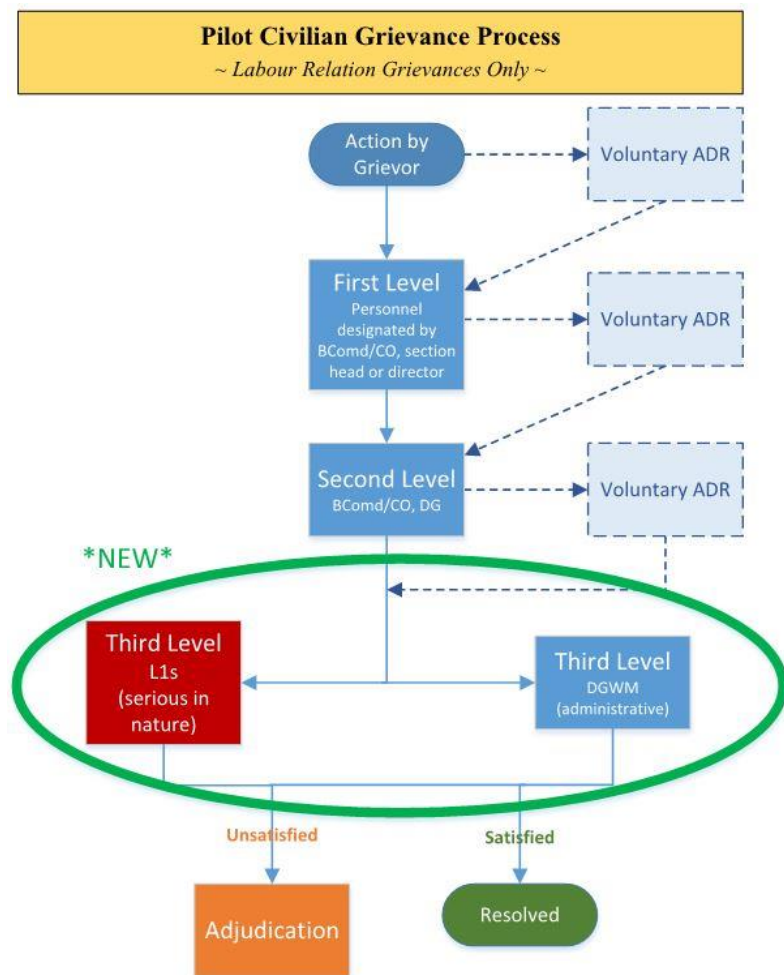
Main Findings – 3. Accountability Structure

Does the current accountability structure meet the needs of the organization?

- ADM(HR-Civ) has explored three options for renewing the labour relations grievance model within the Department
- The three options proposed by ADM(HR-Civ) in relation to the grievance process were reviewed at the onset of this advisory:
 1. Current model with some enhancements including an update to organizations prior to issuing 3rd level decisions and production of organizational specific quarterly reports
 2. 3-level grievance model with DGWM responsible for providing analysis and recommendation, while introducing organizational accountability for making the 3rd level decisions and participating in grievance hearing with DGWM
 3. Introducing a 4-level grievance procedure for 8/18 of DND's collective agreements while retaining a 3-level grievance procedure for 10/18 collective agreements. Organizations would be accountable at the 3rd level; ADM(HR-Civ) or Senior Associate Deputy Minister accountable at the final level
- The third option, which introduced a fourth level to the complaint resolution process, was not reviewed as it was not feasible for certain collective agreements and added complexity to the process
- The pilot project model, and the advantages of the two remaining options, are outlined on slides 20 and 21



Main Findings – 3. Accountability Structure (p.2)



Pilot of A New Model (Hybrid of Option 2 and 3)

- As of September 2018, ADM(HR-Civ) has developed and received approval to pilot a new model
- ADM(HR-Civ) remains accountable for administrative 3rd level grievances (e.g., interpretation of collective agreement), while the organizations* are accountable for those 3rd level grievances of a serious nature (e.g., harassment)
- Organizations can access the Sensitive Case Management Oversight Sub-committee through DTHRC
- Organizations with lower number of grievances are supportive of the pilot project
- Unions are supportive of remaining at a three-level grievance process
- ADM(HR-Civ) is collaborating with DND organizations and consulting unions as it continues to refine its approach to labour relations
- Positive feedback has been received from various organizations on the ADM(HR-Civ) Labour Relations staff's expertise and advice

Figure 3. Pilot Civilian Grievance Process. This flow chart shows the pilot civilian grievance process.

*MILPERSCOM and CA are excluded from the pilot project due to the volumes of their grievance files



Main Findings – 3. Accountability Structure (p.3)

Opportunities for Improvement

Whether implementing an alternate grievance process model or continuing with the piloted hybrid model:

- Allow a transition period for DND organizations to develop expertise and resources
- Develop a mandatory training strategy to support DND organizations and any other delegated persons
- Develop a long-term sustainable strategy for the two excluded organizations (MILPERSCOM and CA) considering the following:
 - Implement a hybrid approach by type of grievance at the 3rd level (i.e., for administrative grievances, delegate to L2 where the grievance originated)
 - Implement a model where organizations with lesser grievances (e.g., ADM(Pol)) can review 3rd level cases from other organizations with limited capacity (e.g., CA)
 - Review the sub-delegation authorities, for example:
 - 1st level: Managers
 - 2nd level: Directors
 - 3rd level: Director Generals
- Ensure on-going communication with organizations to address concerns
- Have a measurable goal and timeframe to determine the success of the project
- Assess lessons learned for improvement

See Recommendation #3.



Current Options - Summary

Advantages of various models based on previous findings:	Option 1 ✓ 3 levels in process ✓ ADM(HR-Civ) remains accountable for 3 rd level ✓ L1s are informed prior to 3 rd level decision issuance ✓ L1s receive quarterly reports	Option 2 ✓ 3 levels in process ✓ ADMs/L1s become accountable for all 3 rd level decisions ✓ ADM(HR-Civ) provides analysis and recommendations to L1 ✓ ADM(HR-Civ) involved in grievance hearing with L1 ✓ ADM(HR-Civ) briefing to L0	Pilot model ✓ 3 levels in process ✓ ADMs/L1s – except MILPERSCOM and CA – become accountable for 3 rd level grievances of serious nature only ✓ ADM(HR-Civ) remains accountable for 3 rd level administrative grievances
Timeliness: <ul style="list-style-type: none"> Centralized grievance process Consistency in 3rd level decisions/response ADM(HR-Civ) expertise, support and recommendation Responsibility for hearings and decisions is distributed 	✓		
	✓	✓	✓
	✓	✓	✓
		✓	✓
Information for Decision Making and Awareness: <ul style="list-style-type: none"> Increase ADM/L1 involvement Increase ADM/L1 awareness 		✓	(complex cases only)
	✓	✓	(complex cases only)
Accountability Structure: <ul style="list-style-type: none"> Sensitive Case Management as an oversight mechanism Greater alignment with other ADM/L1 accountabilities (e.g., staffing, finance) 		✓	✓
		✓	✓

Table 4. Current Options – Summary. This table summarizes the advantages of various models proposed by ADM(HR-Civ).



Proposed Model – Option #2 modified

This proposed model is similar to Option 2 proposed by ADM(HR-Civ) – the key difference is that 3rd level batched grievances (e.g., pay and common job content grievances) remain with ADM(HR-Civ) due to the volume and repetitive nature of these grievances. This model may better address the key issues which the pilot model does not:

- Retain 3 levels in process
- All ADMs/L1s are accountable for:
 - All of their 3rd level grievances (except batched grievances) to allow them to have a better understanding of the potential challenges present in their respective organizations while leaving DGWM to handle any systemic batched grievances across the Department
- ADM(HR-Civ) accountable for:
 - All 3rd level pay and common job content grievances for which related monthly reports are provided to ADMs/L1s
 - Participating in grievance hearing with ADMs/L1s to provide support and help ensure consistency in 3rd level decisions
- Advantages of the proposed model:
 - Increased ADM/L1 organization involvement and awareness
 - Although this may not address the grievance backlog in the short term, it should reduce the number of future grievances and allow for the backlog to be eliminated in the long term
 - ADM(HR-Civ) expertise, support and recommendation
 - Improved timeliness as responsibility for hearings and decisions is distributed across the Department



Recommendations

Recommendation #1: It is recommended that ADM(HR-Civ) improve the timeliness of 3rd level grievances by developing and implementing the following:

- A short-term resourcing strategy to address existing backlog (e.g., consultants);
- An analysis of LRO resources to meet long-term needs at the 3rd level;
- A National Standardized Grievance Process that clearly articulates the roles and responsibilities of the various stakeholders and enables LROs to be most efficiently utilized; and
- A grievance prioritization process/strategy.

OPI: ADM(HR-Civ)

Recommendation #2: It is recommended that ADM(HR-Civ) ensure access to timely grievance information (including the PSES results) for decision making and awareness by:

- Developing and monitoring performance measures for the grievance process (including timeliness);
- Providing quarterly grievance statistics and information to ADM/L1s;
- Performing trend analyses and ensuring reliable data is available; and
- Considering any applicable and transferable processes from the CAF grievance process.

OPI: ADM(HR-Civ)



Recommendations – p.2

Recommendation #3: It is recommended that ADM(HR-Civ) implement a delegated accountability structure for 3rd level grievances by:

- Continuing to leverage the Sensitive Case Management Sub-Committee for the oversight and management of serious grievance cases;
- Implementing the proposed model that includes:
 - Assessing the pilot project for lessons learned;
 - Developing a transition plan for delegating all 3rd level grievances, with the exception of pay and common job content related grievances, to all ADMs/L1s;
 - Creating measurable goals to determine success and monitoring performance; and
- Developing communication and training strategies to support ADMs/L1s and address concerns.

OPI: ADM(HR-Civ)

Recommendation #4: It is recommended that ADM(HR-Civ), in collaboration with ADM(IM), implement the following, with consideration of any applicable and transferable processes from the CAF grievance process:

- A case management tracking system that creates a centralized approach to case management and allows for tracking of grievance process timeliness, status of grievance (e.g., in abeyance) and LRO caseload;
- A user-friendly self-help portal that would provide key information to various stakeholders as well as allow the grievor to follow the status of their grievance.

OPI: ADM(HR-Civ)

OCI: ADM(IM)



Recommendations – p.3

Recommendation #5: It is recommended that ADM(HR-Civ) analyse and monitor (on a regular basis) grievance information including the PSES results by:

- Conducting an in-depth review to determine the root causes as to why formal complaints or grievances are not filed and work to eliminate them; and
- Determining what initiatives have been implemented by each ADM/L1 organization to address areas of concern, including PSES results.

OPI: ADM(HR-Civ)



Conclusion

At the time this assessment was conducted, the 3rd level grievance process was not effective in meeting the timelines required by the collective bargaining agreements. There was limited to no information for decision making and limited awareness by L1s of 3rd level grievances. The authority structure put in place for 3rd level grievances was not optimal in aligning the labour relations obligations of L1s with their other HR accountabilities and responsibilities.

While we acknowledge that the pilot project is currently under way, the proposed model and other recommendations in this report should be implemented to enhance the accountability structure of 3rd level grievances. This should increase transparency and awareness as well as provide timely information to those accountable and to other relevant stakeholders, as applicable.



Management Action Plan

ADM(RS) uses recommendation significance criteria as follows:

- **Very High**—Controls are not in place. Important issues have been identified and will have a significant negative impact on operations.
- **High**—Controls are inadequate. Important issues are identified that could negatively impact the achievement of program/operational objectives.
- **Moderate**—Controls are in place but are not being sufficiently complied with. Issues are identified that could negatively impact the efficiency and effectiveness of operations.
- **Low**—Controls are in place but the level of compliance varies.
- **Very Low**—Controls are in place with no level of variance.



Management Action Plan

Recommendation #1: It is recommended that ADM(HR-Civ) improve the timeliness of 3rd level grievances by developing and implementing the following:

- A short-term resourcing strategy to address existing backlog (e.g., consultants);
- An analysis of LRO resources to meet long-term needs at the 3rd level;
- A National Standardized Grievance Process that clearly articulates the roles and responsibilities of the various stakeholders and enables LROs to be most efficiently utilized; and
- A grievance prioritization process/strategy.

Management Actions

1.1 A short-term resourcing strategy has been developed which includes both internal and external sources of candidates; an interim grievance log and prioritization schedule has also been established to address the existing backlog.

Target Date: December 31, 2018

1.2 A plan will be developed to ensure succession/a consistent pool of candidates to account for normal turnover within the discipline, leveraging the talent management program within DND, as well as external sources of talent.

Target Date: March 31, 2019

1.3 DCLR will develop a national standardized grievance process in Q4 and implement in Q1 of FY 2019/20. DCLR has also developed and will consult with the unions on an expedited process for certain types of grievances; a short-form report has also been developed and will be implemented nationally.

Target Date: June 30, 2019

OPI: ADM(HR-Civ)

Target Date: June 30, 2019



Management Action Plan

Recommendation #2: It is recommended that ADM(HR-Civ) ensure access to timely grievance information (including the PSES results) for decision making and awareness by:

- Developing and monitoring performance measures for the grievance process (including timeliness);
- Providing quarterly grievance statistics and information to ADM/L1s;
- Performing trend analyses and ensuring reliable data is available; and
- Considering any applicable and transferable processes from the CAF grievance process.

Management Actions

2.1 DGWM will identify performance indicators and set appropriate targets for measurement and reporting to track productivity and perform root cause analysis.

Target Date: March 31, 2019

2.2 DGWM commits to providing L1s with quarterly dashboards.

Target Date: June 30, 2019

2.3 Work is underway with ADM(IM) to implement a case management system for DGWM in the spring of 2019; additionally, a partnership will be established with the Director of Strategic Planning and Accountability (DSPA), ADM(HR-Civ) to ensure access to the expertise required to perform and provide trend analyses.

Target Date: June 30, 2019

2.4 DCLR will explore the potential of adopting the 4-month time limit to consider and determine a grievance or notify the grievor in writing regarding the reasons for delay. This is in keeping with the new direction through C-65 with respect to harassment and violence complaints.

Target Date: June 30 2019

OPI: ADM(HR-Civ)

Target Date: June 30, 2019



Management Action Plan

Recommendation #3: It is recommended that ADM(HR-Civ) implement a delegated accountability structure for 3rd level grievances by:

- Continuing to leverage the Sensitive Case Management Sub-Committee for the oversight and management of serious grievance cases;
- Implementing the proposed model that includes:
 - Assessing the pilot project for lessons learned;
 - Developing a transition plan for delegating all 3rd level grievances, with the exception of pay and common job content related grievances, to all ADMs/L1s;
 - Creating measurable goals to determine success and monitoring performance; and
- Developing communication and training strategies to support ADMs/L1s and address concerns.

Management Actions

3.1 Sensitive Case Management Oversight Committee will continue to provide support to L1s on sensitive or complex cases.

Target Date: Ongoing

3.2 A report will be produced in Q1 of FY 2019/20 to outline the lessons learned from the L1 grievance pilot; based on the findings of the Q1 lessons learned report, DCLR will adjust the model and develop a plan to transition from pilot to operational mode.

Target Date: June 30, 2019

3.3 In conjunction with the lessons learned report and the transition plan for the implementation of the proposed model, DGWM will develop communication and training strategies to provide management support.

Target Date: September 30, 2019

OPI: ADM(HR-Civ)

Target Date: September 30, 2019



Management Action Plan

Recommendation #4: It is recommended that ADM(HR-Civ), in collaboration with ADM(IM), implement the following, with consideration of any applicable and transferable processes from the CAF grievance process:

- A case management tracking system that creates a centralized approach to case management and allows for tracking of grievance process timeliness, status of grievance (e.g., in abeyance) and LRO caseload;
- A user-friendly self-help portal that would provide key information to various stakeholders as well as allow the grievor to follow the status of their grievance.

Management Actions

4.1 Work is underway with ADM(IM) to implement a case management system for DGWM in the spring of 2019.

Target Date: June 30, 2019

4.2 DGWM will explore existing opportunities to benefit from work being done in other areas of ADM(HR-Civ) to develop a portal.

Target Date: September 30, 2019

OPI: ADM(HR-Civ)

Target Date: September 30, 2019



Management Action Plan

Recommendation #5: It is recommended that ADM(HR-Civ) analyse and monitor (on a regular basis) grievance information including the PSES results by:

- Conducting an in-depth review to determine the root causes as to why formal complaints or grievances are not filed and work to eliminate them; and
- Determining what initiatives have been implemented by each ADM/L1 organization to address areas of concern, including PSES results.

Management Actions

5.1 Director General Human Resources Strategic Directions (DGHRSD) will conduct a review of 2018 PSES results and analysis of trends over time, for all questions related to grievances. The PSES feedback specific to grievances will inform Action Planning at the LO level.

Target Date: September 30, 2019

5.2 DGHRSD will review the 2017 PSES action plans at the L1 level to identify any best practices related to grievances.

Target Date: September 30, 2019

OPI: ADM(HR-Civ)

Target Date: September 30, 2019



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ANNEXES

Additional Information



Annex A: Types of Recourse Mechanisms

The various types of recourse mechanisms available to civilians are outlined in Table A-1. The focus of this advisory was on the labour relations grievance process.

Recourse Mechanisms	Internal Authority	External Authority
Labour Relations Grievance	DGWM (ADM(HR-Civ))	Federal Public Sector Labour Relations and Employment Board (FPSLREB)
National Joint Council (NJC) Grievance	Departmental Liaison Officer who is appointed by the deputy head	NJC Executive Committee
Classification Grievance	Regional Classification Director Civilian Classification and Organization	N/A
Human Rights Complaints	DGWM (for civilian) MILPERSCOM (for military)	Canadian Human Rights Tribunal
Harassment Complaints	The Responsible Officers (e.g., Commanding Officer or Director General)	N/A
Staffing Complaints	DGWM (ADM(HR-Civ))	Federal Public Sector Labour Relations and Employment Board, Public Service Commission for some Investigations
Office of Ombudsman Complaints	The Ombudsman within DND	N/A
Disclosure of Wrongdoing Complaints	ADM(RS)	The Commissioner, Office of the Public Sector Integrity

Table A-1. Types of Recourse Mechanisms. This table summarizes the various types of recourse mechanisms available to civilian employees.

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Annex B: Analysis of 2017 PSES results (DND vs OGDs)

PSES Question/Results	DND	CSC	DFO	CBSA
I feel I can initiate a formal recourse process (e.g., grievance, complaint, appeal) without fear of reprisal				
Somewhat disagree	13%	18%	15%	19%
Strongly disagree	12%	24%	13%	22%
Have you been the victim of harassment on the job in the past two years?				
Yes	18%	34%	20%	26%
What action(s) did you take to address the harassment you experienced?				
Took no action	23%	24%	29%	27%
Why did you not file a grievance or formal complaint about the harassment you experienced?				
– I had concerns about the formal complaint process	23%	30%	25%	30%
– I was afraid of reprisal	39%	49%	44%	50%
– I did not believe it would make a difference	53%	60%	54%	60%



Annex B: Analysis of 2017 PSES results (DND vs OGDs) (p.2)

PSES Questions/Results	DND	CSC	DFO	CBSA
Have you been the victim of discrimination on the job in the past two years?				
Yes	7%	16%	8%	14%
What action(s) did you take to address the discrimination you experienced?				
Took no action	43%	43%	41%	48%
Why did you not file a grievance or formal complaint about the discrimination you experienced?				
– I had concerns about the formal complaint process	25%	26%	21%	25%
– I was afraid of reprisal	41%	46%	48%	46%
– I did not believe it would make a difference	64%	63%	54%	66%

Table B-1. Analysis of 2017 PSES results. This table displays some 2017 PSES questions and results for DND and 3 OGDs.

* Note – As indicated in Annex A there are various types of recourse mechanisms (both formal and informal). The PSES results are included above as an illustration of areas that may require further review and analysis.