





# CONTACT US

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## OMBUDSMAN MESSAGE

20 October 2017

The Honourable Harjit S. Sajjan, PC, OMM, MSM, CD, MP  
Minister of National Defence  
National Defence Headquarters  
Major-General George R. Pearkes Building  
101 Colonel By Drive,  
13th Floor, North Tower  
Ottawa, Ontario K1A 0K2

Dear Minister Sajjan:

I am pleased to submit to you my report entitled *A Path Forward: An Action Plan for the Office of the Ombudsman*. This report is submitted to you pursuant to paragraph 38(1)(b) of the Ministerial Directives respecting the Ombudsman for the Department of National Defence and the Canadian Forces.

In your response to my previous report on governance, *The Case for a Permanent and Independent Ombudsman Office*, you indicated that you did not support creating new legislation at this time and expressed confidence that the Department and this office will continue to build and improve processes within the departmental framework.

The report submitted to you today is a follow-up to my previous report and offers an action plan that will allow the Ombudsman to operate more effectively within the departmental structure.

The recommendations in the report aim at providing organizational independence for the office of the Ombudsman and assurances to the Deputy Minister that the authorities for which he is responsible under legislation are appropriately exercised.

As is standard practice, we will be publishing the report no sooner than 28 days from the date of this letter. As in the past, we will advise your office of the exact date that we intend to publish.

I look forward to your response to our recommendations.

Sincerely,

Gary Walbourne, MBA, CHRL, CPA, CMA  
Ombudsman

Enclosed (3)

# BACKGROUND

## WHY THIS ACTION PLAN IS NEEDED

In March of this year, I published a report calling for the office of the Ombudsman to be legislated, adding my voice and experience to that of the four previous office holders.<sup>1</sup> The initial rationale underlying the intent to legislate the office of the Ombudsman remains as valid today as it was when this office was created in June 1998—perhaps more so. I believe that the arguments to legislate the office are compelling and critical to the long term existence and effectiveness of this office.

However, the Ministerial response to my report, *The Case for a Permanent and Independent Ombudsman Office*, supported the current governance framework and expressed confidence that the leadership of the Department of National Defence and the office of the Ombudsman will continue to build and improve upon existing processes with the goal of ensuring sound stewardship and efficient use of public resources.<sup>2</sup>

Despite divergent perspectives, it is clear that the office of the Ombudsman must continue, for the time being, to operate within the current

administrative framework. Consequently, a way forward is needed to ensure that the office of the Ombudsman can carry out its mandated duties independently from the management of the Department and the chain of command of the Canadian Armed Forces, which organizations it is mandated to review.

It is **not** my intention to reiterate the arguments for legislation made in the aforementioned report.

**“It is not my intention to reiterate the arguments for legislation made in the aforementioned report. Rather, I am taking a practicable approach to functioning within an inherently flawed governance structure.”**

Rather, I am taking a practicable approach to functioning within an inherently flawed governance structure. This action plan seeks flexibilities within existing legislative and policy instruments that will allow the Ombudsman operational independence while respecting the responsibilities and accountabilities of the Deputy Minister.

### GOVERNANCE IN THE CANADIAN FEDERAL SYSTEM—A PRIMER

In the federal public service, activities necessary for the functioning of government organizations are carried out based on legislative authority. Legislation can vest authorities in ministers, deputy heads of departments, or central agencies. Authorities given to ministers or central agencies can be delegated to deputy heads. In order to get the work done, deputy heads delegate or sub-delegate those authorities to officers within their reporting structures. To ensure that the delegated authorities are appropriately exercised, and the delegate is accountable, policies and internal control procedures are generally established. The ultimate responsibility for the proper exercise of the authorities remains with the office holder in whom the authorities vest—most often the deputy head.

<sup>1</sup> Canada, National Defence and Canadian Forces Ombudsman, *The Case For a Permanent and Independent Ombudsman Office*, (Ottawa: 2017), online: National Defence and Canadian Forces Ombudsman <online: <http://www.ombudsman.forces.gc.ca/en/ombudsman-reports-stats-investigations-the-case-for-a-permanent-and-independent-ombudsman-office/the-case-for-a-permanent-and-independent-ombudsman-office.page>>.

<sup>2</sup> Canada, Minister of National Defence, Response from the Minister of National Defence Re: *The Case for a Permanent and Independent Ombudsman Office*, (Ottawa: 2017), online: National Defence and Canadian Forces Ombudsman <online: <http://www.ombudsman.forces.gc.ca/en/ombudsman-news-events-media-letters/response-from-mnd-governance.page>>.



## BACKGROUND

**WHERE THE OMBUDSMAN FITS**

The Ombudsman is appointed by Governor in Council (GiC) to head the office of the DND-CAF Ombudsman, is accountable, and reports directly to the Minister of National Defence. The reason the office was set up to report to the Minister relates to the importance of independence, specifically that, to be effective, the Ombudsman must be and must be seen to be completely free of any sort of influence from the Department whose decisions he or she reviews.

The office of the Ombudsman operates by Ministerial Directive supported by a Defence Administrative Order and Directive (DAOD).<sup>3</sup> These instruments do not have the force of legislation and do not impart either the financial or the human-resource authorities required to manage a government organization. In order to have those authorities, the Ombudsman would have to be established in legislation and have deputy head status.

While the Ministerial Directives specify both independence of office and direct reporting to the Minister of National Defence, the current governance structure places the Ombudsman within the departmental framework. Therefore, the current reality is that the Ombudsman cannot operate without the financial and human resource authorities vested in the Deputy Minister—an officer to whom the Ombudsman does not report.

**AN INTEREST-BASED SOLUTION IS NEEDED**

It bears repeating that when the office of the Ombudsman was being established the intention was to capitalize on the existing administrative framework of the Department only until such time as the mandate could be tested and regulation enacted. For reasons explored in

my aforementioned report, the temporary situation has become the steady-state.

The consequent complexity of the governance structure has been acknowledged by every political and departmental administration since the creation of the Ombudsman office. It was also flagged as an issue in the Spring 2015 report of the Auditor General of Canada with the recommendation that the Deputy Minister and the Ombudsman work together to ensure that the authorities delegated by the Deputy Minister are functioning as intended while **not** impeding the operational independence of the Ombudsman.<sup>4</sup>

In point of fact, it is not the interests of the Deputy Minister and the Ombudsman themselves that are conflictual; it is the framework within which those interests operate that causes the challenges. For example, it is everyone's interest to ensure the sound stewardship of public resources which necessarily entails control mechanisms and accountabilities. Further, it is in the defence community's collective interest to have an Ombudsman who can carry out the mandate and deliver services to constituents.

The solution lies in protecting the substantive interests at stake instead of inflexibly upholding the framework within which those interests operate. Our legislative and policy framework is not so prescriptive that it cannot accommodate all interests and meet the objectives expressed by the Minister of National Defence and the Auditor General Canada.

I believe that this can be accomplished with an interest-based approach to governance. I trust that it can be accomplished before this organization marks its 20th year of operation and before a new Ombudsman takes office.

<sup>3</sup> Canada, Minister of National Defence, *Ministerial Directives Respecting the Ombudsman for the Department of National Defence and the Canadian Forces*, (Ottawa: 2001) [Ministerial Directives]; Canada, Deputy Minister and Chief of the Defence Staff, *Defence Administrative Orders and Directives 5047-1* (Office of the Ombudsman), (np: 2001) [DAOD 5047-1].

<sup>4</sup> Canada, Auditor General, *Office of the Ombudsman for the Department of National Defence and the Canadian Forces* (Report 7) (Ottawa: 2015). <online: [http://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_201504\\_07\\_e\\_40353.html](http://www.oag-bvg.gc.ca/internet/English/parl_oag_201504_07_e_40353.html)>

## BACKGROUND

The starting point for this action plan is to look at the various interests and find ways to make them align and work together.

### STATEMENT OF THE INTERESTS

The interest of the Ombudsman is to serve its constituents, members of the defence community who believe they have been treated unfairly by the Department of National Defence or the Canadian Armed Forces. To do this, it is crucial to have all of the authorities needed to effectively and independently run the office and carry out the mandate as set out in the Ministerial Directives. This includes operating in a manner that is consistent with the principles of ombudsmanship, i.e., independence, impartiality, confidentiality, and fairness.<sup>5</sup> These principles are significant because they are the benchmark against which every ombudsman function is measured. Moreover, operating in accordance with these principles gives constituents confidence that their matter will be reviewed impartially by an office that is not under undue influence from the department it reviews.

In order to manage the organization independently from the Department, but within its administrative structure, the Ombudsman requires:

- stable delegated authorities that remain constant from one Ombudsman to the next and one departmental administration to the next
- timely issuance of delegated authorities
- substantial recognition of its independent status in the specific delegations and general policies
- respect of the Ombudsman's reporting line to the Minister of National Defence
- the ability to determine how best to carry out the mandate independently from the Department

The interest of the Deputy Minister, as set out in the Spring 2015 report of the Auditor General of

<sup>5</sup> See Annex A of this Report for an elaboration of the principles of Ombudsmanship.

Canada as well as in abundant correspondence, is to ensure that the responsibilities and accountabilities under legislation are properly exercised by those to whom the Deputy Minister delegates authorities. This would reasonably entail conditions that allow the Deputy Minister and/or Department to have:

- administrative controls in place to ensure that delegations are appropriately exercised
- discretion to delegate or sub-delegate authorities according to the administrative and policy needs of the department
- the ability to shape departmental policy

### A HOLISTIC APPROACH

There has been significant exchange of correspondence on the issue of governance by all Ombudsman office-holders with all past administrations, both departmental and political. There is a consistent pattern in the documentation related to the ability of the Ombudsman to function independently of the Department and in accordance with the mandate set out in the Ministerial Directives.

Much of that correspondence was prompted by a series of singular governance issues that needed to be addressed promptly in the context of an ongoing file or investigation. Other issues arose when the authorities of the Ombudsman were altered without notice or when departmental policy changed without consideration of the impact on the Ombudsman's operations. Attempting to deal with each issue separately has not been productive.

Rather than the piecemeal approach, I recommend a holistic and pro-active approach to finding an interest based solution. The intended result is a blueprint for stable operating authorities for this office with a sufficiently compelling rationale that each new office-holder and administration will be able to endorse (whether Minister of National Defence, Deputy Minister, new employee, or Ombudsman). ■

# THE ACTION PLAN

This action plan addresses many of the governance issues that challenge the office of the Ombudsman, elaborating where necessary the interests at stake and how to address those challenges without compromising the legislative framework of the Department or the responsibilities of the Deputy Minister. This approach does not offer the full solution that legislation would, but it will give the office of the Ombudsman better stability to carry out its mandated duties.

## ISSUANCE OF DELEGATIONS

Because most delegations are issued by the Deputy Minister, the Ombudsman is reliant upon the decisions of each individual who is appointed to that position. The consequence is that the Ombudsman has no guarantee of constant functional authorities necessary to manage the organization.

In point of fact, each incumbent to the office of the Ombudsman has experienced delays in receiving the full suite of delegated authorities. Moreover, these delegated authorities have changed over the nineteen years that the office has existed. They have changed from one Deputy Minister to another, and have even changed during the tenure of a single Deputy Minister. There are numerous instances where the delegations have been delayed, truncated or removed entirely, often without notice to or discussion with the Ombudsman.

There are several reasons why the delegations changed and why we now find ourselves in this state of instability. For the first years, and during the tenure of the first office-holder, the dialogue was entirely taken up with negotiating the initial authorities and the expected regulation. Subsequent office-holders continued to lobby for legislation, however, the actual delegations of authority remained relatively stable with issues being dealt with on a case by case basis. If there were changes to the delegations or administrative

reporting requirements, they were either prompted by central agency directives and/or decisions of the Deputy Minister regarding how to report within the departmental reporting structure.

The most significant changes in delegations occurred after the Spring 2015 report of the Auditor General of Canada.<sup>6</sup> This audit pointed to a number of issues including the inconsistency in control mechanisms for the office of the Ombudsman. The Auditor General recommended that the leadership of the Department of National Defence and the office of the Ombudsman address the issues, being mindful of respective organizational interests.

Since the Auditor General's report, the current Ombudsman has enhanced internal administrative control mechanisms to ensure compliance with legislation and policy obligations. Additionally, in response to that report, the Ombudsman invited periodic audits by the Department in order to provide the necessary assurances that the delegated authorities are being appropriately exercised. It is to be noted that all financial audits since then have demonstrated strong stewardship of the Ombudsman's financial management.

Regrettably, however, the Auditor General's report prompted a departmental swing from a laissez-faire to a restrictive approach to its administrative relationship with the Ombudsman's office.<sup>7</sup> The balance is off, having swung too far to the restrictive approach with the result that the interests of the Ombudsman and its ability to function effectively are impeded.

<sup>6</sup> The audit was, in part, initiated following allegations of administrative irregularities by one GiC office-holder.

<sup>7</sup> The laissez-faire approach evolved in recognition of the provision in the Ministerial Directives to the effect that the office of the Ombudsman is independent from the management of the Department and the intent to enact regulation for the office.

The following charts (see: pages 8-10 of this report)<sup>8</sup> give a visual snapshot of the changes in delegations, both financial and human resource, that cause challenges for the office of the Ombudsman.

### STABLE OPERATING AUTHORITIES FOR THE OFFICE OF THE OMBUDSMAN WITH A SOUND RATIONALE

It is critical that the office of the Ombudsman have stable functional authorities and the necessary delegations to carry out its mandate and fulfil the operational requirements of the office.

Notwithstanding the prerogative of each Deputy Minister to issue delegations under his or her signature, the delegation of authorities must be based in sound policy reasoning.

A suitable policy rationale for issuance of delegations to the office of the Ombudsman is found in the Ministerial Directives which specify that the office of the Ombudsman is independent from the management and chain of command of the Department and the Canadian Armed Forces.<sup>9</sup> Administrative and operational independence is critical because the Ombudsman should not be controlled, or perceived to be controlled, by the very organizations that it was established to report on and investigate.

It is recommended that this rationale, as well as the unique relationship between the Department and the Ombudsman, be acknowledged by all current stakeholders so that it may serve as a blueprint for the issuance of delegations going forward.

While the legal authority of successive Deputy Ministers cannot be fettered, it is recommended that a DAOD supporting the Ministerial Directives be drafted to acknowledge the principles of ombudsmanry and the policy rationale that will give effect to the Ombudsman's operating authorities, including the requirements for a distinct delegation instruments and periodic audits.<sup>10</sup>

**1. It is recommended that a Defence Administrative Order and Directive supporting the Ministerial Directives be drafted and issued, acknowledging the principles of ombudsmanry and setting out the rationale that will guide the issuance of delegations for the Ombudsman by successive Deputy Ministers.**

### STABLE DELEGATION TO THE POSITION—NOT TO THE INDIVIDUAL

Before officials can exercise the authorities delegated to their positions, they

must complete the departmental training, be certified, and be designated by their superior.

In the case where an individual with authorities has demonstrated a persistent misinterpretation or disregard for the rules, there are means to address the matter without impacting the effective operations of the office. For example, the consequences for the individual might range from training, including re-certification, to withdrawal of his or her designations. The delegations and thresholds for the office, however, should not be affected.

It is recommended that, where an individual is found to be deficient in the exercise of delegated authorities, appropriate remedial measures be taken.

**“Administrative and operational independence is critical because the Ombudsman should not be controlled, or perceived to be controlled, by the very organizations that it was established to report on and investigate.”**

<sup>8</sup> The charts are excerpts from the delegation instruments and do not include all delegations granted to the Ombudsman.

<sup>9</sup> *Ministerial Directives*, supra note 3 at s 3(ii).

<sup>10</sup> See Annex B of this Report for the proposed DAOD.

## THE ACTION PLAN

**2. It is recommended that, where an audit finds that a member of the Ombudsman's staff has improperly exercised delegated authorities, appropriate remedial measures be taken by the Ombudsman in consultation and agreement with the Deputy Minister, including the Deputy Minister's withdrawal of the designation.**

### SEPARATE INSTRUMENTS FOR THE OFFICE OF THE OMBUDSMAN

The format of the delegation instruments for the office of the Ombudsman, both for financial and human resource authorities, have changed over the years. While initially, the delegation instruments were specific to the office of the Ombudsman, there has been a gradual integration into departmental matrices. Some authorities are still found in letters and minutes while other authorities have been fully integrated into departmental instruments which has resulted in considerable confusion and uncertainty. It has also resulted in some very practical operational challenges.

Prior to 2015, the instrument for delegation of financial authorities for the office of the Ombudsman was self-contained. It specified both the positions to which the delegations were made as well as the financial thresholds authorized for those delegated positions. In 2015, the office of the Ombudsman was integrated into the departmental financial delegation matrix with the significant, though perhaps unintended, consequence of affecting the Ombudsman's ability to make operational decisions regarding the functioning of the office.

The instruments that delegate human resource and labour relations authorities are somewhat more complex as there are multiple legislative sources and administrative requirements for delegation. For example, the authorities for appointments to the public service (staffing) come from the *Public Service Employment Act* through the Public Service Commission to deputy heads who may then sub-delegate to positions within their organizations. Where a deputy head wishes to

sub-delegate to persons whose functions **do not** fall within their organizations or direct reporting line, a specific arrangement is required. The office of the Ombudsman has always had a specific arrangement that allows the Deputy Minister of National Defence to sub-delegate appointment and appointment-related authorities to the Ombudsman in relation to the office of the Ombudsman.<sup>11</sup>

Having self-contained instruments separate from those for the Department provided several advantages as well as a degree of organizational stability. The separate delegation instruments amounted to a recognition of the independent status of the Ombudsman and the unique relationship with the Deputy Minister. It insulated the office from changes to delegations that might be appropriate for the senior officials of the Department but not for the Ombudsman who is responsible for an independent organization. Separate instruments ensured that changes to delegations, if any, and their potential operational impacts would be considered and discussed with the Ombudsman.

The integration of Ombudsman into the departmental matrices has eliminated these advantages and has largely assimilated the Ombudsman with Level 1 Advisors whose responsibilities, operational needs, and reporting lines are different.

The best and easiest way to fix these issues, without affecting the interests of the Deputy Minister, would be to have delegation instruments for the Ombudsman separate from those of the Department. This would ensure that the unique status of the relationship be considered if and when delegations need to be reviewed. It would also create stability and allow for discussion when exceptional circumstances occur that were not anticipated at the time the delegations were issued.

*Section continues on page 11.*

<sup>11</sup>See Annex C for the Appointment Delegation and Accountability Instrument (ADAI), the Specific Arrangements for sub-delegation and the delegation for EX-group appointments.

TABLE 1

# SNAPSHOT OF FINANCIAL DELEGATIONS FOR THE OMBUDSMAN

		EXPENDITURES—EMPLOYMENT RELATED					EXPENDITURES—CONTRACTING			
		M/ DM	M/ DM	M/ DM	M	M/ DM	M	M	M	M
DATE OF DELEGATION INSTRUMENT		Relocation / Advance	Foreign Service Benefits	Hospitality	Conference Sponsor	Membership Fees	Printing	Specific Goods and Services	Goods General	Goods Local Procurement
Stable Delegations	APR 2003	F		5K		F	10K			5K
	FEB 2007	F		5K		F	10K			5K
	FEB 2008	F		5K		F	10K			5K
	MAY 2011	F		5K		F	10K			5K
Ombudsman incorporated into DND Matrix	FEB 2015	R	R	1.5K	F			R	25K	
	MAR 2015	R	R	1.5K	F			R	25K	
	FEB 2016	R	R	1.5K	F			R	25K	

Thresholds and authorities decrease

Table continues across two pages.

TABLE 1

**Notes:**

“F” indicates full authority within budgetary limits, subject to Treasury Board and Departmental spending limits and policies.

“R” indicates that authority is restricted in some manner.

“X” indicates that there is no delegated authority.

**A numeric value** indicates the maximum dollar (\$) limitation for the particular activity (M = million; K = thousand; C = hundred).

**A shaded box** indicates that the authority did not exist in that delegation instrument.

**Text in red font** indicates a negative change.

**EXPENDITURES—CONTRACTING (CONTINUED)**

**OTHER AUTHORITIES**

M	M	M	M	M	M	DM	DM	M	M	M
General Services (Non competitive)	General Services (Competitive)	Services Competitive—Former Public servants	Temporary Help services	Emergency Conditions	Call-up Standing Offers, Supply arrangements	Ex-gratia payments	Claims Settlement	Administration and Interest Charges	Provision of Services / Reduction of Fees	Write Off Material
100K	400K	100K	F	X	F	F	F	F	F	F
100K	400K	100K	F	X	F	F	F	F	F	F
100K	400K	100K	F	X	F	F	F	F	F	F
100K	400K	100K	F	X	F	2K	100K	F	X	F
25K	75K	25K		40K	R	X	X	X	R	2M
25K	75K	25K		40K	R	X	X	X	R	2M
25K	75K	25K		40K	R	X	X	X	R	2M

TABLE 2

# SNAPSHOT OF OMBUDSMAN HUMAN RESOURCES AUTHORITIES

## EXPENDITURES—EMPLOYMENT RELATED

DATE OF DELEGATION INSTRUMENT	PUBLIC SERVICE EMPLOYMENT ACT		FEDERAL PUBLIC SECTOR LABOUR RELATIONS ACT	CANADIAN HUMAN RIGHTS ACT
	Non-EX Appointments	EX appointments (Staffing)	Final Grievances	Human Rights Complaints
DEC 2001	-	-	✓	✓
DEC 2008	✓	-	-	-
JULY 2010	-	✗	✓	✓
JULY 2012	✓	✗	-	✗
SEP 2014	✓	-	-	-
MAY 2015	✓	✗	✗	✗
JULY 2016	-	✓	-	-
AUG 2016	✓	✗	R	R

**Notes:**

“✓” indicates that the authority was given to the Ombudsman.

“✗” indicates that the authority was not given or revoked from the Ombudsman.

“R” indicates that authority is restricted in some manner.

“-” indicates that the delegation instrument neither expressly gave nor revoked an authority from the Ombudsman.



## THE ACTION PLAN

**3. It is recommended that the delegation instruments for the office of the Ombudsman be self-contained and kept separate from those of the Department, as was previously the case.**

#### **AUDITS AND RESPONSIVE CORRECTIVES MEASURES**

In keeping with the interest based approach, the Deputy Minister must have assurances that the authorities delegated to the office of the Ombudsman are appropriately exercised. The periodic audits since the current Ombudsman has taken office have shown compliance and sound financial management. The expectation is that the systems in place contain sufficient checks and balances to catch and address anomalies going forward. It is recommended that the periodic audits by the Department continue and corrective measures be taken, if required, by the office of the Ombudsman.<sup>12</sup>

**4. It is recommended that the Ombudsman and Deputy Minister conclude a Memorandum of Understanding establishing periodic audits by the Department of the exercise of financial and human resource delegations by the office of the Ombudsman.<sup>13</sup>**

■

**“The best and easiest way to fix these issues, without affecting the interests of the Deputy Minister, would be to have delegation instruments for the Ombudsman separate from those of the Department.”**

<sup>12</sup> Audits of the administrative files of the office of the Ombudsman by the Department are not problematic provided there are no issues related to the confidentiality of complainant information. Audits allow administrative actions to be reviewed by an expert not involved in the original transaction to ensure compliance with rules and best practices.

<sup>13</sup> Note that MOUs have already been established regarding regular financial audits by the Department.

# FINANCIAL DELEGATIONS

For the office of the Ombudsman to be administratively and operationally independent, both in fact and in perception, it is critical that the office have all of the authorities needed to run an organization. This section outlines the main issues related to financial delegations thresholds and provides recommendations that would ensure the Ombudsman's independence regarding organizational decision-making.

A draft delegation matrix for financial authorities is found at Annex D to this Report.

## BUDGET PROCESS

The amount of the annual allocation for the office of the Ombudsman has not historically been an issue. From the creation of the office in 1998 until 2011, the office of the Ombudsman was automatically allocated an annual operating budget of just under 6 million dollars.<sup>14</sup>

The Office of the Ombudsman first sent a business plan to the department in 2010 for the 2011/12 fiscal year. This was in response to a departmental call letter that actioned the Ombudsman contrary to previous call letters which were sent for information only.

First, it is important to note that the requirement to submit a business plan to the Department for review and financial decision is problematic for an independent organization that reports to the Minister and not the Deputy Minister.<sup>15</sup>

Second, the Ombudsman's annual allocation by the Department raises concerns with respect to the principle of independence inasmuch as the Ombudsman's purse strings are controlled by one of the organizations it is mandate to review.

This is not to say that planning should not be done or that a submission should not be filed with the Department; however, it should be done for the purpose of transparency and accountability and not for the purpose of departmental review and decision making.

The budget submission for 2017-18 sought an increase in funding based on an increased volume of constituent contacts. While the business plan submitted by the Ombudsman to the Department was fully justified, the submission was initially denied.<sup>16</sup> The budget was ultimately approved following discussions between the Ombudsman and Deputy Minister.<sup>17</sup>

Nevertheless, budgetary control by the Department is potentially problematic as it is a means by which the Department can interfere with the Ombudsman's planning processes, question the suitability of expenditures made in order to carry out the mandate, and ultimately restrict the activities of the Ombudsman by rejecting the budget submission.

This process is inappropriate for the Ombudsman, as business plans should not be reviewed and approved by officers whose organizations are subject to investigation by the Ombudsman.

<sup>14</sup> From the establishment of the office until 2016 the annual budget remained relatively stable at approximately 6 million dollars. In 2011, there was an 8 % cut due to the DRAP exercise.

<sup>15</sup> The departmental process for business plan approval and consequent budget allocation is complex, and involves dedicated resource management groups as well as at least two senior management / leadership committees who review submissions against the prevailing defence spending priorities. The large "Level 1s" (direct reports to the Chief of the Defence Staff / Deputy Minister) and some of the smaller Level 1s may be invited to present their business plans to both committees, but not all of the written business plans are reviewed by both committees.

<sup>16</sup> The Ombudsman's business plan was reviewed and the Ombudsman's requested additional funding was not approved at the program officer level. The written business plan was not submitted to the budgetary committees, as that year other than the large Level 1s, only the small Level 1s identified for cuts to their budgets had their business plans discussed by the committees.

<sup>17</sup> The submission for increased funding was supported by an increase in constituent contacts. Note that the increase was for 1.4 million dollars. Further, the approval was late, causing an operational impact on the office of Ombudsman.

## FINANCIAL DELEGATIONS

**5. It is recommended that the Ombudsman's business plan be submitted to and approved by the Minister of National Defence, to whom he reports, and that the Ombudsman's fully justified annual budget submission be filed with the Department.**

**CONTRACTING THRESHOLDS**

Further issues arise in the establishment of spending thresholds. The Ombudsman requires that delegated authorities have adequate thresholds so that the Ombudsman can manage the office independently.

Prior to 2015, the Ombudsman had significantly higher thresholds for contracting. **The following chart (see: page 14 of this report)** illustrates the changes for some of the categories within the delegations for contracting expenditures.

Take for example contracting for services. Generally, the first course of action is to determine whether the service is available through a supply arrangement or standing offer; if not, the delegate can tender and manage a contract provided it is within the delegated threshold. If the contract exceeds the threshold, then ADM (MAT) is, by default, the contracting authority with decision-making power over all aspects of the contract.

This process may be suitable for most departmental contracts, but is not suitable for the office of the Ombudsman. If ADM (MAT) is the contracting authority on Ombudsman contracts, regardless of the amount, then there is an incursion on the Ombudsman's independent management of his or her office and, potentially, a conflict of interest in the case where the contract relates to an investigation into the Department.

In 2015, the office of the Ombudsman was integrated into the departmental matrix and equated with Level 1 Advisors whose responsibilities and reporting lines are different. This resulted in decreased expenditure thresholds and removal of certain authorities that are important for independent decision making. For example, the Ombudsman's expenditure threshold for contracting for general services (competitive) was reduced from \$400,000 to \$75,000. This meant that ADM (MAT) would have to act as the contracting authority on Ombudsman contracts exceeding the new lower \$75,000 threshold.

To side step the governance issue and maintain independence in contracting decisions, the

Ombudsman arranged to have Public Services Procurement Canada (PSPC) act as contracting authority for two high dollar value contracts.<sup>18</sup>

For two other contracts, the PSPC refused to act as contracting authority due to their relatively low contract values even though they exceeded the Ombudsman's

new contracting threshold. For these two contracts, the Ombudsman had to adjust the scope of the requirements and lower the number of days available for the work so that the contract amounts could fit within the \$75,000 threshold. Essentially, the lower contracting threshold has impacted the Ombudsman's ability to address operational needs.

There is no risk of this issue arising if the Ombudsman's expenditure thresholds for contracting are sufficient. Prior to 2015, the expenditure thresholds for contracting were generally adequate for the proper day-to-day functioning of the office.

**“This is not to say that planning should not be done or that a submission should not be filed with the Department; however, it should be done for the purpose of transparency and accountability and not for the purpose of departmental review and decision making.”**

<sup>18</sup>This refers to the contract for a Learning and Development Program worth \$250,000, and the contract with the Core of Commissionaires worth \$500,000.

TABLE 3

# SNAPSHOT OF OMBUDSMAN CONTRACTING AUTHORITIES

## EXPENDITURES—CONTRACTING

DATE OF DELEGATION INSTRUMENT		M	M	M	M	M	M	M	M	M	
		Printing	Specific Goods and Services	Goods General	Goods Local Procurement	General Services (Non competitive)	General Services (Competitive)	Services Competitive—Former Public servant	Temporary Help services	Emergency Conditions	Call-up Standing Offers, Supply arrangements
Stable Delegations	APR 2003	10K			5K	100K	400K	100K	F		F
	FEB 2007	10K			5K	100K	400K	100K	F		F
	FEB 2008	10K			5K	100K	400K	100K	F		F
	MAY 2011	10K			5K	100K	400K	100K	F		F
Ombudsman incorporated into DND Matrix	FEB 2015		R	25K		25K	75K	25K		40K	R
Thresholds decrease	MAR 2015		R	25K		25K	75K	25K		40K	R
	FEB 2016		R	25K		25K	75K	25K		40K	R

**Notes:**

“F” indicates full authority within budgetary limits, subject to Treasury Board and Departmental spending limits and policies.

“R” indicates that authority is restricted in some manner.

A blank value indicates no delegated authority.

A numeric value indicates the maximum dollar (\$) limitation for the particular activity (M = million; K = thousand; C = hundred).

A diagonal line across the box indicates that the authority did not exist in that delegation instrument.

Text in red font indicates a negative change.

## FINANCIAL DELEGATIONS

It is recommended that the amounts revert, as a minimum, to amounts existing before the 2015 integrated matrix. Exceptionally, contracts that exceed the delegated expenditure threshold can be dealt with on a case by case basis by the Ombudsman and the Minister.

**6. It is recommended that the contracting thresholds for the office of the Ombudsman be reinstated, at a minimum, to pre-2015 amounts.**

**TRAVEL AND HOSPITALITY THRESHOLDS**

The Ombudsman conducts regular travel to bases and wings for constituent engagement in order to carry out the mandate.

Travel is also required for other aspects of our core business such as conducting investigations, managing the annual Commendations, and holding meetings of the Ombudsman Advisory Committee.<sup>19</sup> Typically, the Ombudsman's annual expenditure on travel and hospitality makes up approximately 20% of the office's total annual allocation.

**“Prior to 2015, the Ombudsman had significantly higher thresholds for contracting. The following chart illustrates the changes for some of the categories within the delegations for contracting expenditures.”**

The Deputy Minister has set the ceiling for travel and hospitality for the Department at 2.1 million dollars which is allocated to Level 1 Advisors, including the office of the Ombudsman. The Deputy Minister in consultation with ADM (FIN) sets expenditure thresholds each fiscal year for travel and hospitality based on a review of the previous year's expenditures as well as the travel and hospitality plans submitted during the business planning period.

Again, the process by which the travel and hospitality threshold is set for the Level 1 Advisors who report directly to the Deputy Minister is problematic for the Ombudsman because it places the control of a key aspect of the Ombudsman's core business in the hands of the Department.

For fiscal year 2015-16, the threshold set for the Ombudsman was much lower than the submission in the Ombudsman's business plan. The Ombudsman's threshold was subsequently increased to match the plan after discussions that outlined how the unreasonably lower threshold constituted interference with core operations.

For 2017-18, the Ombudsman was given the exact threshold submitted in the planning documents. While the logic presented in the previous years prevailed and the independence of the office of the Ombudsman has been respected by the Department for this year, the concern going forward remains the same. The issue, in the case of thresholds for travel and hospitality, is that it limits the ability of the Ombudsman to be flexible and to address new matters as they arise during the year.

The interest of the Deputy Minister in this case is to ensure that there is transparency and accountability with respect to the management of department finances, and to ensure that the ceiling amount for the entire Department

is appropriately allocated.

It is recommended that the threshold for travel and hospitality, as submitted by the office of the Ombudsman, be approved with a 20% additional margin to allow for contingencies. That additional margin will be absorbed in the overall allocation for the office of the Ombudsman. Where this is insufficient to address a particular contingency, the Ombudsman will discuss with the Minister and the Deputy Minister.

<sup>19</sup>The mandate requires the establishment of an Ombudsman Advisory Committee. See Ministerial Directives, *supra* note 3 at s 39.

## 7. It is recommended that

- a. the expenditure threshold for travel and hospitality for the office of the Ombudsman be approved as submitted, understanding that the submission will include a margin to allow for contingencies;**
- b. the hospitality threshold is approved in accordance with the Ombudsman's submission; and**
- c. exceptions be managed on a case by case basis by the Ombudsman and Deputy Minister.**

“The issue, in the case of thresholds for travel and hospitality, is that it limits the ability of the Ombudsman to be flexible and to address new matters as they arise during the year.”

## REPORTED AS A LINE ITEM

The Ministerial Directives state that the budget of the Ombudsman shall be reported as a separate line item in the Department's estimates and shall be detailed in the annual report that is prepared by the Ombudsman.<sup>20</sup> This practice is important because it recognizes the office of the Ombudsman as a separate organization and informs Parliamentarians regarding the cost of running the office of the Ombudsman.<sup>21</sup> In fiscal year 2017-18, the relative cost of the office of the Ombudsman is 0.037% of the total annual defence budget.

The Ombudsman files reports with the Department annually on the finances and activities of the office. However, in 2014, the Department discontinued the practice of reporting the budget of the Ombudsman as a separate line item.

**8 It is recommended that the Department reinstate, in accordance with the Ministerial Directives, the practice of reporting the Ombudsman's annual budget as a separate line item in the Department's Main Estimates.**

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<sup>20</sup> Ministerial Directives, *supra* note 3 at s 11.

<sup>21</sup> The main estimates outline spending for departments, agencies and programs, and contain the proposed wording of the conditions governing spending that Parliament will be asked to approve. The information provided in the estimates is reproduced as the schedule to the *Appropriation Act*.

## HUMAN RESOURCES AND LABOUR RELATIONS

# HUMAN RESOURCES AND LABOUR RELATIONS

Critical decisions about how work is planned, what positions and levels are necessary to get the work done, and who is the best fit for a given position must be made by the person who is responsible for the organization and delivery of services. Equally critical are the decisions related to how managers and staff interact to create a fair and productive workplace.

The human resource and labour relations authorities needed for an organization to function come from a number of legislative sources and are delegated or sub-delegated through various instruments.

Regardless of the instrument, the delegations of authority for human resources and labour relations for the Ombudsman have been inconsistent with a major clawback of the delegations in the May 2015 instrument. This has resulted in challenges for the Ombudsman, specifically with respect to the implications of having decisions on labour relations issues default to the Deputy Minister's departmental designate. In addition to undermining the Ombudsman's authority with his staff, this runs contrary to the Ombudsman's direct accountability and reporting line to the Minister of National Defence and the independence of the organization.

## AUTHORITIES NEEDED BY THE OMBUDSMAN

In principle, the Ombudsman should have all of the authorities that may be needed to manage an independent government organization. This must be the starting point.

There are, however, authorities that would not be needed given that the office of the Ombudsman will fall within the departmental framework. For example, the Ombudsman would

not need to have the delegated authority to act as a representative for the Department for negotiations with bargaining agents.<sup>22</sup>

The Ombudsman only requires the authorities that affect the hiring and management of his own staff and engagement of technical and professional advisers as is considered necessary for the conduct of Ombudsman activities.<sup>23</sup> The authorities listed in Annex E to this Report are those that would be expected for independent decision making by the head of any independent organization.

Note that a full suite of delegated authorities for the Ombudsman in no way negates consultation with the Department on matters relating to procedures or best practices. Equally, it in no way restricts the possibility of concluding Memorandums of Understanding to obtain expertise where it is unavailable in-house.<sup>24</sup>

<sup>22</sup> Department of National Defence, *Instrument of Delegation of Human Resources Authorities for Civilian Public Service Employees of National Defence* (Ottawa, 25 August 2016) at "Labour Relations, Human Rights, and Political Authorities" line 1 [Instrument of Human Resources Authorities 25 August 2016].

<sup>23</sup> *Ministerial Directives*, *supra* note 3 at ss 8-10.

<sup>24</sup> MOUs/contracts for expertise could be concluded with the Department of National Defence, other government departments, or with third party contractors depending on the matter.

## HUMAN RESOURCES AND LABOUR RELATIONS

**9. It is recommended that:**

- a. delegations or sub-delegations, as the case may be, related to human resource and labour relations for the office of the Ombudsman be reinstated, at a minimum, to those existing before 2015 and more specifically with the authorities set out in Annex E of this report;**
- b. the Ombudsman and the Deputy Minister conclude a Memorandum of Understanding establishing periodic audits of the human resource and labour relations files of the office of the Ombudsman by the Department; and**
- c. where an audit finds non-compliance, corrective action is discussed and agreed upon by the Deputy Minister and Ombudsman.**

**HUMAN RESOURCES IN-HOUSE EXPERTISE**

When the office of the Ombudsman was established, the human resource and labour relations function was in-house. In 2014, while the office of the Ombudsman was undergoing the audit by the office of the Auditor General, the current Ombudsman took office and conducted his own assessment of the organization's capacity to deliver on its mandate. The Ombudsman determined that there could be potential economies of scale by working more closely with the Department and having access to their extensive subject matter expertise in all areas of human resource management. Accordingly, the Ombudsman approached the Department and concluded a one-year renewable Service Level Agreement requiring the mutual consent of both parties for any amendment. The agreement also transferred three indeterminate positions and their salary allocations from the Ombudsman to the Department.

Unfortunately, the expected economies of scale have not been borne out: service standards have not been met, the office has no dedicated human resource officer familiar with our business needs,

and the resulting delays have had a negative effect on operations and on the management of the Ombudsman's Salary and Wage Envelope. An organization as small as the office of the Ombudsman requires nimble and efficient staffing processes and immediate dedicated resourcing to address human resource issues.

To complicate matters further, in 2016, the Department cancelled all of its Service Level Agreements in favour of restructuring its human resource management. This was done unilaterally notwithstanding the specific clause requiring mutual agreement to any amendment. The Ombudsman is now in the position of being without any specific written arrangement with the Department, no full-time dedicated in-house expert or access to departmental systems, and service delays that impede our efficiency.

Part of the solution lies in restoring the PE-05 position that previously existed in the office of the Ombudsman with full access to the Human Resource Management System of the Department (HRMS). This will allow the office the Ombudsman to have control over its own staffing processes and the ability to be responsive and flexible. It will eliminate delays that result from being a lesser priority in the departmental queue.

In order to have the necessary assurances that staffing is being conducted according to legislation and policy, periodic audits of select files should be conducted by the Department.

**10. It is recommended that the position of Human Resource Officer, internal to the office of the Ombudsman, be restored with full access to the necessary human resource systems of the Department.**

**CLASSIFICATION**

All organizations evolve based on a variety of business, social, political, and environmental factors. In order to remain efficient and effective, organizational restructuring is occasionally necessary, including reassigning responsibilities to different positions. This has implications on human resources and means that job descriptions,



## HUMAN RESOURCES AND LABOUR RELATIONS

reporting structures, and classifications will occasionally need to be reviewed.

It is understood that the Department has an interest in standardizing job descriptions and ensuring consistency in the classification levels of positions that have similar functions. However, if the Ombudsman is to be effective, some distinctions need to be recognized and accommodated notwithstanding that the office remains within the administrative framework of the Department.<sup>25</sup>

In terms of the reporting structure and the accountabilities and responsibilities of senior officials (including job descriptions and classification levels), small organizations necessarily have different needs than large organizations. What works for a sixty-person organization such as the office of the Ombudsman may not meet the needs of a one-hundred-thousand-person organization such as the Department of National Defence, and *vice versa*. In fact, the Ombudsman structure is more comparable to small government agencies and departments than it is to the Department of National Defence.

With respect to job descriptions and classification levels, the office of the Ombudsman has very different needs, not only because of its small size, but also because of the unique nature of the work that it carries out. It is critically important that classification decisions not be imposed on the Ombudsman based on a model that is good for the larger Department as a whole.

There is insufficient classification work for the Ombudsman to seek these authorities and develop in-house expertise. However, it is recommended that the Department work to meet the needs of

the Ombudsman by using other small government organizations as benchmarks for the development of Ombudsman job descriptions and classification levels, as appropriate, rather than indiscriminately looking to the generic ones used by the Department.

**11. It is recommended that, where the expertise in human resource classification for small organizations is required and/or a unique job description is needed for a position in the office of the Ombudsman, the matter be outsourced to the Shared Human Resources Services offered by the Public Services and Procurement Canada.<sup>26</sup>**

#### FINAL LEVEL GRIEVANCE AUTHORITY

Grievances usually concern the interpretation of the terms and conditions of employment, including provisions of the collective agreement. The right of employees to grieve is set out in the *Federal Public Sector Labour Relations Act* and the process for grievances in the respective collective agreements. The

grievance process ordinarily has three levels, the first being the employee's immediate supervisor and the final level often being the deputy head of the organization or an authorized representative.

In the case of the Department of National Defence, the Deputy Minister has designated the Director General Workplace Management.<sup>27</sup> Prior to 2015, the Deputy Minister also designated the Ombudsman

**“... service standards have not been met, the office has no dedicated human resource officer familiar with our business needs, and the resulting delays have had a negative effect on operations and on the management of the Ombudsman’s Salary and Wage Envelope.”**

<sup>25</sup>Section 11.1(1)(b) of the *Financial Administration Act*, RSC 1985, c F-11, gives Treasury Board the ability to provide for the classification of positions in the public service. Treasury Board's Policy on Classification gives the responsibility to Deputy Heads, who can sub-delegate their authorities.

<sup>26</sup>The Shared Human Resources Services of Public Services and Procurement Canada offer a service to small agencies and departments who choose to outsource their human resource needs.

<sup>27</sup>*Instrument of Human Resources Authorities 25 August 2016*, *supra* note 23 at “Labour Relations, Human Rights, and Political Activities” line 5 note 19.

## HUMAN RESOURCES AND LABOUR RELATIONS

as the final level in the grievance process for grievances brought by employees of this office.<sup>28</sup>

The designation for the Ombudsman, which was in place for fourteen years, was removed in 2015 despite acknowledgement by the Deputy Minister that the designation was completely consistent with the legislative framework. The Deputy Minister stated that the rationale for the change was to align the process for employees of the Office of the Ombudsman with that in place for other Department of Defence employees. This rationale directly conflicts with the interest of the Ombudsman to manage an independent organization, undermines the Ombudsman's leadership in the day to day management of his staff, and is inconsistent with the Ombudsman's direct reporting and accountability to the Minister of National Defence.

After an exchange of correspondence and discussion, the delegation has been partially reinstated. In its current formulation, however, the delegation is ambiguous and insufficient to meet the above outlined interests of the Ombudsman.<sup>29</sup>

Given that the Deputy Minister has stated that the designation to the Ombudsman to act as the final level in the grievance process is consistent with the legislative framework, it should be acceptable to fully reinstate the designation. Nevertheless, in order to ensure appropriate exercise of the authority and avoid potential conflicts of interest, a limitation can be included to the effect that the Ombudsman must recuse himself where the grievance relates to his own actions or decisions. In that eventuality, the final level grievance will be exercised by a third party outside of the departmental framework.

Preliminary discussions with the Labour Relations unit of Public Services and Procurement

Canada<sup>30</sup> suggest that they are prepared to perform this function if called upon.

## 12. It is recommended that:

- a. the designation be reinstated to authorize the Ombudsman to act as final level in the grievance process for staff of the office of the Ombudsman;**
- b. a limitation be included to the effect that the Ombudsman shall recuse himself or herself from any grievance related to his or her actions or decisions; and**
- c. a third party outside of the departmental framework be designated as the final level in the grievance process for grievances related to the Ombudsman's actions or decisions.**

## INFORMAL CONFLICT MANAGEMENT SYSTEM

Under the *Federal Public Sector Labour Relations Act*, deputy heads are required to consult with their employee bargaining agents and establish an informal conflict management system (ICMS).<sup>31</sup>

When the legislation was enacted in 2003, the then Ombudsman took the initiative and consulted with the relevant union to establish a system for the office, separate from the Department. The Ombudsman looked for an appropriate subject matter expert to provide the services for the office because it was recognized that the small size of the office would make it difficult to ensure a confidential and safe environment for employees to address their workplace issues. Further, it was understood that the principles of independence and confidentiality required the Ombudsman to find a neutral third party service provider so that workplace issues

<sup>28</sup>See Annex F of this Report for previous delegations instruments relating to final level authority.

<sup>29</sup>*Instrument of Human Resources Authorities* 25 August 2016, *supra* note 23.

<sup>30</sup>*Supra* note 27.

<sup>31</sup>The *Federal Public Sector Labour Relations Act* was previously titled the *Public Service Labour Relations Act*, S.C. 2003, c.22, s. 2. The legislation was amended and renamed in June 2017.

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internal to the office of the Ombudsman would not default to the Department for resolution.<sup>32</sup>

A Memorandum of Understanding was concluded with the Department of Justice. This was accomplished without a formal delegation and was tacitly accepted.

In 2015, the current Ombudsman re-negotiated the MOU with the Department of Justice and has since renewed the MOU for the subsequent fiscal years.<sup>33</sup>

**13. It is recommended that the authority for dealing with Informal Conflict Management Systems for the office of the Ombudsman be formally delegated to the Ombudsman.**

#### **HARASSMENT PREVENTION AND RESOLUTION<sup>34</sup>**

The Ombudsman has the delegated authority to receive, administer and respond to harassment complaints for the office.<sup>35</sup> Accordingly, he has appointed a Harassment Advisor and has six Workplace Relations Advisors, all of whom have been formally trained and accredited in the application of departmental policy and procedures.

**“The Deputy Minister stated that the rationale for the change was to align the process for employees of the Office of the Ombudsman with that in place for other Department of Defence employees. This rationale directly conflicts with the interest of the Ombudsman to manage an independent organization, undermines the Ombudsman’s leadership in the day to day management of his staff, and is inconsistent with the Ombudsman’s direct reporting and accountability to the Minister of National Defence.”**

<sup>32</sup>*Instrument of Human Resources Authorities 25 August 2016, supra note 23.*

<sup>33</sup>Aware and respectful of the framework for delegations, the Ombudsman informed the Minister and the Deputy Minister of his intentions to renegotiate with the Department of Justice and provided a copy of the draft memorandum of understanding. No response regarding this action was forthcoming. The MOU was signed in 2015 and renewed for the following fiscal years.

<sup>34</sup>This is based on Treasury Board policies and directives, which are designed to go beyond the requirements of the *Canadian Human Rights Act*.

<sup>35</sup>*Instrument of Human Resources Authorities 2016, supra note 23 at “Labour Relations, Human Rights, Political Authorities” at line 11 (granting authority to receive and respond to harassment complaints).*

## HUMAN RESOURCES AND LABOUR RELATIONS

While the delegation of authority is currently not an issue, the recent changes in the Department's Policy on Harassment Prevention and Resolution (DAOD 5012-0) and supporting procedural instructions cause challenges for the office of the Ombudsman. Under the new procedure, the role of Harassment Advisor defaults to ADM (HR-Civ), specifically to the position of Labour Relations Officer (LRO) for all civilian employees.<sup>36</sup>

The same concerns about organizational independence and blurred reporting lines, previously elaborated, apply in this case.

Further, the stated policy rationale for re-assigning the functions of the Harassment Advisor to the Labour Relations Officers is that the Labour Relations Officers have expertise in civilian human resource issues and knowledge of the legislative and administrative framework surrounding those issues. While centralization of a function may work for a large organization, it does not work for a smaller organization that has the same expertise. The office of the Ombudsman has both the in-house legal expertise and accreditations to receive, administer, and respond to harassment complaints in accordance with the substance of the Treasury Board and Department policies.

This example illustrates how, even where delegations are in order, the procedures and policies that give effect to the legislation may require adaptation to apply to the office of the Ombudsman.<sup>37</sup>

**14. It is recommended that the Policy on Harassment Prevention and Resolution (DAOD 5012-0) be amended to state that the harassment prevention and resolution program for the office of the Ombudsman will be managed by the Harassment Advisor internal to the office of the Ombudsman.**



<sup>36</sup>Canada, National Defence and the Canadian Armed Forces, *Defence Administrative Orders and Directives (DAOD 5012-0)—Harassment Prevention and Resolution*, (Ottawa: 2017) <online: <http://www.forces.gc.ca/en/about-policies-standards-defence-admin-orders-directives-5000/5012-0.page>>.

<sup>37</sup>It is the practice of the Ombudsman to ensure substantive compliance with all legislation and policy. Where departmental policy or procedures have created operational challenges for the office, the Ombudsman has advised the Minister and Deputy Minister and proposed adaptations.

## OTHER OBLIGATIONS AND LAWS WITH GOVERNMENT-WIDE APPLICATION

When the office of the Ombudsman was established, apart from the financial and human resource authorities needed for the day to day management of the office, the Ombudsman was given full autonomy to act under several laws that have government-wide application.

### CANADIAN HUMAN RIGHTS COMPLAINTS

Full authority was granted to the Ombudsman's General Counsel to address human rights complaints relating to the office and to interact directly with the Human Rights Commission.<sup>38</sup> This was considered important to provide the Ombudsman with the ability to address complaints without intervention or involvement by the Department in the substance of confidential files.

The authority was comprehensive and included the right to negotiate and pay settlements under the *Canadian Human Rights Act* and record and report payments to the Public Accounts.

This delegation was removed from the Ombudsman's General Counsel by the 26 May 2015 delegation instrument. The Ombudsman sent correspondence objecting to the removal of this authority, explaining its importance with respect to the independent operations of the office and the protection of confidential constituent information.

The latest instrument of delegation, dated 25 August 2016, partially reinstates the previously held delegations for addressing human rights issues.<sup>39</sup> Nevertheless, it now requires a mandatory consultation with the Director General Workplace

Management. Further, a legal opinion on liability and quantum is required from the office of the DND/CF Legal Advisor with any consideration of *ex gratia* payment decided by the DND/CF Legal Advisor. Further still, any settlement that is contrary to the opinion of the DND/CF Legal Advisor must be referred to the Deputy Minister for resolution. This partial reinstatement is problematic in that the DND/CF Legal Advisor has no access to Ombudsman files and would not be in a position to provide advice regarding the management and resolution of the complaint. Note that the Ombudsman has in-house legal counsel who would provide this type of opinion based on considerations that may be different than those of the Department.

Until November 2016, the debate was largely theoretical because there was no actual file that required the exercise of these delegations. However, a human rights complaint has now been filed against the Department of National Defence notwithstanding that the matter relates to an investigation by the office of the Ombudsman related to the actions of the Canadian Armed Forces. The Department and the Ombudsman are now faced with responding to a complaint filed with a third party organization, where the Ombudsman's delegation is insufficient, ambiguous, and impracticable.<sup>40</sup>

<sup>40</sup>The challenges encountered in the actual file management, particularly a lack of clarity with respect to lines of communication with the Canadian Human Rights Commission have been negotiated with the various internal players, as well as the Canadian Human Rights Commission to ensure that the substance of the complaint is not derailed by the governance issue. More specifically, it was agreed that the issue of the delegation would be put aside and dealt with at a later date.

<sup>38</sup>See Annex F of this Report for previous authorities relating to human rights complaints.

<sup>39</sup>*Instrument of Human Resources Authorities 2016, supra* note 23 at Preamble, "Labour Relations, Human Rights, and Political Activities Authorities" at line 10, note 18.

Given the in-house legal expertise at the office of the Ombudsman, it is recommended that the authority to deal directly with the Canadian Human Rights Commission be fully reinstated including the right to negotiate settlements and approve *ex gratia* payments.

Given that the Ombudsman remains within the departmental framework, it is clearly in the interest of the Deputy Minister to have assurances that human rights complaints are appropriately handled according to departmental protocol. It is therefore recommended that the Ombudsman keep the Director General Workplace Management advised with respect to milestones in the complaints management process.

Equally, the Deputy Minister has an interest in managing contingent liabilities for the department as a whole. Therefore, it is recommended that the Ombudsman's General Counsel consult with the DND/CF Legal Advisor with respect to potential quantum of damages and establish a margin for negotiation and settlement.

**15. It is recommended that:**

- a. the authority to deal directly with the Canadian Human Rights Commission be fully reinstated including the right to negotiate settlements and approve *ex gratia* payments;**
- b. the Ombudsman keep the Director General Workplace Management advised with respect to milestones in the human rights complaints management process; and**
- c. the Ombudsman's General Counsel consult with the DND/CF Legal Advisor with respect to potential quantum of damages and establish a margin for negotiation and settlement for complaints under the Canadian Human Rights Act.**

## **PUBLIC SERVANTS DISCLOSURE PROTECTION ACT**

When the office of the Ombudsman was created, the delegations of authority were made pursuant to the legislation, policies, and business models in place at that time. Since then, new legislation has been enacted which would not have been captured in the original delegations. Nevertheless, the rationale that the office of the Ombudsman is independent of the administration of the Department still applies.

In 2005 the *Public Servants Disclosure Protection Act* was enacted to protect federal public servants who disclose incidents of wrongdoing in the Public Service. Under this act, the Deputy Minister designates a senior departmental officer to be responsible for the implementation of the legislation and, more specifically, as the Internal Disclosure Office for civilian public servants of the department. Under the current departmental designation, a disclosure of wrongdoing by an employee of the office of the Ombudsman would be directed to the Internal Disclosure Office and would follow the established procedure, including potential investigation of the office of the Ombudsman by the departmental designate.<sup>41</sup>

The principle of independence is overridden if the office of the Ombudsman can be controlled and investigated by the very organization it was established to review. The respective investigative mandates create potential issues with respect to the neutrality and impartiality of investigations, actual and perceived, and compromises the credibility of both organizations.

In order to maintain independence from the Department, it is important that the Ombudsman not be subject to any review or investigation by the Department. Nevertheless, it is also critical to ensure that the obligations of the Deputy Minister and the legal rights of

<sup>41</sup>This situation of in-built conflict went from theoretical to concrete in 2011 when allegations of wrongdoing on the part of the then Ombudsman were made. The departmental designate was tasked with investigating the allegations. While there was a finding of no wrongdoing, the incident and the workplace assessment that followed prompted a debate about the propriety of mutual investigations and governance. A current disclosure against the office is underway with the same outstanding issues.

## OTHER OBLIGATIONS AND LAWS

employees, pursuant to the *Public Servants Disclosure Protection Act*, are fully met.

Discussions continue to take place regarding this matter with a view to amending the relevant Defence Administrative Order and Directive (DAOD 7024-1) to meet the interests of both the Ombudsman and the Deputy Minister.<sup>42</sup>

It is recommended that any investigation under the *Public Servants Disclosure Protection Act* be outsourced to a third party that is agreeable to both the Department and the Ombudsman; that the Ombudsman be kept informed as to the progress of the investigation of members of his staff as would be the Deputy Minister; and that any remedial measures be taken by the Ombudsman when members of his own staff are involved.

If the disclosure is alleged against the Ombudsman, then any investigation is referred to the Governor in Council.

#### **16. It is recommended that:**

- a. the DAOD 7024-1 be amended to outsource any investigation under the Public Servants Disclosure Protection Act related to the office of the Ombudsman to a mutually acceptable third party;**
- b. the Ombudsman, in consultation with the Deputy Minister where appropriate, take remedial measures where an investigation finds wrongdoing on the part of a member of the Ombudsman's staff; and**

- c. where a disclosure is alleged against the Ombudsman, a Governor in Council appointee, the matter be referred to a neutral third party outside of the departmental framework.**

#### **ATIP DESIGNATION**

The designation needed to administer both the *Access to Information Act* and the *Privacy Act* for the office of the Ombudsman was designated directly from the Minister of National Defence in 2002. The reason for granting full autonomy was to protect the confidential information of constituents and the operational integrity of investigative files, neither of which would be possible if the Department were responsible for processing requests.

The office of the Ombudsman has been managing the obligations under these acts independently from the Department with recognition of efficiency by a Treasury Board audit in 2013-14.

While the designation order for ATIP is comprehensive, the instrument dates from 2002 and should be renewed.<sup>43</sup>

- 17. It is recommended that the Ombudsman's designation for ATIP be renewed by the Minister of National Defence.**

■

<sup>42</sup>Canada, Deputy Minister and Chief of the Defence Staff, *Defence Administrative Orders and Directives 7024-1* (Internal Procedures for Disclosures by DND Employees of Wrongdoings in the Workplace) (2016).

<sup>43</sup>Treasury Board's review of the Ombudsman's Annual ATIP Reports recommends updating the delegations. See Annex G for proposed *Access to Information Act and Privacy Act* designation order.

# CONCLUSION

Until 2015, the office of the Ombudsman had the necessary authorities and organizational structures to allow the office to function independently from the influences of the organizations it is mandated to review.

The findings of the 2015 Spring report of the Auditor General pointed squarely to a lack of internal controls at the office of the Ombudsman as well as a lack by the Department with respect to monitoring the exercise of delegated authorities. The audit found several instances of mismanagement and recommended that the heads of the two organizations define and document how the office of the Ombudsman will demonstrate that internal controls are effective and operating as intended, and how the Department will monitor the same without impeding the operational independence of the Ombudsman.

A solution that is acceptable to the heads of the Department and the office of the Ombudsman has not yet been found notwithstanding that internal controls instituted by the current Ombudsman are now in place and the audits by the Department have demonstrated compliance.

Legislation giving this office permanence and independence is the solution. Given that there is no political appetite for enacting legislation, this action plan is being proposed as a way of making a flawed structure functional. The detailed recommendations outlined in this action plan are intended as a practicable alternative to legislation and a way forward that respects the interests of the various stakeholders. ■



## LIST OF RECOMMENDATIONS

## LIST OF RECOMMENDATIONS

## IT IS RECOMMENDED THAT:

- 1.** A Defence Administrative Order and Directive supporting the Ministerial Directives be drafted and issued, acknowledging the principles of ombudsmanship and setting out the rationale that will guide the issuance of delegations for the Ombudsman by successive Deputy Ministers.
- 2.** Where an audit finds that a member of the Ombudsman's staff has improperly exercised delegated authorities, appropriate remedial measures be taken by the Ombudsman in consultation and agreement with the Deputy Minister, including the Deputy Minister's withdrawal of the designation.
- 3.** The delegation instruments for the office of the Ombudsman be self-contained and kept separate from those of the Department, as was previously the case
- 4.** The Ombudsman and Deputy Minister conclude a Memorandum of Understanding establishing periodic audits by the Department of the exercise of financial and human resource delegations by the office of the Ombudsman.
- 5.** The Ombudsman's business plan be submitted to and approved by the Minister of National Defence, to whom he reports, and that the Ombudsman's fully justified annual budget submission be filed with the Department.
- 6.** The contracting thresholds for the office of the Ombudsman be reinstated, at a minimum, to pre-2015 amounts.
- 7. a.** The expenditure threshold for travel and hospitality for the office of the Ombudsman be approved as submitted, understanding that the submission will include a margin to allow for contingencies;
- 7. b.** The hospitality threshold is approved in accordance with the Ombudsman's submission; and
- 7. c.** Exceptions be managed on a case by case basis by the Ombudsman and Deputy Minister.
- 8.** The Department reinstate, in accordance with the Ministerial Directives, the practice of reporting the Ombudsman's annual budget as a separate line item in the Department's Main Estimates.
- 9. a.** Delegations or sub-delegations, as the case may be, related to human resource and labour relations for the office of the Ombudsman be reinstated, at a minimum, to those existing before 2015 and more specifically with the authorities set out in Annex E of this report;
- 9. b.** The Ombudsman and the Deputy Minister conclude a Memorandum of Understanding establishing periodic audits of the human resource and labour relations files of the office of the Ombudsman by the Department; and
- 9. c.** Where an audit finds non-compliance, corrective action is discussed and agreed upon by the Deputy Minister and Ombudsman.
- 10.** The position of Human Resource Officer, internal to the office of the Ombudsman, be restored with full access to the necessary human resource systems of the Department.

## LIST OF RECOMMENDATIONS

- 11.** Where the expertise in human resource classification for small organizations is required and/or a unique job description is needed for a position in the office of the Ombudsman, the matter be outsourced to the Shared Human Resources Services offered by the Public Services and Procurement Canada.
- 12. a.** The designation be reinstated to authorize the Ombudsman to act as final level in the grievance process for staff of the office of the Ombudsman;
- 12. b.** A limitation be included to the effect that the Ombudsman shall recuse himself or herself from any grievance related to his or her actions or decisions; and
- 12. c.** A third party outside of the departmental framework be designated as the final level in the grievance process for grievances related to the Ombudsman's actions or decisions.
- 13.** The authority for dealing with Informal Conflict Management Systems for the office of the Ombudsman be formally delegated to the Ombudsman.
- 14.** The Policy on Harassment Prevention and Resolution (DAOD 5012-0) be amended to state that the harassment prevention and resolution program for the office of the Ombudsman will be managed by the Harassment Advisor internal to the office of the Ombudsman.
- 15. a.** The authority to deal directly with the Canadian Human Rights Commission be fully reinstated including the right to negotiate settlements and approve *ex gratia* payments;
- 15. b.** The Ombudsman keep the Director General Workplace Management advised with respect to milestones in the human rights complaints management process; and
- 15. c.** The Ombudsman's General Counsel consult with the DND/CF Legal Advisor with respect to potential quantum of damages and establish a margin for negotiation and settlement for complaints under the *Canadian Human Rights Act*.
- 16. a.** The DAOD 7024-1 be amended to outsource any investigation under the *Public Servants Disclosure Protection Act* related to the office of the Ombudsman to a mutually acceptable third party;
- 16. b.** The Ombudsman, in consultation with the Deputy Minister where appropriate, take remedial measures where an investigation finds wrongdoing on the part of a member of the Ombudsman's staff; and
- 16. c.** Where a disclosure is alleged against the Ombudsman, a Governor in Council appointee, the matter be referred to a neutral third party outside of the departmental framework.
- 17.** The Ombudsman's designation for ATIP be renewed by the Minister of National Defence. ■

**END OF REPORT**

**“Legislation giving this office permanence and independence is the solution. Given that there is no political appetite for enacting legislation, this action plan is being proposed as a way of making a flawed structure functional.”**

# ANNEX A

## PRINCIPLES OF OMBUDSMANRY

The principles of the classical ombudsman have been developed, studied, and tested since the concept was introduced in the 19th century. These principles overlap and sometimes have different names in the academic literature, but remain consistent in terms of their underlying reasoning and component features. Entrenchment of these principles in ombudsman legislation is important, as is strict adherence to them in practice. Without these foundational principles, the ombudsman's credibility and operational effectiveness are at risk. The principles are:

- INDEPENDENCE
- IMPARTIALITY
- FAIRNESS
- CONFIDENTIALITY

### **INDEPENDENCE FROM THE ORGANIZATION THAT IS SUBJECT TO OVERSIGHT**

Following the classical ombudsman model, the principle of independence includes the following features:

- legislated mandate
- independence from the political and administrative authorities under scrutiny
- tenure with a fixed salary
- immunity from prosecution
- appropriate funding
- control over communications
- control over staffing and administration

Independence from the organization subject to review must be entrenched in legislation.

Otherwise, the ombudsman is at risk of repercussions following an unfavourable review or recommendation, including the shutdown of the office. The ombudsman must be, and must be seen to be, free to conduct reviews, make recommendations, and be unfettered in its decisions by the organization it oversees.

The perception of independence, in the eyes of constituents and the public, is also critical. To be credible, the ombudsman must not be perceived as an extension of, or answerable to, the organization it is mandated to review.

Similar to judicial independence, tenure of office and a sufficient salary are necessary for the ombudsman to be independent. Tenure insulates the ombudsman and its decisions from the potential consequences of political displeasure. Sufficient compensation ensures that financial incentives would not be perceived to influence decisions.

Another standard feature of the classical ombudsman model is immunity from liability for acts performed in good faith within the scope of mandated duties. This type of protection allows the ombudsman, and staff, to carry out their normal duties without the fear that they will be subject to disciplinary or other proceedings. Legislation, therefore, generally includes a specific provision for immunity from defamation for public communication provided the statements are appropriate and made in the context of the ombudsman's duties.

Responsibility for the ombudsman's own communications and media relations is an essential aspect of the ombudsman's tool kit. The ombudsman must be free to publish findings and make recommendations autonomously, and to communicate the same through media when it is in the public interest.

## ANNEX A: PRINCIPLES OF OMBUDSMANRY

to do so. This goes directly to the credibility and effectiveness of the ombudsman.

Appropriate funding and control of administration are also hallmarks of independence for ombudsman offices. Without administrative and budgetary control, critical operational decisions could be impacted. True independence is not possible when the organization under review holds the purse strings of the organization mandated to conduct the review.

### IMPARTIALITY WITH RESPECT TO ALL DEALINGS AND ALL PERSONS

Following the classical ombudsman model, the concept of impartiality includes the following features:

- actual and perceived impartiality
- evidence based investigations
- fair appointment process
- non-partisan appointee

The ombudsman must carry out its mandate in a manner that ensures impartiality of its investigations and decisions. Investigations are evidence-based and are concluded without prejudging any outcome, advocating for any point of view, or being influenced by organizational favour or political partisanship.

The ombudsman is impartial—neither an advocate for a complainant nor for the organization subject to oversight. The ombudsman must gather and consider all facts objectively, giving all parties the opportunity to present and respond to evidence before conclusions are drawn and recommendations are made. Credibility and acceptance of recommendations depend on the stakeholder's conviction that ombudsman findings are unaffected by real or perceived bias.

The process of choosing an ombudsman is also generally entrenched in legislation because the appointee must be an individual in whom all stakeholders have confidence. The critical element is that the appointment

process should be decided based on the qualifications of the person, as opposed to his or her political views or affiliations.

### FAIRNESS OF THE REVIEW PROCESS BASED ON THE RULES OF NATURAL JUSTICE

Following the classical ombudsman model, the concept of fairness includes the following features:

- processes consistent with the rules of procedural fairness and natural justice
- direct and free access for constituents
- defined jurisdiction
- investigations may be initiated without a complaint
- cooperation from the organization subject to investigation
- access to records and premises
- power to compel witnesses
- findings are not reviewable
- power to make recommendations but no order making power
- power to report (communications)

The principle of fairness is an overarching operational goal related to all aspects of the ombudsman's work. The ombudsman must carry out its mandate ensuring that its investigations and review processes are credible, consistent with the rules of procedural fairness, and accessible to all.

In order to ensure credibility, the ombudsman's investigative process must be consistent with the rules of procedural fairness and natural justice as developed by the court systems. This includes having an impartial decision maker who considers all evidence and allows

## ANNEX A: PRINCIPLES OF OMBUDSMANRY

all parties to present and respond to evidence before making findings and recommendations.

Most ombudsman work is conducted informally and issues are generally resolved with quiet diplomacy and without public notice. However, cooperation of the organization under review is not always forthcoming. Consequently, ombudsman legislation provides the necessary authorities to facilitate investigations and discourage obstruction. Authorities generally include the ability to access information held by the organization, whether the access be to records, individuals, or premises. Disciplinary action for non-cooperation with, or obstruction of, the ombudsman is standard. Most ombudsman legislation also includes the power to subpoena and to compel witnesses. Whether or not these authorities are used is less important than the strong incentive they provide to secure cooperation.

Informality and resolution at the lowest levels of the administration is the ombudsman's primary approach to dealing with complaints. However, the ombudsman may escalate matters to the highest level within the organization if its recommendations are ignored or receive an insufficient response at lower levels. The ombudsman may also make public its findings and recommendations where it is in the public interest to do so.

The classical ombudsman model does not include order-making authority. Ombudsman offices can generally only make recommendations based on the findings of their investigations and cannot order corrective action. Recently, however, the Service Complaints Ombudsman for the Armed Forces in United Kingdom has been granted the authority to overturn decisions made by the military chain of command on certain matters.

The concept of fairness is also understood to mean equal access for all constituents free of charge. Consequently, the ombudsman has authority to maintain information programs and use other means to inform constituents about its existence and the services available. Without the

ability to communicate freely with constituents, access to the ombudsman becomes limited.

### CONFIDENTIALITY OF CONSTITUENT INFORMATION

Following the classical ombudsman model, the concept of confidentiality includes the following features:

- investigations are conducted in private
- information remains confidential
- confidentiality protects from fear of reprisal
- ombudsman and staff are not compellable witnesses

An ombudsman must ensure that the information of constituents is kept confidential. Adherence to the principle of confidentiality is essential to retain the trust and confidence of the constituency. More specifically, individual complainants must have the confidence that they can bring issues of maladministration to the attention of the ombudsman without of fear of reprisal.

Most ombudsman legislation includes a protection for the incumbent ombudsman and staff from being compelled to testify regarding any matter within their knowledge as a result of the performance of duties. This is an important element of confidentiality that is intended to protect private exchanges of information between the ombudsman and a constituent. ■

# ANNEX B

## PROPOSED DEFENCE ADMINISTRATIVE ORDER AND DIRECTIVE

### DAOD ####-0, GOVERNANCE OF THE OFFICE OF THE OMBUDSMAN

#### TABLE OF CONTENTS

1. Introduction
2. Definition
3. Overview
4. Core Values
5. Operating Principles
6. Monitoring and Audit
7. Corrective Measures
8. Interpretation

#### 1. INTRODUCTION

**Date of Issue:** yyyy-mm-dd

**Application:** This is an order that applies to members of the Canadian Armed Forces and a directive that applies to employees of the Department of National Defence.

**Approval Authorities:** This DAOD is issued under authority of the Deputy Minister and the Chief of the Defence Staff.

#### 2. DEFINITION

**Ombudsman** means the person appointed by order-in-council to be the Ombudsman for the Department of National Defence and the Canadian Armed Forces.

**Office of the Ombudsman** means the government organization established under the *Ministerial Directives Respecting the Ombudsman for the Department of National Defence and the Canadian Forces* and, for the purpose of this DAOD, includes the Ombudsman and members of the Ombudsman's staff.

**ANNEX B: PROPOSED DEFENCE ADMINISTRATIVE ORDER AND DIRECTIVE****3. OVERVIEW****PURPOSE**

- 3.1** This DAOD provides a framework to guide the issuance and administration of financial and human resource delegations to the office of the Ombudsman to ensure that:
- a.** the office of the Ombudsman operates independently from the organizations it is mandated to review;
  - b.** the office of the Ombudsman is accountable for the management of financial and human resources related to its own organization; and
  - c.** the authorities delegated to the office of the Ombudsman by the Deputy Minister are monitored for compliance with legislation and policies.

**CONTEXT**

- 3.2** The office of the Ombudsman receives its operating mandate through the Ministerial Directives Respecting the Ombudsman for the Department of National Defence and the Canadian Forces.
- 3.3** The Ombudsman is appointed by Governor in Council and reports directly to and is accountable to the Minister of National Defence.
- 3.4** In order to carry out the mandate, the office of the Ombudsman requires delegations of financial and human resource authorities from the Deputy Minister

**4. CORE VALUES****VALUES**

- 4.1** The recognized principles of ombudsmanry, i.e. independence, impartiality, fairness, and confidentiality are necessary benchmarks for the effective and credible operation of the office of the Ombudsman.
- 4.2** The authorities for which the Deputy Minister is responsible by law, must be exercised by all persons who have delegated authority in accordance with legislation and policy in order to ensure effective stewardship of public resources.

**5. OPERATING PRINCIPLES****ISSUANCE OF DELEGATIONS**

- 5.1** All delegation instruments issued for the office of the Ombudsman shall be self-contained and separate from those issued for Department of National Defence.
- 5.2** The delegations shall allow for the office of the Ombudsman to have organizational independence from the Department of National Defence and the Canadian Armed Forces, and to ensure the confidentiality of constituent information.



## ANNEX B: PROPOSED DEFENCE ADMINISTRATIVE ORDER AND DIRECTIVE

**EXERCISE OF DELEGATED AUTHORITIES**

- 5.3** The office of the Ombudsman shall exercise delegated authorities in accordance with applicable legislation, policy of government-wide application, departmental policy, and collective agreements.
- 5.4** Where a prescribed departmental policy or procedure causes administrative or operational challenges for the office of the Ombudsman, the policy will be adapted to apply to the office of the Ombudsman in such a way as to ensure substantive compliance without impeding the office's independence, or compromising the confidentiality of constituent information.

**6. MONITORING AND AUDIT**

- 6.1** The Department of National Defence shall conduct periodic audits, in accordance with memorandums of understanding entered into between the Ombudsman and the Department of National Defence, of the finance and human resource files of the office of the Ombudsman in order to monitor compliance with legislation and policy and the delegations of authorities.

**7. CORRECTIVE MEASURES**

- 7.1** Where an audit finds that an employee of the office of the Ombudsman has improperly exercised delegated authorities, appropriate remedial measures shall be taken by the Ombudsman and, if required, in consultation and agreement with the Deputy Minister.
- 7.2** Any matter related to the actions or decisions of the Ombudsman shall be referred to the Governor in Council.

**8. INTERPRETATION**

- 8.1** Nothing in this DAOD shall be construed as limiting the *Ministerial Directives Respecting the Ombudsman for the Department of National Defence and the Canadian Forces*.

# ANNEX C

## EXISTING DOCUMENTS FOR APPOINTMENT AUTHORITIES

### **1. Appointment Delegation and Accountability Instrument**

The Appointment Delegation and Accountability Instrument outlines the terms and conditions for deputy heads exercising and delegating their appointment and appointment-related authorities. Pursuant to this instrument, governor-in-council appointees whose functions fall outside of a deputy head's organisation, such as the Ombudsman, must first be covered by a specific arrangement for sub-delegation between the deputy head and the Public Service Commission before receiving any sub-delegations.

### **2. Specific Arrangement for sub-delegation to members of the Canadian armed forces who are hiring managers within the deputy head's jurisdiction and to the Ombudsman for the Department of National Defence and the Canadian Armed Forces effective July 15, 2014**

### **3. Specific Arrangement for sub-delegation to members of the Canadian armed forces who are hiring managers within the deputy head's jurisdiction and to the Ombudsman for the Department of National Defence and the Canadian Armed Forces effective March 15, 2016**

This specific arrangement provides for EX-group appointments.

### **4. Letter from the Deputy Minister to the Ombudsman dated July 27, 2016 delegating EX-group appointment authorities**

## ANNEX C: EXISTING DOCUMENTS FOR APPOINTMENT AUTHORITIES

**Document 1: Appointment Delegation and Accountability Instrument**

Source: <https://www.canada.ca/en/public-service-commission/services/appointment-framework/delegation-overview/appointment-delegation-accountability-instrument.html>

## Appointment Delegation and Accountability Instrument

from the Public Service Commission to Deputy Heads

### Table of contents

- [Terms and conditions](#)
  - [Section 1—Organizational staffing system](#)
  - [Section 2—Sub-delegation](#)
  - [Section 3—Monitoring and reporting](#)
  - [Section 4—Investigation-related responsibilities](#)
  - [Section 5—Modifications to and establishment of additional terms and conditions to delegation](#)
- [Annex A—Delegated authorities](#)
- [Annex B—Persons eligible for sub-delegation](#)
- [Annex C—Attestation form](#)
- [Annex D—Reporting requirements](#)

#### Effective date

This Appointment Delegation and Accountability Instrument came into effect on April 1, 2016.

In accordance with section 15 of the [Public Service Employment Act \(PSEA\)](#), the Public Service Commission (PSC) authorizes specified deputy heads to exercise, in relation to their organization, the appointment and appointment-related authorities found in this delegation instrument ([Annex A](#)).

Deputy heads are accountable to the PSC for the application of all of the appointment and appointment-related authorities delegated to them, including those that they have sub-delegated. Deputy heads and sub-delegated persons must respect the requirements of this delegation instrument, the PSEA, other applicable statutes and regulations, the PSC's [Appointment Policy](#) as well as organizational staffing policies and the sub-delegation instrument.

## Terms and conditions

### Section 1—Organizational staffing system

Deputy heads must:

1. Establish a policy on area of selection for internal appointment processes that, at a minimum:
  - a. Provides reasonable access when advertising;
  - b. Provides reasonable access to recourse; and
  - c. Respects the lifeline provisions of employees from Veterans Affairs Canada and the National Energy Board.<sup>1</sup>

## ANNEX C: EXISTING DOCUMENTS FOR APPOINTMENT AUTHORITIES

2. Establish direction, through policy, planning or other means, on the use of advertised and non-advertised appointment processes.
3. Establish requirement(s) for sub-delegated persons to articulate, in writing, their selection decision.
4. Consult with the employer or bargaining agents with respect to organizational staffing policies upon request, or if they consider such consultations necessary or desirable.

### Section 2—Sub-delegation

Only the deputy head may sub-delegate appointment and appointment-related authorities or limit or revoke sub-delegation. In sub-delegating appointment and appointment-related authorities, deputy heads must:

1. Identify and document the appointment and appointment-related authorities being sub-delegated and to whom those authorities are being sub-delegated.
2. Establish training pre-requisites for sub-delegation.
3. Prior to sub-delegating, ensure that persons being sub-delegated:<sup>2</sup>
  - a. Have completed the required training; and
  - b. Have signed an attestation form that, at a minimum, includes the requirements found in [Annex C](#).
4. Provide, in writing, to persons being sub-delegated, the terms and conditions of sub-delegation and the appointment and appointment-related authorities being sub-delegated.
5. Ensure that sub-delegated persons are provided with the information and human resources advice and services they require to exercise their sub-delegated authorities.

Persons eligible for sub-delegation may be found in [Annex B](#).

### Section 3—Monitoring and reporting

Deputy heads must:

1. As a component of the on-going monitoring of their staffing system, assess on a cyclical basis<sup>3</sup>, adherence to the requirements established in this delegation instrument, the [PSEA](#), other applicable statutes and regulations, the [PSC's Appointment Policy](#), as well as organizational staffing policies and the sub-delegation instrument.<sup>a</sup>
2. Ensure that appropriate remedial action is taken to address any deficiencies.
3. Report to the [PSC](#) on areas identified in [Annex D](#).

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**Footnote a:** For smaller organizations, the deputy head may establish an arrangement with the [PSC](#) to do so on their behalf.

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**ANNEX C: EXISTING DOCUMENTS FOR APPOINTMENT AUTHORITIES****Section 4—Investigation-related responsibilities**

Deputy heads must:

1. Refer to the PSC:
  - a. Any matter where there is reason to believe an appointment or proposed appointment was not free from political influence or where fraud may have occurred in an appointment process; and
  - b. Any matter where there is reason to believe improper conduct affected the selection of the person appointed or proposed for appointment in an external appointment process.
2. Ensure that investigations and the process followed for corrective action and/or revocation respect the principles of procedural fairness, including:
  - a. The right to be heard;
  - b. The right to an impartial investigation;
  - c. The right to be represented; and
  - d. The right to have a decision, with reasons.
3. In circumstances involving revocation following an investigation conducted pursuant to subsection 15(3) of the PSEA, inform the person in writing of:
  - a. The effective date of the revocation and the reasons for the decision;
  - b. Whether or not they may be appointed to another position for which they are deemed to meet the essential qualifications; and
  - c. Their right to file a complaint, and the time period within which to make a complaint, to the Public Service Labour Relations and Employment Board on the ground that the revocation was unreasonable.

**Section 5—Modifications to and establishment of additional terms and conditions to delegation**

The PSC may make modifications to update specific sections of this delegation instrument, including the Annexes. Any modifications that may have an impact on the delegation of authorities will be communicated to deputy heads.

The PSC may establish additional terms and conditions on the delegation of a deputy head, including the partial or complete withdrawal of the delegated appointment and appointment-related authorities, if it concludes that there has been a contravention of the terms and conditions of this delegation instrument or an abuse or misuse of delegated or sub-delegated authorities. Additional terms and conditions related to delegation are communicated separately to the deputy heads to whom those additional terms and conditions apply.

## ANNEX C: EXISTING DOCUMENTS FOR APPOINTMENT AUTHORITIES

## Annex A—Delegated authorities

The Public Service Commission (PSC) delegates to specified deputy heads the following appointment and appointment-related authorities found in the statute and regulations mentioned below:

- [Public Service Employment Act \(PSEA\)](#);
- [Public Service Employment Regulations \(PSER\)](#); and
- [Public Service Official Languages Appointment Regulations \(PSOLAR\)](#).

These appointment and appointment-related authorities are subject to any terms and conditions that the Commission directs.

Delegated deputy heads and sub-delegated persons may make appointments only to and within their organization.

**Note:** The descriptions of the appointment and appointment-related authorities serve to explain the provision in plain language; however, should there be an issue or question regarding the provision or the authority being delegated, the wording and meaning of the [PSEA](#), [PSER](#), and [PSOLAR](#) will prevail.

### A. The following authority may not be sub-delegated and may be exercised only by the deputy head:

#### Revocation following an internal investigation

Revoke an appointment after an investigation by the deputy head	<a href="#">PSEA 15(3)</a>
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### B. The following authority may be exercised by the deputy head or may be sub-delegated to the associate deputy minister or assistant deputy minister level (or equivalent) only:

- |   |                          |
|---|--------------------------|
| <ul style="list-style-type: none"> <li>• Extend the period to become bilingual for non-imperative appointments for:             <ul style="list-style-type: none"> <li>• Extension of time to become bilingual;</li> <li>• Exceptional operational requirements;</li> <li>• Exceptional personal circumstances;</li> <li>• A physical, mental or learning impairment that hinders learning of the other official language;</li> <li>• Inability to obtain language training at public expense.</li> </ul> </li> </ul> | <a href="#">PSOLAR 7</a> |
|---|--------------------------|

## ANNEX C: EXISTING DOCUMENTS FOR APPOINTMENT AUTHORITIES

**C. The following authorities may be exercised by the deputy head and by persons to whom they have sub-delegated:****Appointments**

Make appointments on the basis of merit	PSEA 29 (1), 30
Determine whether to use an advertised or non-advertised appointment process	PSEA 33
Determine area of selection	PSEA 34
Use any assessment method considered appropriate	PSEA 36

**Preferences and priorities**

<p>Give preference, in the following order, to:</p> <ul style="list-style-type: none"> <li>• A person in receipt of a pension by reason of war service</li> <li>• A veteran or survivor of a veteran</li> <li>• A Canadian citizen</li> </ul>	PSEA 39
<p>Appoint persons with a legislative priority entitlement ahead of all others and in the following order of precedence:</p> <ul style="list-style-type: none"> <li>• A person who is released from the Canadian Forces for medical reasons attributable to service</li> <li>• A surplus employee from within the deputy head's organization</li> <li>• An employee with a leave of absence priority or the person who replaced that employee</li> <li>• A person who has been laid off</li> </ul>	PSEA 39.1, 40, 41
<p>Appoint a person with regulatory priority entitlement, in no order of precedence:</p> <ul style="list-style-type: none"> <li>• A surplus employee from another organization</li> <li>• An employee who becomes disabled</li> <li>• A member of the Royal Canadian Mounted Police (RCMP) who is discharged for medical reasons, or a member of the Reserve of the RCMP</li> <li>• A member of the Canadian Forces who is released for medical reasons</li> <li>• A person with a surviving spousal or common-law priority</li> <li>• An employee who is on a leave of absence granted as a result of the relocation of their spouse or common-law partner</li> <li>• An employee with a reinstatement priority</li> </ul>	PSEER 5, 7, 7.1, 8, 8.1, 9, 10
Decide to not apply the provisions of the PSEA that relate to appointing a person with a priority entitlement if the appointment will result in another person having a priority right	PSEA 43

## ANNEX C: EXISTING DOCUMENTS FOR APPOINTMENT AUTHORITIES

**Informal discussion, notification and notices**

Informally discuss the decision to eliminate an employee from consideration for appointment	PSEA 47
Inform persons entitled to be notified of the name of persons being considered for each appointment	PSEA 48
Fix a waiting period that meets or exceeds the minimum established by the PSC <a href="#">Appointment Policy</a>	
Inform persons entitled to be notified of the name of the persons to be appointed	
Provide notice of acting appointment	PSE 13

**Casual employment**

Appoint a person as a casual worker	PSEA 50(1)
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**Corrective action following an investigation**

Take corrective action after an investigation by the deputy head	PSEA 15(3)
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**Reappointment following revocation**

Appoint to another position a person whose appointment was revoked pursuant to: <ul style="list-style-type: none"> <li>• Subsection 15(3) after investigation by the deputy head</li> <li>• Subsection 67(2) following an investigation conducted by the Commission on behalf of the deputy head</li> <li>• Subsection 81(1) as a result of a complaint upheld by the Public Service Labour Relations and Employment Board</li> </ul>	PSEA15(6) PSEA 73 PSEA 86
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**Oaths and affirmations**

Administer oaths and receive solemn affirmations	PSEA 134
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**Annex B—Persons eligible for sub-delegation**

Deputy heads may, subject to the terms and conditions of this Appointment Delegation and Accountability Instrument (ADA), sub-delegate their delegated appointment and appointment-related authorities to the following persons:

1. Employees within their own organization, excluding casual workers appointed pursuant to subsection 50(1) of the [Public Service Employment Act](#).
2. Associate deputy ministers (or other associate deputy head titles) within their own organization.



## ANNEX C: EXISTING DOCUMENTS FOR APPOINTMENT AUTHORITIES

3. Governor in Council appointees whose functions fall within their own organization and who have both financial and human resources responsibilities.

4. Interchange Canada participants whose assignments are to positions within their own organization and who have both financial and human resources responsibilities, provided that the assignment (including any extensions) is made in accordance with Treasury Board policies.

5. Employees of another organization that is subject to the ADAI. The terms and conditions of sub-delegation applicable to such sub-delegated employees are those of the deputy head of the organization in which the appointment occurs.

**Note:** Deputy heads who wish to sub-delegate appointment and appointment-related authorities to persons other than those specified above must make a request to the Public Service Commission for a specific arrangement for sub-delegation.

## Annex C – Attestation form

I, (name of sub-delegated person), hereby attest that in exercising my sub-delegated appointment and appointment-related authorities:

I will, when establishing qualifications, ensure that individuals are not personally favoured in appointment processes.

I will consider employment equity objectives.

I will ensure that the rights of persons with a priority entitlement are respected.

I will ensure those conducting the assessment are competent and that qualifications are assessed in the official language(s) of choice of the candidate.

I will ensure the assessment is conducted in good faith, free from bias and personal favouritism, and in a manner that is supportive of an individual's right to accommodation.

I will disclose any personal relationship I may have with candidates participating in appointment processes and ensure that the nature of this association, if any, is such that a decision can be rendered in an impartial manner.

I will make appointments based on merit without undue influence from any individual, group or political body.

Signature:

Date:

\_\_\_\_\_  
(Insert: Name of sub-delegated person)

\_\_\_\_\_

## Annex D – Reporting requirements

On a yearly basis, deputy heads must report to the Public Service Commission (PSC) on:

1. The use of the [Public Service Official Languages Exclusion Approval Order](#) and the [Public Service Official Languages Appointment Regulations](#).
2. Approved deputy head exceptions to the national area of selection requirement for external advertised appointment processes.
3. The results of required organizational cyclical assessments, as well as any internal investigations, if undertaken in a given year.

Deputy heads must, in accordance with established timelines, report to the PSC on progress made by the organization to implement:

4. Recommendations following a PSC audit.
5. Corrective actions and/or revocations following a PSC investigation.

Upon notice, deputy heads must report to the PSC on:

6. Any additional areas identified by the PSC. The PSC will prescribe the report timeframe (yearly or as needed) and format for this reporting.

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## Footnotes

1. Veterans Affairs Canada headquarters employees whose substantive positions are located in Charlottetown and the National Energy Board (NEB) employees whose substantive positions are located in Calgary and who were employed in the NEB prior to July 1, 1996, must be included in any internal advertised appointment process for which employees or persons occupying positions in the National Capital Region are eligible.
  2. This applies only to sub-delegated persons with the authority to make appointments.
  3. This must be conducted every five years, at a minimum.
-

## ANNEX C: EXISTING DOCUMENTS FOR APPOINTMENT AUTHORITIES

**Document 2. Specific Arrangement for sub-delegation to members of the Canadian armed forces who are hiring managers within the deputy head's jurisdiction and to the Ombudsman for the Department of National Defence and the Canadian Armed Forces effective July 15, 2014**

Transcript of original document provided below:

APPOINTMENT DELEGATION AND ACCOUNTABILITY INSTRUMENT  
SPECIFIC ARRANGEMENT TO ALLOW SUB-DELEGATION TO MEMBERS OF THE CANADIAN  
ARMED FORCES WHO ARE HIRING MANAGERS WITHIN THE DEPUTY HEAD'S JURISDICTION  
AND  
TO THE OMBUDSMAN, DEPARTMENT OF NATIONAL DEFENCE AND CANADIAN ARMED FORCES

As of June 23, 2008, appointment and appointment related-authorities may be sub-delegated, in writing, by the Deputy Head (DH) of the Department of National Defence (DND) to members of the Canadian Armed Forces (CAF), who are hiring managers within the Deputy Head's (DH) jurisdiction.

As of July 15, 2014, the DH of DND may also sub-delegate, in writing, his/her appointment and appointment-related authorities for positions in all occupational groups to any office holder of the position of Ombudsman for the Department of National Defence and the CAF.

The following terms and conditions apply to all sub-delegations arrangements mentioned above:

1. The DH will remain accountable to the Public Service Commission (PSC) for all appointment and appointment-related decisions made by members of the CAF and the Ombudsman and by any sub-delegated persons and CAF members of the Office of the Ombudsman under these specific arrangements.
2. It is understood that members of the CAF and the Ombudsman and any sub-delegated persons and CAF members of the Office of the Ombudsman will complete the required training, as identified in the DND's sub-delegation instrument, before they may be sub-delegated appointment and appointment-related authorities.
3. The members of the CAF and the Ombudsman and any sub-delegated persons and CAF members of the Office of the Ombudsman may exercise the full range of sub-delegated appointment and appointment-related authorities, at the discretion of the DH, for positions in all occupational groups (except the Executive Group).
4. Sub-delegated authorities will be exercised in accordance with the Appointment Delegation and Accountability Instrument, the Staffing Management and Accountability Framework and any conditions, limitations and/or restrictions imposed by the PSC.
5. The organization is expected to actively monitor the use of sub-delegated authorities by the members of the CAF and the Ombudsman and by any sub-delegated persons and CAF members of the Office of the Ombudsman under this specific arrangement and to take remedial action in a timely manner when required.

**ANNEX C: EXISTING DOCUMENTS FOR APPOINTMENT AUTHORITIES****Document 3. Specific Arrangement for sub-delegation to members of the Canadian armed forces who are hiring managers within the deputy head's jurisdiction and to the Ombudsman for the Department of National Defence and the Canadian Armed Forces effective March 15, 2016**

Transcript of original document provided below:

**Public Service Commission of Canada****Specific arrangement for sub-delegation to members of the Canadian armed forces who are hiring managers within the deputy head's jurisdiction and to the Ombudsman for the Department of National Defence and Canadian Armed Forces.**

The Deputy Head of National Defence may sub-delegate his/her appointment and appointment-related authorities to members of the Canadian Armed Forces (CAF) who are hiring managers within the Deputy Head's jurisdiction and to any office holder of the Ombudsman for National Defence and CAF (the Ombudsman).

This arrangement is effective April 1, 2016, with the following terms and conditions:

- The Deputy Head of National Defence will remain accountable to the Public Service Commission (PSC) for all appointment and appointment-related decisions made by members of the CAF and the Ombudsman, as well as by any sub-delegated persons of the Office of the Ombudsman under this specific arrangement.
- It is understood that members of the CAF and the Ombudsman as well as any sub-delegated persons of the Office of Ombudsman will complete the required staffing training as identified in National Defence's sub-delegation Instrument, before they may be sub-delegated appointment and appointment-related authorities.
- Authorities will be sub-delegated and exercised in accordance with the Appointment Delegation and Accountability Instrument and any conditions, limitations and/or restrictions imposed by the PSC.
- As part of their organizational monitoring, National Defence is expected to monitor the use of sub-delegation authorities by members of the CAF and by the Ombudsman, as well as by any sub-delegation persons of the Office of the Ombudsman under this specific arrangement.

Signed in Gatineau on March 15, 2016.

Signed by Susan M.W. Cartwright, Commissioner

Signed By Daniel Tucker, Commissioner

Signed by Christine Donoghue, Acting President

## ANNEX C: EXISTING DOCUMENTS FOR APPOINTMENT AUTHORITIES

**Document 4. Letter from the Deputy Minister to the Ombudsman dated July 27, 2016 delegating EX-group appointment authorities**

Transcript of original document provided below:

National Defence  
Deputy Minister  
National Defence Headquarters  
Ottawa, Ontario  
K1A 0K2

2016 July 27

Mr. Gary Walbourne  
DND/CAF Ombudsman  
100 Metcalfe Street  
13th Floor  
Ottawa, ON K1A 0K2

Dear Mr. Walbourne,

As Deputy Minister of the Department of National Defence (DND), I am pleased to delegate the Executive (EX) appointment and appointment related authorities under the Appointment Delegation of Accountability Instrument (ADAI) between myself and the Public Service Commission of Canada (PSC) to you as the DND/CAF Ombudsman, subject to the conditions set out in the Executive (EX) Group Appointment Sub-delegation and Accountability Agreement.

Upon acceptance, and subject to the conditions described, you will be able to make appointments to the subordinate EX position(s) within your organization. The Agreement is effective on the date of signing and will remain in force until further notice.

John Forster  
Deputy Minister

ANNEX D: PROPOSED FINANCIAL MATRIX

# ANNEX D PROPOSED FINANCIAL MATRIX

**THIS INSTRUMENT MUST BE READ IN CONJUNCTION WITH THE POLICY ON DELEGATION OF AUTHORITIES FOR FINANCIAL ADMINISTRATION FOR DND AND CF (A-FN-100-002/AG-006) WHICH PROVIDES GUIDANCE ON THE INTERPRETATION AND APPLICATION OF AUTHORITIES DELEGATED THROUGH THIS MATRIX AS WELL AS IDENTIFYING ADDITIONAL RESTRICTIONS.**

OFFICE OF THE DND/CF OMBUDSMAN DELEGATION OF AUTHORITIES FOR FINANCIAL ADMINISTRATION INSTRUMENT (MATRIX)			SPENDING AUTHORITY													
			SEC 32	EXPENDITURE INITIATION AUTHORITIES												
			FAA	1	2	3	4	5	6	7	8	9	10	11	12	13
DELEGATION AUTHORITY		DM	DM	DM	M/DM	M/DM	M/DM	M/DM	M	M/DM	M/DM	M/DM	M/DM	M/DM	DM	
POSITION TITLE	AREA OF AUTHORITY	Control of Commitments— Sec 32 of FAA	Salaries & Benefits	Authority—Travel / Advance	Authority—Relocation / Advance	Foreign Service Benefits	Hospitality	Conference Attendance	Conference Sponsorship	Unused	Special Awards—Individual	Special Awards—Group	Merit Awards	Expenditure Initiation— Goods & Services		
OFFICE OF THE DND/CF OMBUDSMAN	→DND/CF Ombudsman	Own Org	F	F	F	F	R	5K	F	F		5C	1K	R	F	
	→Directors General	Own Org	F	F	R	F		1K	F			5C	1K	R	F	
	→Directors	Own Org	F	F	R	R		5C	F			5C	1K	R	F	
	→Director of Corporate Services	Own Org	F	F	R	R		5C	F			5C	1K	R	F	
	→Other RC Managers	Own Org	F	F	R			5C	F			5C	1K	R	F	
	→Legal Advisor	Own Org	F	F	R	F		1K	F			5C	1K	R	F	
	→RC Administrator	Function	R	R	R											R
	→Contracting Officer (Officers/Clerk)	Function														
DND/CF	→Payment Officers (Officers/Clerks)	Function														
	→Pay and Benefits Officers (Officers/Clerks)	Function														

ANNEX D: PROPOSED FINANCIAL MATRIX

**Notes**

1. **F**—Full authority within the limitations of the governing authorities, area of responsibility and budget, and subject to note 2.
2. **R**—Authority restricted to specific formal delegations/authorizations which can be a financial or functional limitation imposed by the superior/manager.
3. All maximum limitations indicated are general limitations and lower limitations may be designated on a local or internal basis if deemed necessary.
4. No person may exercise either payment authority or spending authority with respect to a payment from which he or she can personally benefit.
5. No incumbent of a position which is delegated signing authority by this document may re-delegate such authority to another person.
6. A full description of items contained in columns 1 through 40 is provided in Delegation of Authorities for Financial Administration for DND and CF (A-FN-100-002/AG-006).
7. Expenditure initiation gives managers the primary responsibility for initiating expenditures that will result in the eventual expenditure of funds, such as a decision to hire staff, authorize travel or order supplies or services for program purposes.

SPENDING AUTHORITY											FINANCIAL AUTHORITIES			
TRANSACTION AUTHORITY—CONTRACTING											SEC 34	PAYMENT AUTHORITY		
											FAA	SEC 33 FAA		
14	15	16	17	18	19	20	21	22	23	24	25	26	27	28
M	M	M	M	M	M	M	M	M	M	M	M	M	M	M
Procurement Initiation— Goods & Services	Goods—General	Specific Goods and Services	Services (Competitive)— General	Services (Non-competitive)— General	Services—Electronic Bidding (Gets)	Services (Competitive)— Former Public Servants	Services (Non-competitive)— Former Public Servants	Emergency Conditions	Call-up against Standing Offers	Contracts Against Supply Arrangements	Certification Authority— Sec 34 of FAA	Payment Authority— Salaries and Benefits	Payment Authority— All other	DBA Cheques
<b>R</b>	<b>25K</b>	<b>R</b>	<b>400K</b>	<b>100K</b>	<b>R</b>	<b>100K</b>	<b>25K</b>	<b>40K</b>	<b>R</b>	<b>R</b>	<b>F</b>			
<b>R</b>	<b>25K</b>		<b>100K</b>	<b>25K</b>	<b>R</b>	<b>50K</b>	<b>25K</b>	<b>40K</b>	<b>R</b>	<b>R</b>	<b>F</b>			
<b>R</b>	<b>25K</b>		<b>25K</b>	<b>25K</b>		<b>25K</b>	<b>5K</b>	<b>40K</b>	<b>R</b>	<b>R</b>	<b>F</b>			
<b>R</b>	<b>25K</b>		<b>100K</b>	<b>25K</b>	<b>R</b>	<b>50K</b>	<b>5K</b>	<b>40K</b>	<b>R</b>	<b>R</b>	<b>F</b>			
	<b>25K</b>		<b>25K</b>	<b>25K</b>		<b>25K</b>	<b>5K</b>		<b>R</b>	<b>R</b>	<b>F</b>			
<b>R</b>	<b>25K</b>		<b>100K</b>	<b>25K</b>		<b>50K</b>	<b>25K</b>	<b>40K</b>	<b>R</b>	<b>R</b>	<b>F</b>			
	<b>R</b>		<b>R</b>	<b>R</b>		<b>R</b>			<b>R</b>		<b>R</b>			
<b>R</b>	<b>R</b>	<b>R</b>	<b>100K</b>	<b>25K</b>	<b>R</b>				<b>F</b>	<b>R</b>	<b>R</b>			
													<b>R</b>	<b>R</b>
												<b>R</b>		

**C** = \$100  
**K** = \$1,000  
**M** = \$1,000,000

The authorities and thresholds listed in the chart are those that were previously or are currently granted.

Boxes highlighted in yellow represent new authorities or thresholds.

ANNEX D

ANNEX D: PROPOSED FINANCIAL MATRIX

**Notes**

- \*R—FAA Section 33 shall be exercised by Payment Officers (Officers/Clerk) and Pay and Benefit Officers (Officers/Clerks) in accordance with the supporting MOU between Ombudsman Office and DND/CF specifying that DND/CF is responsible for exercising payment authority.
- Every person in the Office of the DND/CF Ombudsman appointed to positions designated in this Matrix, including any person officially appointed on an acting basis by the incumbent’s superior in writing, is hereby granted delegated signing authority. These persons are subject to the restrictions in the notes appearing at the bottom of this Matrix and to the explanatory notes contained in Delegation of Authorities for Financial Administration for DND and CF (A- FN-100-002/AG-006) in respect of the area of authority for such positions relative to the delegated authorities, as reflected in this Matrix, including dollar limitations as and where indicated. In addition, the superior of the individual may impose further restrictions in order to meet their requirements for effective control.
- All contracting limits above represent maximum contract values, including amendments and applicable payments such as taxes, unless specifically identified in the notes and tables for each column within the policy on *Delegation of Authorities for Financial Administration for DND and CF*.
- This delegation supersedes previous versions of this document.

OFFICE OF THE DND/CF OMBUDSMAN DELEGATION OF AUTHORITIES FOR FINANCIAL ADMINISTRATION INSTRUMENT (MATRIX)		OTHER AUTHORITIES														
		29	30	31	32	33	34	35	36	37	38	39	40	41		
DELEGATION AUTHORITY		DM	DM	M	M	M	M	M	M	DM	DM	DM	M	M/DM		
POSITION TITLE	AREA OF AUTHORITY	Ex Gratia Payments	Liability Claims	Authorization Deduction / Set-off	Consent to Deduction / Set-off	Write-off of Debts	Secondments— Reduction Salary Costs	Administration & Interest Charges	Provision of Services / Reduction of Fees	Write-off of Material	Authority to Declare Material Surplus	Real Property Transactions	Minor Capital Project Expenditure Authority	Event Approval		
OFFICE OF THE DND/CF OMBUDSMAN	→DND/CF Ombudsman	Own Org	2K	100K				F	F	R	F	R		1M	25K	
	→Directors General	Own Org						F		R	500K	R		R	25K	
	→Directors	Own Org						F				R		R	25K	
	→Director of Corporate Services	Own Org						F			100K	R		R	25K	
	→Other RC Managers	Own Org						F			R	R		R	10K	
	→Legal Advisor	Own Org	2K	100K				F	R		500K	R		R	25K	
	→RC Administrator	Function														
	→Contracting Officer (Officers/Clerk)	Function														
DND/CF	→Payment Officers (Officers/Clerks)	Function														
	→Pay and Benefits Officers (Officers/Clerks)	Function														



## ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

# ANNEX E

## PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

### INSTRUMENT OF DELEGATION OF HUMAN RESOURCES AUTHORITIES FOR THE OMBUDSMAN AND THE OFFICE OF THE OMBUDSMAN FOR THE DEPARTMENT OF NATIONAL DEFENCE AND THE CANADIAN FORCES (DND/CF Ombudsman)

I, \_\_\_\_\_, Deputy Minister of National Defence, pursuant to the powers vested in me by the Financial Administration Act, the Federal Public Sector Labour Relations Act, the Public Service Employment Act, the Treasury Board Directive on Claims and Ex gratia Payments, and other related Treasury Board policies, hereby delegate the following signing authorities for civilian Public Service employees:

Section 1. Labour Relations, Human Rights, and Political Activities—dated yyyy-mm-dd

Section 2. Management of Executive Services—dated yyyy-mm-dd

Section 3. Classification—dated yyyy-dd-mm

Section 4. Compensation and Benefits—dated yyyy-mm-dd

Section 5. Employee Performance, Learning, Development and Recognition—dated yyyy-mm-dd

Section 6. Staffing—dated yyyy-mm-dd

Section 7. Workforce Adjustment—dated yyyy-mm-dd

Notes applicable to each matrix are found at the end of each matrix.

The following directions apply:

This instrument supersedes all other instruments and minutes of delegation on these matters.

Positions identified by the levels of delegation within the instrument are authorized to exercise the powers, functions and duties related to human resources activities listed therein. Any person officially appointed by the incumbent's superior in writing, in an acting capacity, would also carry authority to exercise delegation for duration of the assignment, provided he or she has undertaken the training specified as a condition of delegation. These authorities may not be sub-delegated.

By virtue of the Ministerial Directives Respecting the Ombudsman for the Department of National Defence and the Canadian Armed Forces, the Ombudsman shall be independent from the management and chain of command of the Department of National Defence and the Canadian Forces, and shall report and be accountable directly to the Minister of National Defence. The Ombudsman and managers to whom authorities have been delegated shall exercise their delegated authorities in accordance with the applicable statutes and regulations, collective agreements, terms and conditions of employment, Defence Administrative Orders and Directives, and memoranda of understanding relating to the exercise of authorities concluded by the Ombudsman and the Deputy Minister.

**Specific directions with respect to each functional area are identified at the beginning of each matrix**

\_\_\_\_\_  
Deputy Minister

\_\_\_\_\_  
Date

## ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

**SECTION 1: LABOUR RELATIONS, HUMAN RIGHTS, POLITICAL ACTIVITIES****INSTRUMENT OF DELEGATION OF LABOUR RELATIONS, HUMAN RIGHTS, AND POLITICAL ACTIVITIES AUTHORITIES FOR THE OMBUDSMAN AND THE OFFICE OF THE DND/CF OMBUDSMAN**

**PLEASE NOTE: FOR LABOUR RELATIONS, HUMAN RIGHTS, AND POLITICAL ACTIVITIES AUTHORITIES FOR EMPLOYEES OF THE EXECUTIVE GROUP, PLEASE REFER TO THE INSTRUMENT OF DELEGATION OF MANAGEMENT OF EXECUTIVE SERVICES.**

With respect to Labour Relations, Human Rights, and Political Activities authorities, the following directions apply:

**Labour Relations**

Managers in the positions identified by the delegation instrument may exercise the authorities delegated to them, after completing the training for delegated managers, and provided that the Ombudsman has authorized them in writing to do so.

**Human Rights**

The designation is given to the Director General of Legal Services for the office DND/CF Ombudsman.

This delegation includes the negotiation and payment of settlements under the *Canadian Human Rights Act* and in respect of Canadian Human Rights Tribunal orders under that Act which are not made orders of the

Federal Court, where such settlements involve complaints by civilian employees of the office of the DND/CF Ombudsman or complaints by members of the public against civilian employees of the office of the DND/CF Ombudsman, in accordance with the procedures and monetary limits set out in the *Treasury Board Directive on Claims and Ex gratia Payments*, as if the payment were a liability payment for a tort with the related funding provisions.

The Director General of Legal Services for the office of the DND/CF Ombudsman will consult with the DND/CF Legal Advisor in order to establish a margin for negotiating settlements under the *Canadian Human Rights Act*.

**Political Activities**

Designation is given to the Ombudsman to provide input and recommendations to the Public Service Commission regarding declarations of intent to engage in political activity brought forth by employees of the **office of the DND/CF Ombudsman**.

**This instrument takes effect on day/month/2017.**

ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

SECTION 1: INSTRUMENT OF DELEGATION OF LABOUR RELATIONS, HUMAN RIGHTS, AND POLITICAL ACTIVITIES							
AUTHORITIES		DEPUTY MINISTER	OMBUDSMAN	DIRECTOR GENERAL OPERATIONS	DIRECTOR GENERAL LEGAL SERVICE AND GENERAL COUNSEL	DIRECTOR CORPORATE SERVICES AND DIRECTOR COMMUNICATIONS	DIRECTORS
<b>NON-EXECUTIVE GROUPS—UNION MANAGEMENT ISSUES</b>							
<b>UNION-MANAGEMENT ISSUES—PUBLIC SERVICE LABOUR RELATIONS AND EMPLOYMENT BOARD (PSLREB) AND BARGAINING</b>							
1	Collective Bargaining—Represent departmental interests to Treasury Board and nominate bargaining team members	✓					
2	Departmental recommendations to Treasury Board for Managerial and Confidential exclusions	✓					
3	Departmental recommendations to Treasury Board for Essential Services	✓					
4	Public Service Labour Relations and Employment Board (PSLREB) Representation	✓					
<b>UNION MANAGEMENT ISSUES—GRIEVANCES AND COMPLAINTS</b>							
5	Respond to Public Service Labour Relations Act (PSLRA) grievances Final Level and National Joint Council (NJC) grievances, Final Departmental Level (Note 1)	✓	✓				
6	Respond to Public Service Labour Relations Act (PSLRA) grievances 2nd Level (Note 2)(Note 3)	✓	✓	✓	✓		
7	Respond to Public Service Labour Relations Act (PSLRA) grievances and NJC grievances at 1st Level (Note 2)(Note 3)	✓	✓	✓	✓	✓	✓
8	Receive Policy Grievances under the Public Service Labour Relations Act (PSLRA)						
9	Receive Group Grievances under the Public Service Labour Relations Act (PSLRA) (Note 4)	✓	✓	✓	✓	✓	
10	Respond to Canadian Human Rights Commission (CHRC) complaints, negotiate settlements and represent DND before the Canadian Human Rights Tribunal (CHRT) (Note 5)(Note 6)	✓	✓		✓		
11	Receive/administer and respond to harassment complaints	✓	✓		✓		

Boxes highlighted in yellow represent changes from the departmental matrix. Otherwise, the language and numbering used in the matrix above are identical to those contained within the Departmental Instrument of Delegation, including any errors, omissions, and repetitions.

## ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

AUTHORITIES		DM	OMB	DG OPS	DG LEGAL	DIR CORP SERV. + COMMS	DIR
12	Respond to the Public Service Commission regarding Staffing Complaints under the Public Service Employment Act (PSEA)	✓	✓				
13	Receive and respond to requests pursuant to section 15(3) of the Public Service Employment Act (PSEA)	✓	✓				
<b>UNION MANAGEMENT ISSUES—NATIONAL JOINT COUNCIL (NJC)</b>							
14	Act as a Departmental Liaison Officer in the National Joint Council (NJC) Grievance Procedure	✓					
15	Approve Specific Relocation Authorities	✓					
16	Provide Travel and Relocation interpretations (Note 7)	✓					
17	Grant extensions/exceptions up to \$10,000 under Travel and Relocation Directives	✓					
<b>UNION-MANAGEMENT ISSUES—USE OF EMPLOYER FACILITIES</b>							
18	Approve use of DND premises, resources, electronic networks and equipment by Bargaining Agent for union business	✓	✓	✓	✓	✓	✓
<b>UNION MANAGEMENT ISSUES—SPECIAL AUTHORITIES AND MISCELLANEOUS</b>							
19	Approve travel costs for national Union-Management Consultation Committee (UMCC) and Union-Management Human Resources Sub-Committee (UMCC HR-Sub Committee) meetings (Note 7)	✓					
20	Approve travel costs for L2 committees (Note 7)	✓	✓	✓	✓	✓	
21	Approve travel costs for L3 committees (Note 7)	✓	✓	✓	✓	✓	✓
22	Approve reimbursement for the payment of membership fees to organizations or governing bodies when the Employer is satisfied that the payment of such fees is a requirement for the continuation of the performance of the duties of the employee's position (pursuant to the collective agreement).	✓	✓	✓	✓	✓	
23	Deployment without consent, where consent not required (Note 8)	✓	✓	✓	✓	✓	
<b>LABOUR RELATIONS—DISCIPLINE</b>							
24	Written reprimand (Note 7)	✓	✓	✓	✓	✓	✓

**ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX**

AUTHORITIES		DM	OMB	DG OPS	DG LEGAL	DIR CORP SERV. + COMMS	DIR
25	Suspension or equivalent Financial Penalty for 10 days or less (Note 7)	✓	✓	✓	✓	✓	✓
26	Suspension or equivalent Financial Penalty for 11-20 days (Note 7)	✓	✓	✓	✓	✓	✓
27	Suspension or equivalent Financial Penalty for over 20 days (Note 8)	✓	✓	✓	✓		
28	Suspension without pay pending investigation (Note 8)	✓	✓				
29	Demotion or Termination of Employment for misconduct or disciplinary reasons (Note 8)	✓	✓				
<b>LABOUR RELATIONS—DEMOTION OR TERMINATION FOR OTHER REASONS</b>							
30	Termination during probation (Note 7)	✓	✓	✓	✓	✓	✓
31	Demotion or Termination of Employment for reasons of unsatisfactory performance. (Note 8)	✓	✓	✓	✓		
32	Demotion or Termination of Employment for reasons other than discipline or misconduct	✓	✓	✓	✓		
33	Accept voluntary resignations	✓	✓	✓	✓	✓	✓
<b>LABOUR RELATIONS—HOURS OF WORK</b>							
34	Authorize overtime work to be performed	✓	✓	✓	✓	✓	✓
35	Authorize core and service hours (Note 7)	✓	✓	✓	✓	✓	✓
36	Authorize flexible or variable hours of work (Note 7)	✓	✓	✓	✓	✓	✓
37	Authorize Summer and Winter hours	✓	✓	✓	✓	✓	✓
38	Authorize shift schedules	✓	✓	✓	✓	✓	✓

**ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX**

<b>AUTHORITIES</b>		<b>DM</b>	<b>OMB</b>	<b>DG OPS</b>	<b>DG LEGAL</b>	<b>DIR CORP SERV. + COMMS</b>	<b>DIR</b>
39	Authorize changes to a posted shift schedule	✓	✓	✓	✓	✓	✓
40	Authorize Compressed Hours	✓	✓	✓	✓	✓	✓
41	Authorize mutual shift exchange	✓	✓	✓	✓	✓	✓
42	Authorize an employee to work on a designated paid holiday	✓	✓	✓	✓	✓	✓
43	Approve schedules of hours of work requiring employees to be on standby	✓	✓	✓	✓	✓	✓
44	Authorize employees on standby to report for work	✓	✓	✓	✓	✓	✓
45	Authorize the recall of an employee back to work	✓	✓	✓	✓	✓	✓
<b>LABOUR RELATIONS—LEAVE—VACATION AND COMPENSATORY</b>							
46	Grant compensatory leave for overtime worked	✓	✓	✓	✓	✓	✓
47	Grant/cancel vacation leave (including furlough leave) (Note 7 [cancellation only])	✓	✓	✓	✓	✓	✓
48	Recall from vacation leave (Note 7)	✓	✓	✓	✓	✓	✓
49	Authorize cash payment for unused vacation leave credits (if permitted by Collective Agreement)	✓	✓	✓	✓	✓	✓
50	Authorize vacation leave carry over (if permitted by Collective Agreement)	✓	✓	✓	✓	✓	✓
<b>LABOUR RELATIONS—LEAVE—SICK/INJURY ON DUTY LEAVE</b>							
51	Authorize sick leave with pay up to extent of credits	✓	✓	✓	✓	✓	✓
52	Authorize advance of sick leave with pay up to maximum specified in the Collective Agreement	✓	✓	✓	✓	✓	✓

**ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX**

AUTHORITIES		DM	OMB	DG OPS	DG LEGAL	DIR CORP SERV. + COMMS	DIR
53	Authorize sick leave without pay	✓	✓	✓	✓	✓	✓
54	Injury on duty up to one hundred and thirty (130) working days inclusive	✓	✓	✓	✓	✓	✓
55	Injury on duty over one hundred and thirty (130) working days	✓	✓	✓	✓	✓	✓
<b>LABOUR RELATIONS—LEAVE—MILITARY</b>							
56	Leave Without pay—To Reserve Forces member to drill, train or for call out for service pursuant to Section 33 of NDA	✓	✓	✓	✓	✓	✓
57	Leave Without Pay—To Reserve Forces member to take a course for purpose of qualifying for higher rank	✓	✓	✓	✓	✓	✓
58	Leave Without Pay—Up to three (3) years when called out for full-time military service	✓	✓				
59	Leave With or Without Pay—For service with reserve forces	✓	✓	✓	✓	✓	✓
<b>LABOUR RELATIONS—LEAVE—WITH PAY (VARIOUS)</b>							
60	Leave With Pay—Personnel Selection	✓	✓	✓	✓	✓	✓
61	Leave With Pay—Court Leave	✓	✓	✓	✓	✓	✓
62	Leave With Pay—Leave for union business under collective agreements	✓	✓	✓	✓	✓	✓
63	Leave With Pay—Leave for training for participation in international sporting event	✓	✓				
64	Leave With Pay—Employee's services required by commission, international organization or CIDA	✓	✓	✓	✓	✓	✓
65	Leave With Pay—Veteran requested to report to Veterans Affairs or Canada Pension Commission	✓	✓	✓	✓	✓	✓
66	Leave With Pay—To participate in PSLREB complaint process pursuant to PSEA	✓	✓	✓	✓	✓	✓

## ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

AUTHORITIES		DM	OMB	DG OPS	DG LEGAL	DIR CORP SERV. + COMMS	DIR
67	Leave With Pay—Bereavement Leave (including extensions and special circumstances)	✓	✓	✓	✓	✓	✓
68	Leave With Pay—Family related responsibilities	✓	✓	✓	✓	✓	✓
69	Leave With Pay—Marriage Leave	✓	✓	✓	✓	✓	✓
70	Leave With Pay—Management Leave with Pay (non EX e.g. PE 06, AS 08)	✓	✓				
71	Leave With Pay—Personal Leave Day	✓	✓	✓	✓	✓	✓
72	Leave With Pay—Volunteer Day	✓	✓	✓	✓	✓	✓
73	Leave With Pay—To take a course or sick leave from an isolated post (including travel to and from the isolated post)	✓	✓	✓	✓	✓	✓
74	Leave With Pay—Quarantine Leave (SH group only)	✓	✓	✓	✓	✓	✓
75	Paid Time Off Work—voting: federal, provincial, territorial or municipal elections	✓	✓	✓	✓	✓	✓
76	Paid Time Off Work—for base or unit closures for adverse climatic or environmental conditions	✓	✓	✓	✓		
77	Paid Time Off Work—personal medical/dental appointments	✓	✓	✓	✓	✓	✓
78	Leave with Pay for Other Reasons (other than those specified in the applicable collective agreement, or when circumstances not directly attributable to the employee prevent reporting for duty) (Note 7)	✓	✓	✓	✓	✓	✓
<b>LABOUR RELATIONS—LEAVE—WITHOUT PAY (VARIOUS)</b>							
79	Leave Without Pay—Education Group (ED-LAT) Summer Leave (to be taken following a period of annual leave)	✓	✓	✓	✓	✓	✓
80	Leave Without Pay—Maternity / Parental Leave	✓	✓	✓	✓	✓	✓
81	Leave Without Pay—Personal needs leave	✓	✓	✓	✓	✓	✓



**ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX**

AUTHORITIES		DM	OMB	DG OPS	DG LEGAL	DIR CORP SERV. + COMMS	DIR
82	Leave Without Pay—For the care of family (Note 7)	✓	✓	✓	✓	✓	✓
83	Leave Without Pay—Relocation of spouse	✓	✓	✓	✓	✓	✓
84	Leave Without Pay—Employment Outside the Public Service—Grant leave outside the Public Service for a fixed term	✓	✓	✓	✓		
85	Leave Without Pay—Full time union duties	✓					
86	Leave Without Pay—Union business or activities under the Public Service Labour Relations Act	✓	✓	✓	✓	✓	✓
87	Leave without Pay for Other Reasons (other than those specified in the applicable collective agreement, or when circumstances not directly attributable to the employee prevent reporting for duty)	✓	✓	✓	✓	✓	✓
88	Grant career or professional development leave	✓	✓	✓	✓	✓	✓
<b>CAREER/PROFESSIONAL DEVELOPMENT—LEAVE—EDUCATION (WITH OR WITHOUT PAY)</b>							
89	Grant University Teaching (UT) group sabbatical leave without pay with an allowance in lieu of pay of up to 100% of the annual rate of pay (Note 9)	✓					
90	Grant Examination Leave	✓	✓	✓	✓	✓	✓
91	Leave Without Pay—Education Group (ED) Education Leave with an allowance in lieu of salary from 50% up to 100% of the annual rate of pay (Note 9)	✓	✓				
92	Leave Without Pay—Education leave with an allowance in lieu of salary of up to 100% of the annual rate of pay—funded (\$) by ADM (HR-Civ) (Note 9)	✓					
92	Leave Without Pay—Education leave with an allowance in lieu of salary of up to 100% of the annual rate of pay—funded (\$) by others (Note 9)	✓	✓				
93	Leave Without Pay—Education leave without an allowance in lieu of salary for up to twelve months	✓	✓	✓	✓	✓	✓
<b>POLITICAL ACTIVITIES</b>							
94	Provide Executive input and recommend to the Public Service Commission that permission, and leave if required, be granted to seek nomination as or be a candidate in a municipal office	✓					

## ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

	<b>AUTHORITIES</b>	<b>DM</b>	<b>OMB</b>	<b>DG OPS</b>	<b>DG LEGAL</b>	<b>DIR CORP SERV. + COMMS</b>	<b>DIR</b>
95	Provide Executive input and recommend to the Public Service Commission that leave be granted to seek nomination as or be a candidate in a provincial or territorial office	✓					
96	Provide Executive input and recommend to the Public Service Commission that leave be granted to seek nomination as or be a candidate in a federal office	✓					
97	Leave Without Pay—Seek nomination as a candidate and/or stand for election for municipal, federal, provincial or territorial election (Note 10)	✓	✓	✓	✓	✓	✓
98	Leave Without Pay—to serve the term of full-time municipal office (if required by the Public Service Commission)	✓	✓	✓	✓		
99	Leave Without Pay—To work in the office of a minister, a minister of State, a secretary of State or a member of Parliament	✓	✓	✓	✓		
100	Respond to the Public Service Commission regarding Political Activities under the Public Service Employment Act (PSEA)	✓					
<b>LABOUR RELATIONS—SPECIAL WORKING ARRANGEMENTS</b>							
101	Authorize telework	✓	✓	✓	✓	✓	✓
102	Authorize Self-funded leave (Note 7)	✓	✓	✓	✓	✓	✓
103	Authorize Leave with Income Averaging (Note 7)	✓	✓	✓	✓	✓	✓
104	Authorize Pre-Retirement Transition Leave (Note 7)	✓	✓	✓	✓	✓	✓
<b>LABOUR RELATIONS—PAY RELATED</b>							
105	Authorize stopping pay for unauthorized absence	✓	✓	✓	✓	✓	✓
106	Authorize acting pay	✓	✓	✓	✓	✓	✓
107	Approve duty related allowances under the collective agreement (e.g. dirty work allowance) (Note 11)	✓	✓	✓	✓	✓	✓

## ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

**Notes**

1. The DND/CF Ombudsman is designated as the final level in the grievance process, except in grievances related to the Ombudsman's own actions or decisions. A separate designation will apply in such instances.
2. Where a grievance is filed by an employee reporting to a Director or Director General, the first and second step responses move to the next higher management level of supervision.
3. A grievance alleging discrimination under the Canadian Human Rights Act (CHRA) or harassment requires consultation with the Director General of Legal Services, who is the Harassment Advisor and has been designated to deal with human rights complaints.
4. Consultation with Director General Workplace Management (DGWM) must take place prior to arriving at a final decision.
5. Record and report all payments to the Public Accounts. The report should be submitted to Director Budget for consolidation in the same section of the Public Accounts as Payment of Damage Claims.
6. This designation is given to the Director General Legal Services for the office of the DND/CF Ombudsman, who will consult with the DND/CF Legal Advisor with respect to quantum of damages in order to establish a margin for negotiating settlements.
7. Managers with delegated authorities shall consult with the civilian Human Resource Officer for the office of the DND/CF Ombudsman.
8. DGWM shall be consulted prior to arriving at a final decision.
9. This instrument identifies the delegated authorities for the leave portions only; the allowances are to be authorized by the delegated financial authorities.
10. Only after the Public Service Commission has granted permission.
11. Supervisor must be excluded to exercise delegation.

**ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX****SECTION 2: MANAGEMENT OF EXECUTIVE SERVICES****INSTRUMENT OF DELEGATION OF MANAGEMENT OF EXECUTIVE SERVICES FOR THE OMBUDSMAN AND THE OFFICE OF THE DND/CF OMBUDSMAN****STAFFING**

This section of the Instrument of Delegation of Human Resources Authorities for the Ombudsman and the Office of the Ombudsman for the Department of National Defence and the Canadian Armed Forces is to be read in conjunction with the Appointment Delegation and Accountability Instrument (the instrument of delegation from the Public Service Commission to Deputy Heads (ADAI)) and the following directions.

The Ombudsman is a Governor-in-Council appointee whose functions fall outside of the Deputy Minister's organization. Accordingly, the Deputy Minister requires a specific arrangement for sub-delegation with the Public Service Commission (PSC) permitting sub-delegation to the Ombudsman.

**HUMAN RIGHTS**

The designation to respond to Canadian Human Rights Commission (CHRC) complaints from persons occupying an EX-appointment is given to the Director General of Legal Services for the office of the DND/CF Ombudsman. This delegation includes the negotiation and payment of settlements under the *Canadian Human Rights Act* in keeping with the grievances and complaints delegation for non-EX-appointments.

**ACCOUNTABILITY, CORRECTIVE ACTION, INVESTIGATION, AND REVOCATION OF APPOINTMENTS**

The Ombudsman, the Director General Operations, and the Director General Legal Services are subject to and must exercise their authorities in accordance with the *Appointment Sub-delegation and Accountability Instrument* between the Ombudsman and the Deputy Minister, including any memorandum of understanding referenced therein.

**This instrument takes effect on day/month/2017.**

ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

SECTION 2: INSTRUMENT OF DELEGATION OF EXECUTIVE MANAGEMENT AUTHORITIES						
AUTHORITIES	DEPUTY MINISTER	OMBUDSMAN	DIRECTOR GENERAL OPERATIONS	DIRECTOR GENERAL LEGAL SERVICE AND GENERAL COUNSEL	DIRECTOR CORPORATE SERVICES AND DIRECTOR COMMUNICATIONS	DIRECTORS
EXECUTIVE GROUP (EX)						
ORGANIZATION AND CLASSIFICATION (REFERENCE: DIRECTIVE ON EXECUTIVE (EX) GROUP ORGANIZATION AND CLASSIFICATION, S 5:12-5:13)						
1 Authorize organizational changes	✓					
2 Authorize increases to departmental EX-04 and EX-05 as well as DS-08 baseline that will affect subordinate positions						
3 Authorize classification decisions for positions at EX-1 to EX-5 levels (\$) as well as DS-07a, DS-07b, DS-08	✓					
4 Authorize classification decisions for positions at the EX-1 to EX-3 levels (\$)	✓					
5 Authorize administrative classification actions that have no impact on the evaluation or the reporting relationship for positions at the EX-4 and EX-5 as well as DS-08 level	✓					
6 Authorize administrative classification actions and the creation of positions utilized for pay purposes less than 4 months, that have no impact on the evaluation or the reporting relationship for positions at the EX-1 to EX-3 levels as well as DS_07a and DS-07b	✓					
7 Respond to a classification grievance						
STAFFING (REFERENCE: APPOINTMENT DELEGATION AND ACCOUNTABILITY INSTRUMENT (ADAI) AND DIRECTIVE ON EXECUTIVE COMPENSATION, APPENDIX B & E)						
8 Authorize appointments to or within the Executive Group (\$)	✓	✓				
9 Authorize deployments	✓	✓				
10 To make a non-consensual deployment following an investigation and a finding of harassment	✓					
11 To consider and appoint to the EX level, in priority to others, a person with the following type of priority: departmental surplus, leave of absence; lay-off; surplus; employee who becomes disabled; member of the Canadian Forces or the RCMP who is medically released or discharged; relocation of spouses; reinstatement	✓	✓				

Boxes highlighted in yellow represent changes from the departmental matrix. Otherwise, the language and numbering used in the matrix above are identical to those contained within the Departmental Instrument of Delegation, including any errors, omissions, and repetitions.

## ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

	<b>AUTHORITIES</b>	<b>DM</b>	<b>OMB</b>	<b>DG OPS</b>	<b>DG LEGAL</b>	<b>DIR CORP SERV. + COMMS</b>	<b>DIR</b>
12	To appoint a person (in preference to all priorities) to the EX level in order to avoid a situation in which that person would become a priority	✓					
13	Authorize appointments resulting from the reclassification of positions within the EX Group at the EX-1 to EX-3 levels (\$)	✓					
14	Authorize appointments of Executives referred by the Public Service Commission at the EX-1 to EX-3 levels from pre-qualified pools (PQP) established by the Public Service Commission (\$)	✓					
15	Authorize interdepartmental secondments (\$)	✓	✓				
16	Authorize assignments of Executives within DND	✓					
17	Authorize acting assignments for Executive Group employees within the EX Group where acting assignments are longer than three (3) months and up to one (1) year	✓					
18	Authorize acting assignments for Executive Group employees within the EX Group where acting assignments are longer than one (1) year (Directive on Executive Compensation, Appendix B, s. 8.5)	✓					
19	Authorize acting appointments of non- Executive employees in EX Group positions where the acting is for four (4) months or less	✓	✓	✓	✓		
20	Authorize acting appointments of non- Executive employees in EX Group positions where the acting appointment is over four (4) months	✓					
21	Appoint a person as an EX-level casual worker, or authorize recruitment and appointment of former Public Service Executives for periods of casual employment (\$)	✓					
22	Authorize Interchange Canada assignments for up to three (3) years (\$)	✓					
23	Authorize an extension of Interchange Canada assignment of up to an additional two (2) years beyond the three consecutive years (\$)	✓					
24	Authorize international assignments for Executive Group employees (\$)	✓					
25	Authorize Special Deployments (Directive on EX Compensation, Appendix E, s. 3)	✓					
26	Authorize an extension of a special deployment up to one additional year for a maximum of three years in total. (Directive on EX Compensation, Appendix E, s. 6)	✓					

ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

AUTHORITIES		DM	OMB	DG OPS	DG LEGAL	DIR CORP SERV. + COMMS	DIR
27	Authorize increase in special deployment quotas if warranted by exceptional circumstances (Directive on EX Compensation, Appendix E, s. 10.2)						
<b>OFFICIAL LANGUAGES</b>							
28	Authorize non-imperative bilingual staffing	✓					
29	Authorize the extension of the two-year period referred to in an agreement to become bilingual for one or more additional periods, not to exceed two years	✓					
<b>GRIEVANCES AND COMPLAINTS</b>							
30	Respond to Public Service Labour Relations Act (PSLRA) grievances Final Level (Note 1)	✓	✓				
31	Respond to Public Service Labour Relations Act (PSLRA) grievances 2nd Level (Note 2)	✓	✓	✓	✓		
32	Respond to Public Service Labour Relations Act (PSLRA) grievances at 1st Level (Note 2)	✓	✓	✓	✓		
33	Respond to Canadian Human Rights Commission (CHRC) complaints, negotiate settlements and represent DND before the Canadian Human Rights Tribunal (CHRT) (Note 3)	✓	✓		✓		
34	Receive/administer and respond to harassment complaints	✓	✓		✓		
<b>INVESTIGATIONS AND REVOCATION OF APPOINTMENTS</b>							
35	With the advice of DGWM, to determine whether to investigate or not, or to refer the matter to the Public Service Commission	✓					
36	To revoke a delegated internal appointment and take corrective action	✓					
37	To appoint to another EX-level position a person whose appointment was revoked by the DM following investigation	✓					
38	To appoint to another EX-level position a person whose appointment was revoked under sections 66 (external processes), sub-section 67(1) (non-delegated internal processes), section 68 (political influence), an/or section 69 (fraud)	✓					
39	To appoint to another EX-level position a person whose appointment was revoked as a result of corrective action taken further to a complaint upheld by the Public Service Labour Relations and Employment Board	✓					
40	Receive and respond to requests pursuant to section 15(3) of the Public Service Employment Act (PSEA)	✓					

## ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

AUTHORITIES		DM	OMB	DG OPS	DG LEGAL	DIR CORP SERV. + COMMS	DIR
<b>LEAVE (REFERENCE: DIRECTIVE ON EX COMPENSATION, APPENDIX C, SECTIONS 4-14)</b>							
<b>PERSONAL LEAVE</b>							
41	Authorize a day of Leave with pay per year for reasons of a personal nature (s. 4.1)	✓	✓	✓	✓		
<b>VACATION LEAVE</b>							
42	Authorize vacation leave (s. 5)	✓	✓	✓	✓		
43	Authorize accumulation of vacation leave credits at the same rate as the executive had prior to joining the core public administration provided they were entitled to vacation leave credits greater than 1 2/3 per month (4 weeks per year) and that they do not exceed 2.5 days per month or 6 weeks a year. (s. 5.2.4.b-c)	✓					
44	Approve carry-over of one (1) year's entitlement of vacation leave (s. 5.3.2 c)	✓	✓	✓	✓		
45	Authorize the voluntary cash-out of accumulated vacation leave (s. 5.4.3)	✓	✓				
<b>SICK LEAVE WITH PAY</b>							
46	Authorize sick leave (s. 6.2)	✓	✓	✓	✓		
47	Authorize an advance of up to 130 days non recoverable Sick leave (s. 6.3)	✓					
48	Authorize a credit of 25 days of sick leave for executives recruited from organizations other than those included in the definition of service in Appendix A to the Directive on Executive Compensation. (s. 6.5)	✓					
49	Authorize an advance of sick leave credits for a period of up to 25 days when an executive has insufficient or no credits to cover the granting of sick leave. (s. 6.6)	✓					
<b>FAMILY RELATED RESPONSIBILITIES</b>							
50	Authorize Leave with pay (discretionary) for family related responsibilities up to 5 days total per fiscal year (Sick family member, birth or adoption, taking family member to medical/dental appointments) (s. 7.1)	✓	✓	✓	✓		
51	Authorize maternity and parental leave without pay (mandatory) (s. 7.2)	✓	✓	✓	✓		
52	Authorize maternity leave without pay and allowance (mandatory) (s. 7.3)	✓	✓	✓	✓		
53	Authorize parental leave without pay and allowance (mandatory) (s. 7.4)	✓	✓	✓	✓		



**ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX**

AUTHORITIES		DM	OMB	DG OPS	DG LEGAL	DIR CORP SERV. + COMMS	DIR
<b>CARE OF FAMILY LEAVE</b>							
54	Authorize leave without pay (mandatory) for care of family (s. 8)	✓	✓	✓	✓		
<b>COURT LEAVE</b>							
55	Authorize court leave with pay (mandatory) (s. 9: Jury duty, or summoned or subpoenaed witness)	✓	✓	✓	✓		
<b>EXCEPTIONAL LEAVE WITH PAY</b>							
56	Authorize exceptional leave with pay (discretionary) for any reason not otherwise specified, up to five (5) days per year (s. 10.1): examples are marriage & volunteering, but clause is not limited to these)	✓	✓				
57	Authorize exceptional leave with pay (discretionary) for any reason not otherwise specified, more than five (5) days per year (\$) (s.10.2)	✓					
<b>BEREAVEMENT LEAVE</b>							
58	Authorize leave with pay for bereavement of a duration considered appropriate by the delegated manager (s. 11)	✓	✓	✓	✓		
<b>SPECIAL LEAVE WITHOUT PAY</b>							
59	Authorize Special leave without pay (discretionary) for any purpose not otherwise specified in the directive (s. 12: examples are assignment with an international organization or appointment in a Minister's office)	✓					
<b>EDUCATION LEAVE WITHOUT PAY</b>							
60	Authorize education leave without pay with or without an allowance in lieu of salary for a period of up to one (1) year to pursue learning activities (Directive on EX Compensation, s. 13.1-13.2)	✓					
<b>RELOCATION OF SPOUSE OR COMMON-LAW PARTNER</b>							
61	Authorize leave without pay (mandatory) for up to one year if the executive's spouse or common-law partner is permanently relocated, and up to five years if the spouse or common law partner is temporarily relocated. (s. 14)	✓	✓	✓	✓		
<b>MISCELLANEOUS LEAVE</b>							
62	Authorize leave for members of the Executive Group under the Pre-Retirement Transition Leave policy	✓	✓				
63	Authorize leave under the Self-funded Leave and Leave with Income Averaging policies	✓	✓	✓	✓		
64	Authorize payment of the employer's share of pension contributions for Executive employees on leave without pay	✓					
65	Authorize Leave without pay for surplus Executives to bridge service to a pension qualification threshold	✓					

## ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

AUTHORITIES		DM	OMB	DG OPS	DG LEGAL	DIR CORP SERV. + COMMS	DIR
<b>TRAINING</b>							
66	Authorize training for members of the Executive Group (\$)	✓	✓	✓	✓		
67	Authorize attendance by Executives at national or international events for which there is a departmental nomination process (e.g. NATO, CF College, National Security Studies Seminars)	✓					
<b>PAY (REFERENCE: DIRECTIVE ON EXECUTIVE COMPENSATION , APPENDIX B, S. 2.5 TO 10)</b>							
<b>SALARY</b>							
68	Authorize salary on appointment within the applicable salary range for persons recruited to executive positions from outside the public service (s. 5.1.1)	✓	✓	✓	✓		
69	Authorize a one-time lump sum payment in exceptional circumstances, to facilitate recruitment and retention of executives from outside the public service, where a person's previous salary exceeds the salary maximum of the executive position (s. 5.1.2)	✓					
70	Authorize an increase in salary of up to 10% of the salary maximum in exceptional circumstances with respect to the following situations: appointment to an EX position from other occupational groups (s. 5.2.2), appointment to a higher EX position (s. 5.3.2), an executive acting in an executive position (s. 8.6.2), a non-executive acting in an executive position (s. 10.2.b)	✓					
71	Authorize an increase in salary of up to 5% of the salary maximum of the executive position in cases of employer-requested appointments or deployments involving relocation within Canada (s. 5.4.2)	✓					
72	Authorize paying an EX-04 or EX-05 at his/her personal classification level when appointing him/her to an EX Group position at a different level. (s. 5.5.1)	✓					
73	Authorize that the duties of an executive's second position for which salary comes from the Consolidated Revenue Fund does not impair an executive's effectiveness in his/her regular position (s. 2.5)	✓					
<b>PENSIONS AND INSURANCE</b>							
74	Authorize Deduction and Set-Off (including overpayments) pursuant to Subsection 155(1) of the FAA						
75	Consent to Deduction and Set-Off pursuant to Subsection 155(4) of the FAA						
76	Pensions and Insurances—certify that employment with an outside organization will be of advantage to DND and approve the continued payment of the Employer's share of Superannuation and insurances						
77	Authority to petition for insurance coverage						
78	Authority to recommend waivers of reductions in annual allowances in cases involving lay-off						

**ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX**

	<b>AUTHORITIES</b>	<b>DM</b>	<b>OMB</b>	<b>DG OPS</b>	<b>DG LEGAL</b>	<b>DIR CORP SERV. + COMMS</b>	<b>DIR</b>
79	Authority to recommend the protection of an employee's retirement month/year for indexing purposes requires a TB submission						
80	Authority to confirm that completed Naming, Substitution or Cancellation of a Beneficiary for the Supplementary Death Benefit were completed prior to an employee/s death						
<b>FOREIGN SERVICES DIRECTIVES</b>							
81	All provisions under the FSD						
82	Authority to grant extensions/exceptions up to \$10,000 under the Foreign Services Directive (Note 3)	✓					
<b>TRAVEL AND RELOCATION</b>							
83	Approve specific relocation authorities	✓					
84	Provide travel and relocation interpretations	✓					
85	Grant extensions/exceptions up to \$10,000 under the Travel and Relocation Directives (Note 3)	✓					
<b>ISOLATED POSTS AND GOVERNMENT HOUSING DIRECTIVE</b>							
86	All provisions under the Isolated Posts and Government Housing Directive		✓	✓	✓		
87	Authority to grant extensions/exceptions up to \$10,000 under the Isolated Posts and Government Housing Directive	✓					
<b>PERFORMANCE AWARDS (REFERENCE: DIRECTIVE ON PERFORMANCE MANAGEMENT PROGRAM (PMP) FOR EXECUTIVES</b>							
88	Authorize Performance Management Program Letter of Attestation (s. 5.4.2)	✓					
89	Authorize performance awards (s. 5.6.1)	✓					
90	Approve performance awards for executives who are declared surplus and leave the corepublic administration prior to April 1st (s. 11.9)	✓					
<b>POLITICAL ACTIVITIES</b>							
91	Recommend to the Public Service Commission that permission, and leave if required, be granted to seek nomination as or be a candidate in a municipal office	✓					

## ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

	<b>AUTHORITIES</b>	<b>DM</b>	<b>OMB</b>	<b>DG OPS</b>	<b>DG LEGAL</b>	<b>DIR CORP SERV. + COMMS</b>	<b>DIR</b>
92	Recommend to the Public Service Commission that leave be granted to seek nomination as or be a candidate in a provincial or territorial office	✓					
93	Recommend to the Public Service Commission that leave be granted to seek nomination as or be a candidate in a federal office	✓					
94	Leave Without Pay—Seek nomination as a candidate and/or stand for election for municipal, federal, provincial or territorial election (Note 4)	✓	✓	✓	✓		
95	Leave Without Pay—to serve the term of fulltime municipal office (if required by the Public Service Commission)	✓	✓	✓	✓		
96	Leave Without Pay—To work in the office of a minister, a minister of State, a secretary of State or a member of Parliament	✓					
97	Respond to the Public Service Commission regarding Political Activities under the Public Service Employment Act (PSEA)	✓					
<b>DISCIPLINE</b>							
98	Issue a written reprimand	✓	✓	✓	✓		
99	Authorize suspension or equivalent Financial Penalty for 10 days or less	✓	✓				
100	Authorize suspension or equivalent Financial Penalty for 11-20 days	✓	✓				
101	Authorize suspension during an investigation	✓	✓				
102	Authorize demotion or Termination of Employment for misconduct or disciplinary reasons	✓	✓				
<b>DEMOTION OR TERMINATION FOR OTHER REASONS</b>							
103	Accept voluntary resignations	✓	✓				
104	Authorize demotion or Termination of Employment for reasons other than discipline or misconduct	✓					
105	Authorize demotion or Termination of Employment for reasons of unsatisfactory performance	✓					

ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

AUTHORITIES		DM	OMB	DG OPS	DG LEGAL	DIR CORP SERV. + COMMS	DIR
106	Authorize termination during probation	✓					
<b>CAREER TRANSITION (REFERENCE: DIRECTIVE ON CAREER TRANSITION FOR EXECUTIVES)</b>							
107	Authorize or rescind surplus or affected status for members of the Executive Group	✓					
108	Authorize lay-off of surplus Executives	✓					
109	Authorize executive career transition agreements negotiated with an executive (s. 5.1)	✓					

**Notes**

1. The DND/CF Ombudsman is designated as the final level in the grievance process, except in grievances related to the Ombudsman's own actions or decisions. A separate designation will apply in such instances.
2. Where a grievance is filed by an employee reporting to a Director or Director General, the first and second step responses move to the next higher management level of supervision.
3. This designation is given to the Director General Legal Services for the office of the DND/CF Ombudsman, who will consult with the DND/CF Legal Advisor with respect to quantum of damages in order to establish a margin for negotiating settlements.
4. Only after the Public Service Commission has granted permission.

### SECTION 3: CLASSIFICATION

#### **INSTRUMENT OF DELEGATION OF CLASSIFICATION AUTHORITIES FOR THE OMBUDSMAN AND THE OFFICE OF THE DND/CF OMBUDSMAN**

The Director General, Workplace Management (DGWM) has been sub-delegated to issue classification grievance decisions for civilian employees of the Department of National Defence, including employees of the office of the DND/CF Ombudsman, in accordance with the Treasury Board *Directive on Classification Grievances*.

Because of the mandate and structure of the office of the DND/CF Ombudsman, generic job descriptions and classification levels used by the Department of National Defence may not always be appropriate for the office of the DND/CF Ombudsman. Where an employee of the office of the DND/CF Ombudsman submits a classification grievance, DGWM shall consult with and seek input from the Ombudsman prior to making a classification grievance decision.

Input from the Ombudsman may include information regarding the impact of a potential classification grievance decision on:

- positions within the office of the DND/CF Ombudsman; and
- program management within the office of the DND/CF Ombudsman.

This instrument takes effect on day/month/2017.

ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

SECTION 3: INSTRUMENT OF DELEGATION OF CLASSIFICATION AUTHORITIES						
AUTHORITIES	DEPUTY MINISTER	OMBUDSMAN	DIRECTOR GENERAL OPERATIONS	DIRECTOR GENERAL LEGAL SERVICE AND GENERAL COUNSEL	DIRECTOR CORPORATE SERVICES AND DIRECTOR COMMUNICATIONS	DIRECTORS
<b>NON-EXECUTIVE GROUPS—CLASSIFICATION</b>						
<b>ORGANIZATION AND POSITION ADMINISTRATION</b>						
1	Authorize organizational changes and sign organization charts for subordinate groups and levels (VCDS/DFPPC authorizes DND Organizations—IAW CFP 219)	✓	✓			
2	Authorize organizational changes and sign organization charts for subordinate groups and levels for which the authorizing officer has Salary Wage Expenditure (SWE) authority (VCDS/DFPPC authorizes DND Organizations—IAW CFP 219)	✓	✓	✓	✓	✓
3	Authorize Deputy Directed classification decisions in exceptional circumstances	✓				
4	Authorize work description content	✓	✓	✓	✓	✓
5	Authorize creation/deletion of positions	✓	✓	✓	✓	✓
<b>CLASSIFICATION AND POSITION ADMINISTRATION</b>						
6	Authorize classification decision for all positions for which the Department has delegated authority	✓				
7	Authorize classification decisions for “identical to” positions as per the Classification Guideline- Delegation of “Identical to” Classification Authority (Annex A)	✓				
8	Authorize change in reporting relationship, reactivation of an inactive position, change in title, change in Dept. ID/Section ID, change of position status (FROZEN) or abolishment of position when no impact is identified	✓				
9	Financial authority (\$)—Authorize retroactivity of “Position’s effective Date of Duties” up to eighteen (18) months	✓	✓	✓	✓	✓
10	Financial authority (\$)—Authorize retroactivity of “position’s Effective Date of Duties” beyond eighteen (18) months	✓	✓	✓	✓	✓
11	Authorize request for a Manager’s Appeal	✓	✓	✓	✓	✓

Boxes highlighted in yellow represent changes from the departmental matrix. Otherwise, the language and numbering used in the matrix above are identical to those contained within the Departmental Instrument of Delegation, including any errors, omissions, and repetitions.

## ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

AUTHORITIES		DM	OMB	DG OPS	DG LEGAL	DIR CORP SERV. + COMMS	DIR
<b>CLASSIFICATION REDRESS</b>							
12	Authorize classification decision from a Manager's Appeal	✓					
13	Approve receivability of a classification grievance	✓					
14	Authorize classification recommendation from a grievance review committee	✓					
15	Respond to a classification grievance	✓					



ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

SECTION 4: INSTRUMENT OF DELEGATION OF COMPENSATION AND BENEFITS AUTHORITIES							
AUTHORITIES		DEPUTY MINISTER	OMBUDSMAN	DIRECTOR GENERAL OPERATIONS	DIRECTOR GENERAL LEGAL SERVICE AND GENERAL COUNSEL	DIRECTOR CORPORATE SERVICES AND DIRECTOR COMMUNICATIONS	DIRECTORS
<b>NON-EXECUTIVE GROUPS—COMPENSATION AND BENEFITS—PAY</b>							
1	Authorize increments for employees subject to performance pay plan (Excluded and unrepresented)	✓	✓				
2	Authorize increments for employees subject to performance pay plan (Non Excluded)	✓	✓	✓	✓	✓	✓
3	Authorize performance pay for employees excluded and non-represented						
4	Deny annual increments for employees not subject to performance pay plan and determine new increment dates	✓	✓	✓	✓	✓	✓
5	Authorize stopping pay for unauthorized absence	✓	✓	✓	✓	✓	✓
6	Resignation—accept resignation	✓	✓	✓	✓	✓	✓
<b>ALL GROUPS—COMPENSATION AND BENEFITS</b>							
7	Authorize Deduction and Set-Off (including overpayments) pursuant to Subsection 155(1) of the FAA						
8	Pursuant to 155(3) of the FAA, authorize the recovery of overpayment below 10%	✓					
9	Pursuant to 155(3) of the FAA authorize extended recovery of salary overpayment at a recovery rate of 10% or more						
10	Consent to Deduction and Set-Off pursuant to Subsection 155(4) of the FAA						
11	Authorize dual remuneration in a position paid out of Consolidated Revenue fund	✓	✓	✓	✓	✓	✓

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## ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

	AUTHORITIES	DM	OMB	DG OPS	DG LEGAL	DIR CORP SERV. + COMMS	DIR
12	Pensions and Insurances—certify that employment with an outside organization will be of advantage to DND and approve the continued payment of the Employer's share of Superannuation and insurances of advantage to DND and approve the continued payment of the Employer's share of Superannuation and insurances						
13	Authority to petition for insurance coverage						
14	Authority to recommend waivers of reductions in annual allowances in cases involving lay-off						
15	Authority to recommend the protection of an employee's retirement month/year for indexing purposes requires a TB submission						
16	Authority to confirm that completed Naming, Substitution or Cancellation of a Beneficiary for the Supplementary Death Benefit were completed prior to an employee/s death						
<b>ALL GROUPS—FOREIGN SERVICE DIRECTIVES</b>							
17	All provisions under the FSD including approval of Advances and Reimbursements of Expenses within Approved Education Ceilings under FSD 34—Education Allowances						
18	FSD 47 Leave for Post—attributable injury and illness		✓	✓	✓	✓	✓
19	Authority to grant extensions/exceptions up to \$10,000 under the provisions of the Foreign Services Directive						
<b>ALL GROUPS—ISOLATED POSTS AND GOVERNMENT HOUSING DIRECTIVE</b>							
20	All provisions under the Isolated Posts and Government Housing Directive	✓	✓	✓	✓	✓	✓
21	Authority to grant extensions/exceptions up to \$10,000 under the Isolated Posts and Government Housing Directive						
<b>LOCALLY ENGAGED EMPLOYEE PENSION PLAN</b>							
22	Administration and payment of the Pension Scheme for Employees of the Government of Canada Locally-Engaged Outside Canada, 1996						

**ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX**

<b>SECTION 5: INSTRUMENT OF DELEGATION OF EMPLOYEE PERFORMANCE, LEARNING, DEVELOPMENT AND RECOGNITION AUTHORITIES</b>						
<b>AUTHORITIES</b>	<b>DEPUTY MINISTER</b>	<b>OMBUDSMAN</b>	<b>DIRECTOR GENERAL OPERATIONS</b>	<b>DIRECTOR GENERAL LEGAL SERVICE AND GENERAL COUNSEL</b>	<b>DIRECTOR CORPORATE SERVICES AND DIRECTOR COMMUNICATIONS</b>	<b>DIRECTORS</b>
<b>NON-EXECUTIVE GROUPS—EMPLOYEE PERFORMANCE, LEARNING, DEVELOPMENT AND RECOGNITION AUTHORITIES</b>						
<b>EMPLOYEE PERFORMANCE, LEARNING, DEVELOPMENT AND RECOGNITION AUTHORITIES</b>						
1	Develop and promulgate departmental policies, directives, standards and processes in support of employee performance, learning and professional development Functional Authority	✓				
2	Establish measures and monitor learning activities and investments	✓				
3	Establish departmental learning requirements from a Functional Authority perspective	✓	✓			
4	Determine mandatory and/or required training for employees within the L1 organization	✓	✓			
5	Approve departmental and L1 learning and professional development programs.	✓	✓			
6	Approve L1 learning and professional development plans (Note 1)	✓	✓			
7	(\$ ) Approve group learning and professional development plans for appropriate group (Directorate, team) (Note 1)	✓	✓	✓	✓	✓
8	Approve employee learning and development plans (LDP), action plans and talent management plans, as part of employee performance agreement (Note 1)	✓	✓	✓	✓	✓
9	(\$ ) Authorize reimbursement of tuition fees (CPAO 9.03) (Note 1)	✓	✓	✓	✓	✓
10	(\$ ) Authorize employees to participate in learning and/or professional development activities, as per approved learning plans, at public cost during or outside normal working hours (Note 1)	✓	✓	✓	✓	✓
11	(\$ ) Authorize employees to participate in learning and/or professional development activities, as per approved learning plans, at public cost outside of Canada (Note 1)	✓	✓			

Boxes highlighted in yellow represent changes from the departmental matrix. Otherwise, the language and numbering used in the matrix above are identical to those contained within the Departmental Instrument of Delegation, including any errors, omissions, and repetitions.

**Notes**

1. Only supervisory managers with signing authorities for sections 32 and 34 of the FAA may authorize expenditure of funds.

## ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

**SECTION 6: STAFFING****INSTRUMENT OF DELEGATION OF STAFFING AUTHORITIES FOR THE OMBUDSMAN AND THE OFFICE OF THE DND/CF OMBUDSMAN**

This section of the *Instrument of Delegation of Human Resources Authorities for the Ombudsman and the Office of the Ombudsman for the Department of National Defence and the Canadian Forces* is to be read in conjunction with the Appointment Delegation and Accountability Instrument (the instrument of delegation from the Public Service Commission to Deputy Heads (ADAI)) and the following directions.

The Ombudsman is a Governor-in-Council appointee whose functions fall outside of the Deputy Minister's organization. Accordingly, the Deputy Minister requires a specific arrangement for sub-delegation with the Public Service Commission (PSC) permitting sub-delegation to the Ombudsman.

All managers of the office of the DND/CF Ombudsman exercising sub-delegated authorities shall ensure that appointment decisions adhere to the requirements of the *Public Service Employment Act*, to other applicable statutory requirements, and to PSC and departmental appointment policies. This includes ensuring that appointments are based on merit, free from political influence, and that they respect the values of fairness, access, transparency, and representativeness. The Ombudsman, the Director General Operations, the Director General Legal Services, and all Directors of the office of the DND/CF Ombudsman are subject to and must exercise their authorities in accordance with the *Appointment Sub-delegation and Accountability Instrument* between the Ombudsman and the Deputy Minister, including any memorandum of understanding referenced therein.

Managers are accountable for the proper exercise of their sub-delegated authorities. Appointment authorities can only be exercised by those who occupy a sub-delegated position, have completed the training and certification specified as a condition by Assistant Deputy Minister (Human Resources—Civilian), and have accepted the terms of their sub-delegation in writing. Sub-delegated managers are to avail themselves of the advice and guidance of the certified Human Resources Officer (HRO) internal to the office of the DND/CF Ombudsman in the exercise of their staffing responsibilities and maintain their level of competence with a clear understanding of roles and responsibilities.

Managers cannot sub-delegate their staffing authorities to subordinate employees. However, this does not prevent sub-delegated managers from assigning non-delegated subordinate employees various tasks associated with the staffing process. HROs are not sub-delegated to exercise staffing authorities on behalf of their client managers.

Any person officially appointed in an acting capacity would carry the authority to exercise sub-delegation, provided they have undertaken any training specified as a condition of sub-delegation and are sub-delegated. Otherwise, authorities are to be exercised by a sub-delegated individual higher in the chain of management.

All sub-delegated persons are accountable for their overall performance and compliance with the conditions of staffing delegation. Innovation and reasonable risk taking are encouraged in the conduct of staffing in order to produce positive results, take maximum advantage of available flexibilities, and establish best practices. Deliberate contravention of the legislative, regulatory, and policy requirements or abuse of authorities will be treated as a serious matter. Depending on the circumstances, remedial measures could include imposing additional conditions or limitations on the sub-delegated staffing authorities or the partial or complete withdrawal of delegation. Disciplinary measures may also be considered where appropriate.

Unless otherwise stated, these authorities relate to non-EX positions only. For authorities related to EX positions, refer to the Instrument of Delegation of Executive Management Authorities portion of the *Instrument of Delegation of Human Resources Authorities for the Ombudsman and the Office of the Ombudsman for the Department of National Defence and the Canadian Armed Forces*.

This instrument takes effect on day/month/2017.

**ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX**

<b>SECTION 6: INSTRUMENT OF DELEGATION OF STAFFING AUTHORITIES</b>						
<b>AUTHORITIES</b>	<b>DEPUTY MINISTER</b>	<b>OMBUDSMAN</b>	<b>DIRECTOR GENERAL OPERATIONS</b>	<b>DIRECTOR GENERAL LEGAL SERVICE AND GENERAL COUNSEL</b>	<b>DIRECTOR CORPORATE SERVICES AND DIRECTOR COMMUNICATIONS</b>	<b>DIRECTORS</b>
<b>GOVERNANCE</b>						
1	Sub-delegate appointment and appointment-related authorities or limit or revoke sub-delegation	✓				
2	Prescribe the conditions under which delegations may occur, monitor the exercise of delegated authorities and ensure compliance with human resources requirements					
3	Develop, promulgate and monitor departmental policy, programs and direction relating to staffing					
<b>STAFFING RELATED AUTHORITIES FOR NON-EX POSITIONS</b>						
4	Make indeterminate and term appointments, resulting from internal, external, advertised and non-advertised processes, subject to priority clearance where required	✓	✓	✓	✓	✓
5	Provide staffing related advice to sub-delegated Individuals					
6	Appoint a person above the minimum salary, in accordance with the Directive on Terms and Conditions of Employment		✓	✓	✓	✓
7	Appoint persons with priority entitlements ahead of all others, in the order of precedence prescribed by the Public Service Employment Act and Regulations	✓	✓	✓	✓	✓
8	Appoint a person to a position (without considering priority persons) in order to avoid a situation in which that person would become a priority	✓	✓	✓	✓	✓
9	Approve the exclusion from meeting official language proficiency requirements further to an agreement to become bilingual (PSOLEAO sec 3) or eligibility for an immediate annuity and submission of an irrevocable resignation (PSOLEAO sec 5) (non-imperative staffing)	✓				
10	Extend the initial two-year agreement period to become bilingual for non-imperative appointments pursuant to the PSOLAR for one or more periods, not to exceed two additional years in total	✓				
11	Approve the exclusion of CAF members from the area of selection for an internal advertised appointment process	✓				
12	Make a deployment	✓	✓	✓	✓	✓

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## ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

	<b>AUTHORITIES</b>	<b>DM</b>	<b>OMB</b>	<b>DG OPS</b>	<b>DG LEGAL</b>	<b>DIR CORP SERV. + COMMS</b>	<b>DIR</b>
13	Make a non-consensual deployment following an investigation and a finding of harassment	✓		✓	✓		
14	Appoint a person as a casual worker	✓	✓	✓	✓	✓	✓
15	Appoint a person under a student employment program	✓	✓	✓	✓	✓	✓
16	Appoint a person as a part-time worker	✓	✓	✓	✓	✓	✓
17	Offer a term extension	✓	✓	✓	✓	✓	✓
18	Convert a term to indeterminate status after three years in accordance with the circumstances prescribed by the Treasury Board's Term Employment Policy	✓	✓	✓	✓	✓	✓
19	Make an acting appointment of less than 4 months of a non-EX into an EX position	✓		✓	✓		
20	Make an acting appointment of more than 4 months of a non-EX into an EX position	✓					
21	Make an acting assignment for a cumulative period of less than 4 months	✓	✓	✓	✓	✓	✓
22	Grant approval for an acting appointment to exceed 12 months, up to 24 months	✓	✓	✓	✓	✓	✓
23	Grant approval for an acting appointment to exceed 24 months, up to 36 months	✓	✓	✓	✓		
24	Grant approval for an acting appointment to exceed 36 Months	✓	✓				
25	Make an acting appointment for a cumulative period of 4 months or more (subject to authority 22, 23 or 24)	✓	✓	✓	✓	✓	✓
26	Inform the persons in the area of recourse of the name of the person who has been or is proposed to be appointed, in an acting capacity for 4 months or more, further to an internal appointment process, and of their right and grounds to make a complaint	✓	✓	✓	✓	✓	✓
27	Approve Interchange Canada assignments, including international assignments for up to three years	✓					

**ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX**

AUTHORITIES		DM	OMB	DG OPS	DG LEGAL	DIR CORP SERV. + COMMS	DIR
28	Approve Interchange Canada assignments involving personal corporations	✓					
29	Approve an extension of an Interchange Canada assignment of up to an additional two years beyond the three consecutive years	✓					
30	Approve salary above the maximum allowed in the Directive on Interchange Canada for Interchange Canada assignments	✓					
31	Approve assignments and secondments other than those above	✓	✓	✓	✓	✓	✓
32	Administer oaths and receive solemn affirmations in the case of appointments from outside the part of the public service to which the Commission has the exclusive authority to make appointments	✓	✓	✓	✓	✓	✓
<b>INVESTIGATIONS AND REVOCATION OF APPOINTMENTS</b>							
33	Notify the DM of any alleged error, omission or improper conduct in relation to an appointment		✓	✓	✓	✓	✓
34	With the advice of DGWM, determine whether to investigate or not, or to refer the matter to the Public Service Commission	✓					
35	Apply corrective measures as determined by the DM		✓	✓	✓	✓	✓
36	Revoke a delegated internal appointment and take corrective action after investigating the process	✓					
37	Take corrective action following a recommendation by an independent third party at the conclusion of an investigation involving the Office of the Ombudsman		✓				
38	Appoint to another position a person whose appointment was revoked following DM investigation	✓	✓	✓	✓	✓	✓
39	Appoint to another position a person whose appointment was revoked following a Public Service Commission investigation	✓	✓	✓	✓	✓	✓
40	Appoint to another position a person whose appointment was revoked as a result of corrective action taken further to a complaint upheld by the Public Service Labour Relations and Employment Board	✓	✓	✓	✓	✓	✓

## ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX

SECTION 7: INSTRUMENT OF DELEGATION OF WORKFORCE ADJUSTMENT AUTHORITIES						
AUTHORITIES	DEPUTY MINISTER	OMBUDSMAN	DIRECTOR GENERAL OPERATIONS	DIRECTOR GENERAL LEGAL SERVICE AND GENERAL COUNSEL	DIRECTOR CORPORATE SERVICES AND DIRECTOR COMMUNICATIONS	DIRECTORS
<b>GOVERNANCE</b>						
1	Sub-delegate powers related to work force adjustment	✓				
2	Recommend delegation within DND and the CF, monitor the exercise of delegated authorities and ensure compliance with human resources requirements					
3	Develop, promulgate and monitor departmental policy, programs and direction relating to work force adjustment					
4	Implement approved policies in their respective areas and manage the provision of services in all work force adjustment matters (Note 1)	✓	✓	✓	✓	✓
5	Monitor the overall exercise of delegated authorities within their organizations	✓	✓			
<b>NOTIFICATION OF WORKFORCE ADJUSTMENT ACTIVITIES</b>						
6	Approve work force adjustment situations [Guaranteed Reasonable Job Offer (GRJO) or Options]	✓				
7	Notify and seek the approval of the Deputy Minister of work force adjustment situations		✓			
8	Notify the Treasury Board Secretariat and Chief Executive Officers (CEO) of Bargaining Agents, of any work force adjustment situations (Note 2)	✓				
<b>SURPLUS—GRJO</b>						
9	Proceed with surplus notification with a GRJO (Note 3)	✓	✓			
10	Sign letter of surplus status with a GRJO	✓	✓	✓	✓	✓
11	Approve and issue 30 days' notice of lay-off	✓	✓			

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**ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX**

AUTHORITIES		DM	OMB	DG OPS	DG LEGAL	DIR CORP SERV. + COMMS	DIR
<b>OPTIONS UNDER PART VI OF WORKFORCE ADJUSTMENT DIRECTIVE/APPENDIX</b>							
12	Proceed with the offer of options under Part VI of Work Force Adjustment Directive/Appendix (Note 3)	✓	✓				
13	Sign the letter offering the options under Part VI of Work Force Adjustment Directive/Appendix	✓	✓	✓	✓	✓	✓
14	Sign the letter of surplus status to employees choosing Option A	✓	✓	✓	✓	✓	✓
15	Approve employee's request for pay in lieu of unfulfilled surplus status under Option A	✓	✓	✓	✓	✓	✓
16	Approve employee's request for Transition Support Measure (Option B) or Education Allowance (Option C)	✓	✓	✓	✓	✓	✓
17	Extend paid surplus status under Option A for retraining purposes	✓	✓	✓	✓	✓	✓
18	Issue 30 days' notice of lay-off under Option A	✓	✓	✓	✓	✓	✓
<b>RETRAINING</b>							
19	Approve retraining agreements up to six months	✓	✓	✓	✓	✓	✓
20	Approve retraining agreements six months to two year (Note 4)	✓	✓				
<b>ALTERNATIVE DELIVERY INITIATIVES (ADI)</b>							
21	Provide executive authority to proceed with ADI Review (Note 5)	✓					
22	Issue notice of employment offer with new Alternative Delivery provider	✓	✓	✓	✓	✓	✓
23	Approve lump-sum payments and salary top-ups under Part VII of the Work Force Adjustment Directive/Appendix	✓	✓	✓	✓	✓	✓
24	Issue notice of termination of employment pursuant to Section 12(1)(f) of the Financial Administration Act	✓	✓	✓	✓	✓	✓
25	Extend period of notice prior to termination for operational reasons	✓	✓	✓	✓	✓	✓

**ANNEX E: PROPOSED HUMAN RESOURCES AND LABOUR RELATIONS MATRIX**

AUTHORITIES		DM	OMB	DG OPS	DG LEGAL	DIR CORP SERV. + COMMS	DIR
OTHER							
26	Authorize funding for work force adjustment related counselling services	✓	✓	✓	✓	✓	✓
27	Offer and approve retention payments	✓	✓	✓	✓	✓	✓
28	Issue six month notice of relocation of a work unit (Note 3)	✓	✓	✓	✓	✓	✓

**Notes**

1. Managers must seek the advice of their HRO at the outset of any potential WFA situation and throughout the process.
2. The Ombudsman is responsible for ensuring that the Department, the Treasury Board, and Bargaining Agents are notified of WFA situations in accordance with the Work Force Adjustment Directive/Appendix. Notification must be sent to ADM (HR-Civ) for onward transmission to the Treasury Board and applicable CEO of the Bargaining Agent.
3. The Ombudsman shall consult with the DM prior to proceeding.
4. The Ombudsman is authorized to approve retraining agreements in excess of six months and up to two years.
5. The DM may sub-delegate the executive authority for ADI projects within the Ombudsman's area of responsibility.

# ANNEX F

## PREVIOUS DESIGNATIONS FOR FINAL LEVEL GRIEVANCE AND HUMAN RIGHTS

Transcripts of original documents provided:

### MINUTE

1. I, Jim Judd, Deputy Minister on National Defence, pursuant to the authority given to me in the Treasury Board Policy on Claims and Ex gratia Payments:
  - (a) Designate the General Counsel of the Office of the National Defence and Canadian Forces Ombudsman to be the Human Rights Coordinator (Office of the National Defence and Canadian Forces Ombudsman) to:
    - (i) Negotiate and pay settlements under the *Canadian Human Rights Act* and in respect of Human Rights Tribunal orders under the Act which are not made orders of the Federal Court where such settlements involve complaints by civilian employees of the Office of the National Defence and Canadian Forces Ombudsman or complaints by members of the public against civilian employees of the Office of the National Defence and Canadian Forces Ombudsman, in accordance with the procedures and monetary limits set out in the Treasury Board Policy on Claims and Ex gratia Payments, as if payment were a liability payment for a tort with the related funding provisions, and
    - (ii) Record and report all payments to the Public Accounts.
2. I designate the Ombudsman of the Office of the National Defence and Canadian Forces Ombudsman as the final level grievance representative under the *Public Service Staff Relations Act* and CPAO 7.07 for grievances by employees of the Office of the National Defence and Canadian Armed Forces Ombudsman.

2/12/01

Signed by Jim Judd

## ANNEX F: PREVIOUS DESIGNATIONS FOR FINAL LEVEL GRIEVANCE AND HUMAN RIGHTS

**MINUTE**

1. I, Robert Fonberg, Deputy Minister of National Defence, pursuant to the Authority given to me in the Treasury Board Directive on Claims and EX gratia Payments:
  - (a) Designate the General Counsel of the Office of the National Defence and Canadian Armed Forces Ombudsman to be the Human Rights Coordinator (Office of the National defence and Canadian Forces Ombudsman) to:
    - (i) Negotiate and pay settlements under the *Canadian Human Rights Act* and in respect of Human Rights Tribunal orders under the Act which are not made orders of the Federal Court where such settlements involve complaints by civilian employees of the Office of the National Defence and Canadian Forces Ombudsman or complaints by members of the public against civilian employees of the Office of National Defence and Canadian Forces Ombudsman, in accordance with the procedures and monetary limits set out in the Treasury Board Policy on Claims and Ex gratia Payments, as if payment were a liability payment for a tort with the related funding provisions; and
    - (ii) Record and report all payment to the Public Accounts.
2. I, Robert Fonberg, Deputy Minister of National Defence, designate the Ombudsman of the Office of the National Defence and Canadian Armed Forces Ombudsman as the final grievances representative under the *Public Service Labour Relations Act* and DAOD 5026-0 for grievances by employees of the Office of the National Defence and Canadian Forces Ombudsman. The Ombudsman will conform to the Labour Relations monitoring framework and will use HRMS CG 8.9, Civilian Human Resources Management System.
3. This minute supersedes the minute signed by the Deputy Minister of National Defence on 12 February 2001.

Jul 14 2010  
Signed by Robert Fonberg  
Deputy Minister

# ANNEX G

## PROPOSED ACCESS TO INFORMATION ACT AND PRIVACY ACT DESIGNATION ORDER

### Designation Order

#### *Access to Information Act and Privacy Act*

The Minister of National Defence, pursuant to section 73 of the *Access to Information Act* and section 73 of the *Privacy Act*, hereby designates the person holding the position of Access to Information and Privacy Coordinator for Office of the Ombudsman, National Defence and Canadian Forces, or the person occupying on an acting basis that position, to exercise all powers and perform the duties and functions of the Minister of National Defence as the head of the Department of National Defence and the Canadian Forces under the provisions of the Act and related regulations, concerning the Office of the Ombudsman, National Defence and Canadian Forces.

This designation replaces all previous designation orders.

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The Honourable Harjit S. Sajjan, PC, OMM, MSM, CD, MP

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Date

# ANNEX H

## RESPONSE FROM THE MINISTER

Transcript of original document provided below:

Nov 16 2017

Mr. Gary Walbourne  
National Defence and Canadian Forces Ombudsman  
100 Metcalfe Street, 12th Floor  
Ottawa ON K1P 5M1

Dear Mr. Walbourne:

Thank you for your letter of October 20, 2017, and the accompanying report, *A Path Forward: An Action Plan for the Office of the Ombudsman*.

As I stated in my letter of March 28th, 2017, the independent mandate of your Office, in service to members and employees of the Defence Community, is important to me. It ensures that the advice you provide, including the findings and recommendations which flow from your reports, is done freely and outside military and civilian chains of command. Your work this past year on the Canadian Rangers organization as well as your contribution to the “seamless transition” initiative for Canadian Armed Forces members under *Strong, Secure, Engaged*, our new defence policy, are notable examples of the quality advice we have seen from your Office.

As I read your report, I was reminded of the Auditor General’s Spring 2015 report that called upon both your Office and the Department to ensure improvements to administrative services remained a focus. I know that over the course of this past year, you and the Deputy Minister have worked together to advance this goal.

It pleases me to hear that a more client-centred service approach has been implemented to respond to your Office’s human resource (HR) and financial needs. I understand that in the area of finance, improvements to thresholds for event expenditures, increases in sub-delegations for certain types of travel and hospitality, as well as the introduction of blanket travel and hospitality authorities, to cite but a few examples, have been made.

I have been informed that the 2016 changes to the delegation instrument have given you some of the additional authorities that you were seeking, including reinstatement as the delegated officer to respond to final level grievances, and allowing your General Counsel to respond to Canadian Human Rights Commission complaints, negotiate settlements, and represent the Office of the Ombudsman before the Canadian Human Rights Tribunal as per cast practice.

## ANNEX H: RESPONSE FROM THE MINISTER

In addition, I note that you continue to receive HR strategic and operational advice and guidance on all staffing and classification actions from a team of dedicated HR professionals. More specifically, this HR team focusses on both your staffing and classification priorities as well as, your day to day operational needs.

In the interest of ensuring that the Auditor General's report remains a priority focus, I encourage both you and the Deputy Minister to continue the good work you have started. Your new report provides the basis of continued collaboration and opportunity for further enhancements to administrative procedures and processes. I commend your recommendation to establish an agreement that would see further periodic audits of financial and human resource delegations to enhance our management of them. In the context of the Deputy Minister's institutional responsibilities under the *Financial Administration Act*, we must ensure that our collective efforts support her in the discharge of this role.

Finally, I would like to note that the relationship between our respective offices has never been better. I believe that the level of access and exchanged, to this point in our respective tenures, has been meaningful and productive.

In closing, I thank you again for your report and for your continuing commitment to the members and employees of the Defence Community.

Yours sincerely,

The Hon. Harjit S. Sajjan, PC, OMM, MSM, CD, MP

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