

Results of 2018-2019 Organizational Reporting for the Appointment Delegation and Accountability Instrument (ADAI) – Annex D

Presentation to the Meeting of the Commission (MOC)

December 17, 2019

Objectives

To provide an overview of the organizational reporting results stemming from Annex D of the Appointment Delegation and Accountability Instrument (ADAI) for year 3 and convey early trend indicators.

To seek Meeting of Commission (MOC) committee member views and direction on:

- Overall conclusion and observations for this cycle's reporting.
- A review of the proposed changes and considerations to the reporting templates for cycle 2019-2020.

Exceptions to National Area of Selection (NAoS)

Context

In 2008, the Public Service Commission (PSC) implemented a national area of selection (NAoS) for jobs open to the public, with a provision that Deputy Heads (DHs) request an exception to this requirement from the PSC, on a case by case basis. Five requests were received from 2008 to March 2016, and all were approved.

In April 2016, the revised Appointment Policy maintained NAoS and gave DHs the authority to approve exceptions. The PSC therefore asked DHs to report annually on the use of this new discretion.

In 2018-19, DH exceptions to NAoS accounted for 2.05% of all external advertised processes (67/3263).

Table 1 - Exceptions to National Area of Selection

Exceptions Approved in Fiscal Year	Number of Organisations	Number of Exceptions (Processes)	Number of Appointments Made in Fiscal Year 2016-2017	Number of Appointments Made in Fiscal Year 2017-2018	Number of Appointments Made in Fiscal Year 2018-2019
2016-2017	8	17	18	31	5
2017-2018	6	43	0	17	13
2018-2019	10	67	0	0	89

Observations

Table 2 - Number of National Area of Selection exceptions by organization

Name of the Organizations	Number of Exceptions
Office of the Chief Electoral Officer	26
Royal Canadian Mounted Police	22
Other Organizations	19

Table 3 - Number of national area selection exceptions by location

Location	Number of Exceptions
National Capital Region (NCR)	42 (26 of these 42 exceptions belong to the Office of the Chief Electoral Officer)
Regions	25 (20 of these 25 exceptions belong to the Royal Canadian Mounted Police)

- 50% of Deputy Head exceptions were for **entry level positions**.
- 54% of appointments were made from processes intended to staff determinate positions.

Table 4 - Reasons for exceptions to National Area of Selection by organization

Reasons for Exceptions	Royal Canadian Mounted Police (number of exceptions)	Office of the Chief Electoral Officer (number of exceptions)	Various Organizations (number of exceptions)
Rural areas and remote location	14	0	3
Elections	0	25	0
Sufficient pool of candidate and volume management	Not applicable	Not applicable	15
Entry level positions	Not applicable	Not applicable	8
Temporary	Not applicable	Not applicable	2

Consultation Findings

Consultations were held with organizations that have used 7* and not used 12 the exceptions to the national area of selection (NAoS) in 2017-2018. We have noted the following:

A majority of organizations have a formal approval process in place and requests for exception are examined on a case-by-case basis.

- Very few have established guidelines regarding the use of the exceptions.
- Because of the administrative burden associated to the approval process, some organizations are reluctant to seek DH approvals.

*6 org. approved an exception in 2017-2018 and 1 org. made appointments using an exception approved in 2016-17.

Rather than reducing the area of selection, organizations that did not use the exception have indicated using other tools to manage high volume of candidates in the context of external processes.

Recommendations

Continue gathering information about the appointments and the various factors contributing to the use of exceptions, and examine the data to provide insight and gain knowledge about emerging issues.

Staffing Support Division (SSD) to follow-up with organizations to ensure understanding of the intent of National Area of Selection Policy.

Results of Internal Investigations

Context

As per the Appointment Delegation Accountability Instrument (ADA), Deputy Heads (DH) must report to the Public Service Commission (PSC) on the results of any internal investigations undertaken during the fiscal year, into an error, an omission or improper conduct that affected the selection of a person for appointment.

For each investigation completed, the PSC asks DHs to report on the following items:

- Group and level of the position to be staffed;
- Whether the matter was founded or unfounded;
- A brief description of the conclusion of the investigation and;
- The corrective action taken to remedy the deficiencies in the appointment process.

While organizations can conduct internal investigations under the *Public Service Employment Act* (PSEA) s. 15(3), they can also decide to ask the PSC to conduct investigations on their behalf under PSEA s. 67(2). They remain responsible to approve the investigation's report and to order the corrective actions.

Observations

In 2018-2019, Employment and Social Development Canada conducted 4 internal investigations under subsection 15(3) of the PSEA:

- 3 of these investigations were founded. Corrective actions were taken by the department to remedy the deficiencies in the appointment processes.
- 1 investigation was unfounded.

Table 5 - Results of Internal Investigations (cont'd)

Fiscal Year	Number of Organizations	Internal Investigations subsection 15(3)	PSC investigations for Deputy Head Subsection 67(2)
2016-2017	1	3	2
2017-2018	2	2	10
2018-2019	1	4	2

Data shows a consistently low number of internal investigations conducted by DHs for the last 3 years.

Information provided by organizations show that investigations under 15(3) are used mainly to correct errors during the assessment stage.

Recommendations

Continue to partner with organizations via outreach activities.

Continue to support our departmental liaisons through targeted training, annual liaison meeting and ongoing collaboration.

Moving Forward

The PSC Audit Directorate is presently planning an Audit of Organizational Investigations Frameworks to examine organizational processes and procedures related to the conduct of internal investigations or other mechanisms to resolve staffing issues. The PSC Audit Directorate is also to determine whether organizations are meeting the reporting and notice requirements for investigation-related responsibilities as per the Authority Delegation and Accountability Instrument (ADAI).

Results on the use of the Public Service Official Languages Exclusion Approval Order (PSOLEAO) and the Public Service Official Languages Appointment Regulations (PSOLAR)

Context

There are 3 situations in the PSOLEAO where people may be excluded from meeting the required level of proficiency in their second official language, following non-imperative appointments. When the individual:

- Submits an agreement to become bilingual;
- Is eligible for an immediate annuity; or
- Is excluded for medical reasons.

Deputy Heads must report on the first 2 exclusions. As the Public Service Commission (PSC) is responsible for approving exclusions for medical reasons, there is no need for organizations to report on the 3rd item.

- The reporting elements on which the organizations must report remain the same as previous years.
- Exclusions that are not compliant with the PSOLEAO and PSOLAR do not respect merit with regard to official language proficiency.

Observations

In 2018-2019, 45 of the 75 organizations reported using the PSOLEAO and PSOLAR.

- 39 organizations reported managing the exclusions in compliance with the instruments.
- A total of 6 cases were non-compliant, in 6 organizations:
 - 4 cases where the exemption period was not extended beyond the 2-year initial period. To be noted that 3 out of those 4 cases are now resolved.
 - 2 cases where exemptions exceeded the regulated 4-year maximum period to become bilingual. The 2 cases are now resolved.

The majority of organizations manage the exclusions in accordance with the statutory instruments.

Recommendation

Policy Division (PD) and Staffing Support Division (SSD) to continue working in collaboration with the organization to resolve the non-compliant case.

Results on the Public Service Commission (PSC) Transition Measure for Second Language Evaluation

Context

Between 2012-2015, the Public Service Commission (PSC) implemented a transition measure for alternating employees and for employees with a surplus or lay-off priority entitlement:

- Second Language Evaluation (SLE) results that were expired were deemed valid, subject to confirmation within 12 months of the alternation or priority appointment.
- This measure was used 501 times.
- Deputy Heads report on the use of this measure until their respective cases are resolved.

Observations

There were 7 outstanding cases on April 1, 2019 compared to 8 cases last fiscal year:

- 3 cases are non-compliant versus 4 last year (one has been resolved).
- The remaining 4 cases are on extended leave and the computing of the 12-month period suspended.

Recommendation

The Policy Division (PD) and the Staffing Support Division (SSD) to continue working with organizations that have outstanding and non-compliant cases until all cases are resolved.

Cyclical Assessments

Background

As part of Appointment Delegation and Accountability Instrument (ADAI) reporting requirements, organizations must submit a cyclical assessment report every 5 years, at a minimum. The following table includes the cyclical report submissions received for 2018-2019:

Table 6 - Cyclical assessments

Organizations	Reporting Cycle	Notes
Public Service Commission	2018-2019	Submission received as part of Annex D reporting cycle.
Public Safety Canada	2018-2019	Submission received as part of Annex D reporting cycle. This department has elected to produce a cyclical report each year.

75* reporting organizations for the 2018-2019 cycle.

5-year deadline for organizations who were active at the time of NDS implementation to submit their report is set for May 1st, 2021.

In-take of Cyclical Assessment Reporting has been harmonized with the Annex D Reporting cycle.

*Organisation count as of May 1, 2019 (2018-2019 cycle reporting deadline).

Observations

Since the implementation of NDS, 8* out of 75 organizations (12%) have submitted at least one cyclical assessment report (5 from 2017-2018 reporting cycle).

Although over 88% of cyclical assessment reports will be submitted in the next two years, the in-take impact would be offset by the pilot project on cyclical assessment reporting for micro and small organizations taken on by the Audit Directorate.

*9 reports from 8 organizations

Recommendations

Staffing Support Division (SSD) to continue to work with the Audit Directorate to manage reporting volume of report in-take for the next two reporting cycles.

SSD to continue to streamline the cyclical assessment reporting process to increase efficiencies for PSC in-take and review.

Moving Forward

Annexe D Reporting Template

Proposing a more complete Deputy Head (DH) attestation to facilitate the approval requirement for cyclical assessment reports as part of the current Annexe D reporting template.

Exploring the possibility of collecting data on the number of non-imperative appointments in the next reporting template since this information is presently not collected.

- Would allow to have a better portrait of the number of persons excluded from meeting official language requirements.
- Data on non-imperative appointments and data on exclusions are interrelated.

Next Cycle 2019-2020

SSD to prepare communication approach including revised templates (conditional to approval) for next reporting cycle starting Winter 2019.