

Public Servants Disclosure Protection Tribunal Canada

2008-2009

Departmental Performance Report

The Honourable James Moore

Minister of Canadian Heritage and Official Languages

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Registrar's Message

In the absence of a Chairperson, I am pleased to present the *2008-2009 Departmental Performance Report* for the Public Servants Disclosure Protection Tribunal (the Tribunal).

The report describes the Tribunal's achievements and results for the 2008-2009 fiscal year, which marked the first full year of the Tribunal's operation. The Tribunal's mandate was established by the *Public Servants Disclosure Protection Act* (PSDPA), which came into force on April 15, 2007. The PSDPA is designed to encourage public servants to report wrongdoing by providing protection from reprisals.

The Tribunal was created to hear reprisal complaints filed by public servants and referred by the Public Sector Integrity Commissioner. Tribunal members, three Federal Court judges, have the power to grant remedies to complainants who have been subject to reprisals and to impose disciplinary actions against persons who have taken reprisals. The Registry's role is to support the Tribunal.

Much has been accomplished during this first year to establish the organization and to ensure that the Tribunal is ready to hear complaints. Specifically, we fitted-up office space, filled key positions, put information technology systems in place, developed rules of procedure and implemented a case management process. We also created a website to inform public servants and Canadians in general about the mandate of the Tribunal and its powers and practices.

Given that no cases were referred to the Tribunal during the reference period, it is not possible to assess the Tribunal's performance against the strategic outcome. Establishing the Tribunal entailed significant operating expenses. However, a surplus was noted in salary expenditures as not all the anticipated personnel were hired.

SECTION I: DEPARTMENTAL OVERVIEW

Raison d'être

The raison d'être of the Tribunal is to protect public servants who disclose wrongdoing from reprisals.

Responsibilities

The Tribunal is one component of the wrongdoing disclosure regime introduced by the *Public Servants Disclosure Protection Act* (PSDPA).¹ The Tribunal, chief executives, the Public Sector Integrity Commissioner (the Commissioner) and the Canada Public Service Agency (now the Office of the Chief Human Resources Officer) all have responsibilities under the Act. The Tribunal's success, and that of the other partners, will strengthen accountability and enhance public confidence in the integrity of public servants.

In this context, the Tribunal, as an independent quasi-judicial body, is responsible for hearing reprisal complaints referred by the Commissioner. The PSDPA provides for the establishment of a Registry to assist the Tribunal in the conduct of its work, with an office in the National Capital Region.

Strategic Outcomes and Program Activity Architecture (PAA)

In carrying out its mandate, the organization is aiming for the following strategic outcome:

<p style="text-align: center;">Strategic Outcome</p> <p style="text-align: center;"><i>Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.</i></p> <p style="text-align: center;">Program Activity</p> <p style="text-align: center;"><i>Reprisal Hearings Program</i></p> <p style="text-align: center;">Expected Results</p> <p style="text-align: center;"><i>Effective management of the Tribunal's hearing process</i></p>
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¹ S.C., c. 46 [Assented to November 25, 2005]

The Registry assists the Tribunal in fulfilling its mandate by effectively managing Tribunal hearings. This includes receiving documents, processing applications, maintaining Tribunal records, offering logistical and legal support, providing orientation and training for Tribunal members, and informing parties and interested persons of the Tribunal’s existence and powers.

Summary of Performance

2008–09 Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
\$1,833	\$1,785	\$836

The difference between planned spending and actual spending, a surplus in salary expenditures, is attributable to the fact that not all the anticipated personnel were hired. This is mainly because the Tribunal is relatively new, and it is impossible at present to predict how many applications will be received. In this context, the organization only filled the positions identified as essential to meeting its strategic objectives and conducting operational activities. Other positions will be filled as needed.

2008–09 Human Resources (FTEs)

Planned	Actual	Difference
10	7.5	2.5

Performance Summary

Strategic Outcome: Remedial and disciplinary actions to ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.		
Performance Indicators	Targets	2008–09 Performance
Number of decisions and/or orders issued within 250 calendar days from the commencement of a proceeding	90% of proceedings are completed within 250 calendar days	Given that no cases were referred to the Tribunal during the reference period, the targets cannot be evaluated.
Degree to which the evidence and the written communication filed are shared with all parties	Fewer than 10% of adjournments are granted by the Tribunal because of deficiencies in the disclosure of evidence and written communication	
The extent to which the parties have the information needed to exercise their rights	The procedural guide is distributed to all parties within five days after the application is received	

(thousands of dollars)

Program Activity	2007-2008 Actual Spending	2008-2009				Alignment with Government of Canada Outcomes
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
Reprisal Hearings Program		\$1,833	\$1,833	\$1,785	\$836	The Tribunal contributes to the Government of Canada's "Governmental Affairs" Strategic Outcome by contributing to the enhancement of a culture within the public service that espouses the highest standards of ethical conduct
Total		\$1,833	\$1,833	\$1,785	\$836	

The Tribunal is one component of the regime designed to encourage public servants to disclose wrongdoing; the success of these components will help create an environment in which employees can openly raise concerns without fear of reprisal. Consequently, the Reprisal Hearings Program will also contribute to the development of a culture within the public service that espouses the highest standards of ethical conduct.

Contribution of Priorities to Strategic Outcomes

Operational Priorities	Type	Status	Linkages to Strategic Outcomes
1. Be ready to hear complaints	New priority	<p>Successfully met</p> <p>The rules of procedure for Tribunal proceedings were developed in consultation with key partners. It is to be noted that, in the absence of a Tribunal Chairperson, the rules of procedure cannot be published. The Registry also established procedures for effective case management.</p> <p>The Registry developed an information management system that will allow staff to manage the flow of cases, register documents, file them, follow up on them and extract documents related to cases.</p>	<p>It is essential that the Tribunal be ready to hear cases, that rules be developed and systems put in place in order for the Tribunal to achieve its strategic outcome: remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.</p>
2. Inform interested persons, key stakeholders and Canadians	New priority	<p>The Tribunal has developed a website.</p> <p>The Tribunal developed and adopted a strategic communications plan.</p> <p>The Tribunal completed a procedural guide to be distributed to all parties within five days after the commencement of the proceeding. The guide cannot be published on the Tribunal's website until the rules of procedure are published.</p>	<p>The whole premise of the wrongdoing disclosure regime is that public servants will be more inclined to report wrongdoing if the PSDPA protects them from reprisals. Therefore, it is critical that public servants know that the Tribunal has been established and that it has the power to order remedies and disciplinary actions.</p>

Operational Priorities	Type	Status	Linkages to Strategic Outcomes
3. Monitor issues arising from the application of the PSDPA	New priority	The Registry worked with the Canada Public Service Agency (now the Office of the Chief Human Resources Officer) to develop a logic model identifying the linkages between each party's activities and expected outcomes. This document provided a basis for developing performance measures and evaluation strategies by all the parties who have responsibilities under the PSDPA.	The Canada Public Service Agency (now the Office of the Chief Human Resources Officer) is required to conduct an independent review of the PSDPA and its administration and operation, five years after the Act came into force (2011). The review will assess the extent to which the procedures established under the PSDPA have encouraged public servants to disclose wrongdoing and protected them from reprisals. The Registry will be actively involved in this review.

Management Priorities	Type	Status	Linkages to Strategic Outcomes
1. Set up the organization	New priority	<p>Successfully met</p> <p>The Registry located office space and established solid, reliable and secure information technology systems.</p> <p>The Registry established internal services in order to operate (acquisition of services from PWGSC and other tribunals or organizations).</p> <p>The Registry recruited qualified employees. To maximize its resources and offer a stimulating work environment, the Tribunal hired two part-time employees through partnership agreements with another tribunal.</p> <p>The Registry developed a human resources plan.</p>	To achieve its strategic outcome, the Registry needed to put in place infrastructure, services, a team of employees and a human resources plan that enables it to operate effectively.

Risk Analysis

The Tribunal's first year of operation was marked by certain challenges that the organization overcame in order to ensure effective management.

Unpredictable Caseload

It is impossible for the Tribunal to estimate the number of complaints it will hear, especially in the first few years. Thus, the unpredictable caseload makes it difficult for the Registry to effectively manage its human and financial resources. At the human resources level, during this first year, the Registry identified the positions essential to conducting operational activities and achieving the organization's strategic outcome and filled those positions with competent employees. Other positions will be filled as needed. With respect to financial resources, the Registry spent the entire operating budget for its first year but had a salary budget surplus because it hired only a minimum number of employees.

Tribunal Assistance

The establishment of a new organization presents a number of challenges: fitting-up office space, hiring competent employees, establishing information technology systems, developing rules of procedure, implementing a case management process, creating a website, etc. During its first year, the Registry of the Tribunal succeeded in setting up its office and adopting the procedures and processes required to receive complaints and assist Tribunal members in carrying out their duties.

Personnel Recruitment

Quickly hiring qualified employees presented a major challenge for the Registry of the Tribunal since the Tribunal is not well known and the nature of the work requires specialized skills. However, this challenge was overcome as the Registry has a qualified team capable of meeting the operational needs of the organization.

Obtaining Internal Services

The Registry of the Tribunal cannot put in place its own internal services, as it is too small. Accordingly, the Registry approached the Department of Public Works and Government Services, which now provides all of its human resources services. The Registry also made an agreement with another organization for technological and financial support services: this agreement allows the Registry to benefit from the services of two part-time employees in those fields.

Expenditure Profile

Voted and Statutory Items (in thousands of dollars)

Vote # or Statutory Item (S)	Truncated Vote or Statutory Wording	2008-2009 Main Estimates	2008-2009 Actual Spending
1	Operating expenditures	\$1,644	\$777
(S)	Contributions to employee benefit plans	\$189	\$59
Total		\$1,833	\$836

As the Tribunal has only recently been established, there are no financial trends to report.

SECTION II: ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

In carrying out its mandate, the organization is aiming for the following strategic outcome:

Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

Program Activity by Strategic Outcome

Program Activity: Reprisal Hearings Program					
2008-2009 Financial Resources (\$ thousands)			2008-2009 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
\$1,833	\$1,785	\$836	10	7.5	2.5

Expected Results	Performance Indicators	Targets	Performance Status	Performance Summary
Effective management of the Tribunal's proceedings	Number of decisions and/or orders issued within 250 calendar days from the start of a proceeding	90% of proceedings are completed within 250 calendar days	The objectives could not be evaluated during the reference period	Given that no cases have been referred to the Tribunal, it is currently impossible to evaluate the management of proceedings and the resulting performance indicators.
	Degree to which the evidence and written communication filed are shared with all parties	Fewer than 10% of adjournments are granted by the Tribunal because of deficiencies in the disclosure of evidence and written communication		
	The extent to which the parties have the information needed to exercise their rights	The procedural guide is distributed to all parties within five days after the commencement of the proceeding		

Benefits for Canadians

Canadians have a right to expect that public sector employees behave ethically and in accordance with their legal obligations. The public service must therefore foster an environment in which employees can honestly and openly raise concerns without fear or threat of reprisals.

The Tribunal is one component of the regime designed to encourage public servants to disclose wrongdoing. The Tribunal's success, and that of the other parties, will help create an environment in which employees can openly raise concerns without fear of reprisal. It will also contribute to the development of a culture within the public service that espouses the highest standards of ethical conduct.

Performance Analysis

The Tribunal pursues one strategic outcome: remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals. Just one program activity contributes to this strategic outcome: the Reprisal Hearings Program. Three performance indicators have been identified to measure the achievement of the strategic outcome: the number of decisions and/or orders issued within 250 calendar days from the start of a proceeding, the degree to which the evidence and the written communication filed are shared with all parties and the extent to which the parties have the information needed to exercise their rights. Given that no cases have been referred to the Tribunal, it is currently impossible to measure whether the established targets have been achieved.

Lessons Learned

The Tribunal is a new organization that is in its infancy and no cases have been referred to it yet. It is therefore unable to draw any lessons from its program activity (the Reprisal Hearings Program).

SECTION III: SUPPLEMENTARY INFORMATION

Financial Highlights

(in dollars)

Condensed Statement of Financial Position At End of Year (March 31, 2009)	2009
ASSETS	\$168,045
Total Assets	168,045
TOTAL	\$168,045
LIABILITIES	\$437,519
Total Liabilities	437,519
EQUITY	(269,474)
Total Equity	(269,474)
TOTAL	\$168,045

(in dollars)

Condensed Statement of Financial Position At End of Year (March 31, 2009)	2009
EXPENSES	\$1,122,365
Total Expenses	1,122,365
REVENUES	-
Total Revenues	-
NET COST OF OPERATIONS	\$1,122,365

Financial Statements

Financial statements are available on the website of the Public Servants Disclosure Protection Tribunal Canada at: <http://www.psdpt-tpfd.gc.ca>.