

***Employment Equity in the Federal Public Service:
Staying Vigilant for Equality***

**Standing Senate Committee
on Human Rights**

The Honourable Mobina S. B. Jaffer
Chair

The Honourable Salma Ataullahjan
Deputy Chair

December 2013

Ce document est disponible en français.

Available on the Parliamentary Internet:

www.parl.gc.ca

41st Parliament – 2nd Session

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
MEMBERS OF THE COMMITTEE	5
ORDER OF REFERENCE	7
LIST OF RECOMMENDATIONS	9
CHAPTER ONE: INTRODUCTION	11
CHAPTER TWO: THE CURRENT APPOINTMENT AND REPRESENTATION RATES.....	15
Aboriginal Peoples.....	17
Persons with disabilities.....	18
Members of the Visible Minorities Group.....	21
Women.....	23
CHAPTER THREE: OBSERVATIONS AND RECOMMENDATIONS CONCERNING CURRENT STATISTICS AND THE MONITORING AND EVALUATION OF HIRING PRACTICES	25
The need for more accurate workforce availability estimates	25
Encouraging Self-Identification and Self-Declaration.....	26
Tracking Hiring Practices	28
TBS Report on Employment Equity	30
Complying with the Employment Equity Act and Having a Representative workforce	32
Discrimination and Fairness in the Workplace	32
Workforce Adjustment.....	35
Recommendation on Monitoring and Evaluation	38
CHAPTER FOUR: OBSERVATIONS AND RECOMMENDATIONS CONCERNING EMPLOYMENT EQUITY ADVOCACY AND EMPLOYEE PARTICIPATION	41
Organization and Mandate of the OCHRO	41
Employee Advocacy and Participation	45
Recommendation on Advocacy and Employee Participation.....	48
APPENDIX A – KEY EMPLOYMENT EQUITY LEGISLATION AND THE MAIN ORGANISATIONS WITH EMPLOYMENT EQUITY RESPONSIBILITIES	49
Key Employment Equity Legislation.....	49
The <i>Public Service Employment Act</i> , S.C. 2003, c. 22	49
The <i>Employment Equity Act</i> , S.C. 1995, c. 44	49
The <i>Canadian Human Rights Act</i> , R.S.C. 1985, c. H-6.....	50

The Main Organisations with Employment Equity Responsibilities	50
The Public Service Commission of Canada (PSC).....	50
The Office of the Chief Human Resources Officer (OCHRO).....	51
The Canadian Human Rights Commission (CHRC)	52
APPENDIX B – EXPLANATION OF KEY EMPLOYMENT EQUITY STATISTICS	55
APPENDIX C – RECOMMENDATIONS FROM <i>REFLECTING THE CHANGING FACE OF CANADA: EMPLOYMENT EQUITY IN THE FEDERAL PUBLIC SERVICE</i>	57
APPENDIX D – WITNESSES WHO APPEARED BEFORE THE COMMITTEE 2011-2013.....	63

EMPLOYMENT EQUITY IN THE FEDERAL PUBLIC SERVICE: STAYING VIGILANT FOR EQUALITY

EXECUTIVE SUMMARY

The *Employment Equity Act* requires the federal public service to implement employment equity measures to “correct the conditions of disadvantage in employment experienced by women, Aboriginal peoples, persons with disabilities and members of visible minorities” and “to achieve equality in the workplace”. Since 2004, the Standing Senate Committee on Human Rights (“the Committee”) has retained an on-going order of reference to monitor issues of discrimination in the hiring and promotion practices of the federal public service and to study the extent to which targets to achieve employment equity are being met. The Committee has produced two previous reports in the course of this study:

- *Employment Equity in the Federal Public Service – Not There Yet*, February 2007; and
- *Reflecting the Changing Face of Canada: Employment Equity in the Federal Public Service*, June 2010.

On 26 October 2011, the Senate adopted a motion for the Committee to undertake a follow-up study on employment equity. Six meetings were held between October 2011 and May 2013. In the report resulting from this study, *Employment Equity in the Federal Public Service: Staying Vigilant for Equality*, the Committee examines the progress that has been made and the challenges that remain in reaching employment equity goals. One indicator of progress is that women, Aboriginal people and persons with disabilities are now better represented in the federal public service than their workforce availability and visible minorities are now only slightly under-represented. However, a number of indicators, particularly at senior levels, are not as positive. Given that many of this Committee’s key observations made in *Reflecting the Changing Faces of Canada* can still be made again today, we continue to stand behind the 13 recommendations we made in that report.

Employment Equity in the Federal Public Service: Staying Vigilant for Equality examines the changes resulting from the creation of the Office of the Chief Human Resources Officer (OCHRO) in 2009 and recent workforce adjustment processes and their impact on employment equity, as well as data collection and analysis challenges and the advocacy being done on the topic of employment equity.

Current statistics on employment equity broken down by employment equity group are examined in **Chapter Two: The Current Appointment and Representation Rates**. Current statistics reveal that Aboriginal peoples are applying to, being appointed to and are represented in the federal public service at a rate that is higher than their workforce availability. However, they are

also overrepresented in the lowest salary ranges and underrepresented in senior management. Aboriginal peoples are also concentrated in departments serving Aboriginal peoples. The report further notes that Aboriginal employees are leaving the federal public service at a greater rate than they are being hired.

The report notes that persons with disabilities are represented in the federal public service at a number that is higher than their workforce availability, though they continue to apply and to be appointed at a lower rate through the Public Service Commission (PSC) and hired at a lower rate as per the most recent hiring statistics in the Treasury Board of Canada Secretariat (TBS) annual report. In *Reflecting the Changing Face of Canada*, the Committee expressed concern that these low appointment rates suggest that federal departments and agencies may be reaching their employment equity targets for persons with disabilities through reliance on the demographics of aging, rather than seeking to actively recruit such persons. Though this remains a concern, witnesses were unable to confirm whether this hypothesis is accurate at the hearings for this study as the phenomenon is not sufficiently understood. The Committee heard from witnesses about various challenges faced by persons with disabilities in the public service including a lack of accommodation. On the positive side, we heard about efforts being made to recruit and retain employees with disabilities and to provide tools and training on accommodation.

Overall, the representation of the visible minorities group has improved since *Reflecting the Changing Face of Canada* was tabled in 2010. The rate of promotion of visible minorities is higher than their representation in the public service and they are leaving the federal public service at a lower rate than they are being hired. Despite these improvements, visible minorities remain underrepresented in higher level positions and salary categories and are slightly overrepresented in the lower salary categories.

Though women are represented at a greater rate in the federal public service than their workforce availability, they are still lagging behind men in terms of being appointed to executive and high-salary positions and are still largely clustered in certain occupations and departments. They remain concentrated in administrative support jobs, generally hold lower-paying jobs than men and are over-represented in term appointments.

Chapter 3: Observations Concerning Current Statistics and the Monitoring and Evaluation of Hiring Practices outlines a number of issues with the employment equity data that affect the ability to analyse, monitor and evaluate progress to date. The workforce availability data currently being used is from the 2006 Census and there is concern that it may no longer be accurate and that more reliable workforce availability statistics are needed for comparison. Another challenge discussed in Chapter 3 is the inability to confirm the accuracy of the representation rates gained from the self-identification surveys of existing employees and of the appointment rates gained from the self-declaration surveys of new candidates for

employment, which form the basis of the representation and appointment rate figures. Witnesses told the Committee that many employees in the visible minorities group fear that such information may be used against them. Study of this issue is ongoing within the federal public service to better understand the barriers to self-identification and self-declaration.

In *Reflecting the Changing Face of Canada*, the Committee recommended that the PSC provide statistics on recruitment rates for employment equity groups for the percentage of jobs that are not publicly advertised. Although the Public Service Commission's *2011-2012 Annual Report* does not provide the recruitment rates for the four designated groups to non-advertised positions, the use of non-advertised processes decreased slightly between the 2010-2011 and 2011-2012 fiscal years. Though there has been some concern that non-advertised appointments were less representative of employment equity groups, the Committee was told that some managers are actually using non-advertised appointments to meet employment equity objectives. Aboriginal peoples and persons with disabilities are better represented in non-advertised appointments, though this is not the case for visible minorities. The impact of contracting out on employment equity objectives is also discussed in Chapter 3.

The Committee heard that federal public service employers can meet their *Employment Equity Act* obligations without actually having a representative workforce. Chapter 3 addresses the issue of discrimination in the federal public service, recognising that there is debate as to whether it is a question of isolated incidents or a more systemic issue. In *Reflecting the Changing Face of Canada*, the Committee reported on problems with discrimination in the federal public service. Despite the Government of Canada's various efforts to deal with discrimination in the federal public service, this remains an important priority.

The final section of Chapter 3 examines the impact of workforce adjustment on employment equity. The testimony of witnesses on this point was mixed and labour union representatives informed the Committee that they did not have access to adequate information to assess the impact of workforce adjustment measures.

The chapter ends with the Committee's recommendation that the federal government support greater monitoring and evaluation to achieve employment equity in the federal public service. This requires better tracking, development and collection of employment-related data by the Treasury Board of Canada Secretariat and for more information on this topic to be made available to the public. Examples of data that would be of use are provided.

Chapter 4: Observations Concerning Employment Equity Advocacy and Employee Participation examines the role of the Office of the Chief Human Resources Officer (OCHRO), of employees and of certain committees in advocating for employment equity. The OCHRO was created in 2009 and is responsible for the broad framework, while deputy heads are now

responsible for implementing equity and diversity in their own departments. While the Committee has heard from the OCHRO about its efforts in providing guidance on employment equity for deputy heads, and although the Treasury Board's annual report does provide some indication of how departments and agencies are faring with regard to meeting overall employment equity targets, we believe that there needs to be a stronger accountability mechanism to provide an incentive to managers to meet employment equity targets. In *Reflecting the Changing Face of Canada*, the Committee recommended the "swift publication and effective implementation of the Office of the Chief Human Resources Officer's updated employment equity policy," and we continue to think that this would be beneficial in holding departments accountable for their employment equity results.

In Chapter 4, the Committee also notes the advantages of greater management involvement in the new structure of Employment Equity Champions and Chairs Committees for Aboriginal Peoples, visible minorities and persons with disabilities as opposed to their predecessor National Employment Equity Councils which were employee-focused. A number of witnesses found that the committees are working well. However, other witnesses noted that, in the transition, a venue for employee-driven initiatives and open dialogue for employees outside the union and management context was lost. The Committee recommends that mechanisms and safeguards be created to ensure that federal public service employees are able to freely voice their employment equity concerns and organise solutions together. These could be established as part of the existing model for the Chairs and Champions Committees or as something separate. The Committee also recommends that an Employment Equity Champions and Chairs Committee for women be created given that full employment equity for this group has also not yet been realized.

In conclusion, the Committee has learned that much progress has been made in achieving employment equity goals over the years that the Committee has been studying this issue but there is still work to be done to ensure that Canadians have a federal public service that is truly representative of them at all levels.

MEMBERS OF THE COMMITTEE

The Honourable Mobina S. B. Jaffer, Chair

The Honourable Salma Ataullahjan, Deputy Chair

and

The Honourable Senators:

Raynell Andreychuk

Art Eggleton

Elizabeth Hubley

Don Meredith

Thanh Hai Ngo

Judith G. Seidman

Betty E. Unger

Ex-officio members of the committee:

The Honourable Claude Carignan, P.C., (or Yonah Martin) and James Cowan (or Joan Fraser).

Other Senators who have participated from time to time in the study:

The Honourable Senators Pierre-Hugues Boisvenu, Patrick Brazeau, JoAnne L. Buth, Jane Cordy, Stephen Greene, Mac Harb, Noël A. Kinsella, Yonah Martin, Grant Mitchell, Jim Munson, Victor Oh, Nancy Ruth, Donald H. Oliver, Q.C., Vernon White and Rod A. Zimmer.

Parliamentary Information and Research Service, Library of Parliament:

Julia Nicol, Shauna Troniak and Julian Walker, Analysts

Senate Committees Directorate:

Adam Thompson (from September 2013), Daniel Charbonneau (until September 2013),
Clerk of the Committee

Lori Meldrum, Administrative Assistant

Senate Communications Directorate:

Ceri Au, Communications Officer

ORDER OF REFERENCE

Extract of the *Journals of the Senate*, Tuesday, November 19, 2013:

The Honourable Senator Jaffer moved, seconded by the Honourable Senator Munson:

That the Standing Senate Committee on Human Rights be authorized to examine issues of discrimination in the hiring and promotion practices of the Federal Public Service, to study the extent to which targets to achieve employment equity are being met, and to examine labour market outcomes for minority groups in the private sector;

That the papers and evidence received and taken and work accomplished by the committee on this subject since the beginning of the First session of the Thirty-ninth Parliament be referred to the committee; and

That the committee submit its final report to the Senate no later than June 30, 2014.

The question being put on the motion, it was adopted.

Gary W. O'Brien

Clerk of the Senate

LIST OF RECOMMENDATIONS

Recommendation on Monitoring and Evaluation

The Committee recommends that the federal government support greater monitoring and evaluation to achieve the goal of employment equity in the federal public service. This requires better tracking, development and collection of employment-related data by the Treasury Board of Canada Secretariat and for more information on this topic to be made available to the public. Such an effort should include improved review of the appointment process in the federal public service, including for non-advertised positions, to allow for more accurate tracking of employment equity goals and analysis of how effectively they are being integrated into hiring policies and practices.

Up-to-date data on the workforce adjustment processes is also necessary to ascertain their impact on employment equity. This information should be released as it becomes available to allow for analysis to be conducted in a timely manner. Tracking and reporting on the types of discrimination complaints being brought forward, as well as measures taken in response, are also necessary to provide important data to identify barriers to employment equity.

Finally, also to facilitate monitoring and evaluation, the Committee urges the Treasury Board Secretariat to include the following information in future annual reports with respect to employment equity:

- Data and information compiled further to consultations with federal public service labour unions and the Employment Equity Chairs and Champions Committees;
- The employment equity workforce analysis tables already being provided to federal departments and agencies each year to help them integrate employment equity considerations into their human resources and business planning;
- Updates concerning the relevant programs and initiatives of the Office of the Chief Human Resources Officer, the Public Service Commission and the Canadian Human Rights Commission and analyses of how these are impacting the overall implementation of the *Employment Equity Act*;
- Best practices from employment equity initiatives undertaken by individual departments and agencies;
- Summaries of the activities of the Joint Employment Equity Committee and the Interdepartmental Network on Employment Equity;

- Updates with regard to progress being made in encouraging self-identification and self-declaration among federal public service employees;
- Updates concerning progress in developing more reliable methods of determining the representation rates for the designated groups under the *Employment Equity Act*;
- Information concerning the guidance and direction provided by the Office of the Chief Human Resources Officer to deputy heads and individual departments and agencies concerning employment equity; and
- Analysis of the observable trends in employment equity statistics for the federal public service and the factors that may be influencing these trends.

Recommendation on Advocacy and Employee Participation

The Committee recommends that the federal government expand its efforts to promote greater advocacy and employee participation on issues concerning employment equity within the federal public service. Such efforts should include the creation of an Employment Equity Champions and Chairs Committee for women as already exists for the other employment equity groups, given that full employment equity for this group has also not yet been realized. The Committee also calls on the government to develop and support mechanisms and safeguards to ensure federal public service employees are able to organise and independently raise their concerns, address discrimination and advocate for employment equity.

CHAPTER ONE: INTRODUCTION

There is evidence that a representative bureaucracy is a key element of good governance in a diverse society. ... In the eyes of a diverse citizenry, a representative bureaucracy can contribute to the perception that government is both legitimate and accessible. There is a parallel here to the business case for diversity in the private sector, where it is understood that a diverse work force is a competitive advantage that contributes to business success in a diverse society. Representativeness is important in a democratic society as a demonstration to citizens that they and their children have access to government and to the careers it offers, which their taxes support. – Carol Agócs, Professor Emerita, University of Western Ontario¹

Since 2004, the Standing Senate Committee on Human Rights (“the Committee”) has retained an on-going order of reference to monitor issues of discrimination in the hiring and promotion practices of the federal public service and to study the extent to which targets to achieve employment equity are being met. The Committee has produced two previous reports in the course of this study:

- *Employment Equity in the Federal Public Service – Not There Yet*, February 2007;² and
- *Reflecting the Changing Face of Canada: Employment Equity in the Federal Public Service*, June 2010.³

When the Committee began to study employment equity almost a decade ago, much progress had already been made in developing a framework for making the federal public service reflect the Canadian population it represents. The federal public service had not, however, achieved the representativity required by the key legislation for this framework: the *Employment Equity Act* (more information about the key legislation and organisations can be found in Appendix A).⁴ The statistics from March 2005, which we presented in our *Not There Yet* report, revealed that, of the four groups designated by the Act, three of them – Aboriginal peoples, persons with disabilities and women – were overall represented equitably in the federal public service when compared to their availability in the Canadian workforce. Members of the visible minorities

¹ Standing Senate Committee on Human Rights, *Evidence*, 22 April 2013, <http://www.parl.gc.ca/content/sen/committee/411/RIDR/25EV-50082-E.HTM>. A full list of witnesses who appeared before the Committee is included in Appendix D. Transcripts are available at: Standing Senate Committee on Human Rights, *Transcripts & Minutes*, 41st Parliament, 1st Session. http://www.parl.gc.ca/SenCommitteeBusiness/CommitteeTranscripts.aspx?parl=41&ses=1&Language=E&comm_id=77.

² Standing Senate Committee on Human Rights, *Employment Equity in the Federal Public Service – Not There Yet*, February 2007, <http://www.parl.gc.ca/39/1/parlbus/commbus/senate/com-e/huma-e/rep-e/rep07feb07-e.pdf>.

³ Standing Senate Committee on Human Rights, *Reflecting the Changing Face of Canada: Employment Equity in the Federal Public Service*, June 2010, <http://www.parl.gc.ca/40/3/parlbus/commbus/senate/com-e/huma-e/rep-e/rep02jun10-e.pdf>. See pp. 12–16 of *Reflecting the Changing Face of Canada* for more concerning the history of the Committee’s study under this mandate.

⁴ S.C. 1995, c. 44.

group were, however, represented at a rate noticeably below their availability numbers.⁵ Looking more closely at the statistics revealed that the four groups remained underrepresented in many federal departments and at the higher salary and seniority levels. They were also overrepresented in lower level and clerical positions. Later, in our 2010 report, *Reflecting the Changing Face of Canada*, we continued to observe overall progress being made, but we remained concerned that the federal public service was still not fully representative of Canadians.⁶

The Committee held hearings again in 2011, 2012 and 2013⁷ on these issues. We remain encouraged that the overall representativity statistics have continued to improve, and we applaud the efforts of all those who have worked hard towards this achievement. Current statistics show that women, Aboriginal peoples and persons with disabilities are now better represented in the federal public service than their workforce availability. Improvements are being seen in the number of promotions being given to members of these groups as well. Noteworthy progress has been made for the visible minorities group, who are now only slightly under-represented in overall numbers.

Significant gaps continue to persist, however, particularly at senior levels. Members of the four designated groups remain primarily employed at lower levels and women and members of the visible minorities group remain underrepresented at the executive level. Women continue to be overrepresented in administrative support positions. The rate at which persons with disabilities are being appointed to the federal public service remains too low. Aboriginal peoples are well-represented overall, but work primarily in just a few departments. Although members of the visible minorities group are doing well in appointments and better in overall representativity, their percentage of total hirings as per the Treasury Board of Canada Secretariat's recent statistics is below where it should be. Representativity can still vary significantly between federal departments, with underrepresentation of the four groups being a significant concern in several of them.⁸

Given that many of this Committee's key observations made in *Reflecting the Changing Face of Canada* can still be made again today, we continue, therefore, to stand behind the 13 recommendations we made in that report. As that report detailed many of the relevant issues, factors, challenges and solutions that form the employment equity landscape of the federal public service, this current report seeks to supplement our previous findings and to draw attention to two recent developments. The first pertains to the restructuring of the Treasury Board's approach

⁵ Members of the visible minorities group accounted for 8.1% of all employees, which was below their overall availability of 10.4% of the workforce (this workforce availability number would be revised not long after based on the 2006 Census to 12.4%). Furthermore, while 25 % of all applications for advertised positions with the federal public service were from members of this group, they received only 10% of appointments.

⁶ For an explanation of the key statistical indicators used in discussions of employment equity, see Appendix B.

⁷ See Appendix D for the list of witnesses.

⁸ For statistics pertaining to employment equity by department and agency, see: Treasury Board of Canada Secretariat, *Employment Equity in the Public Service of Canada 2011–12, Annual Report to Parliament*, Table 1, at pp. 5-9, <http://www.tbs-sct.gc.ca/reports-rapports/ee/2011-2012/ee-eng.pdf>.

to employment equity and the establishment of the Office of the Chief Human Resources Officer (OCHRO) (which, having been created in 2009, has now progressed to a point where witnesses are able to discuss its approach to employment equity). The second concerns the Government of Canada's workforce adjustment process and the overall downsizing of the federal government that is resulting in thousands of layoffs, which some witnesses worry will erase recent progress in employment equity. More generally, the report also looks at the data and analysis available to monitor and evaluate success to date in achieving employment equity, as well as the work of the various advocates on this topic within the federal public service.

Given the significant progress that has been made towards building a federal public service that is representative of the Canadian population, it is important to remain vigilant so that these gains are not lost. There is still much work to do to address discrimination in the federal public service and to create an equitable workplace.

CHAPTER TWO: THE CURRENT APPOINTMENT AND REPRESENTATION RATES

The current appointment and representation rates reveal that progress has been made over recent years in making the federal public service more representative of the Canadian population. In many key areas, the representation rates are matching or are not far off from workforce availability. Chief Human Resources Officer⁹ Daniel Watson noted that these statistics are “impressive” and, overall, demonstrate “significant progress.”¹⁰ Anne-Marie Robinson, President of the Public Service Commission¹¹ (PSC), noted she was “happy” to report certain statistics that show “good progress”, though she also acknowledged that in some areas there is still work to be done. She underscored the need to “look horizontally across the public service”, since there are “gaps” that appear “vertically and across different occupations.”¹²

Not all witnesses were as enthusiastic about the current numbers. Robyn Benson, the National President of the Public Service Alliance of Canada (PSAC), submitted that “the most current data in the latest Treasury Board annual report on employment equity does not give us any reason to celebrate.”¹³ Al Ravjiani, the Ontario Regional Director for the Professional Institute of the Public Service of Canada (PIPSC), explained that:

It is undeniable that the employment landscape of federal public service has become fairer over the last two decades. That being said, many improvements remain to [be] made, including the need for vigilance to prevent a return to less equitable practices.¹⁴

Carol Agócs, Professor Emerita at the University of Western Ontario, described the federal public service as not being a representative bureaucracy and added: “Representation is not only about being there but also about participation in decision-making, equity in career advancement and pay, and an inclusive and respectful culture.”¹⁵

Selected key statistics from the Public Service Commission of Canada’s *Annual Report 2011-2012* and the Treasury Board of Canada Secretariat’s (TBS) *Employment Equity in the Public Service of Canada 2011–12, Annual Report to Parliament* are set out in the table below. This data helps to present some of the areas where progress is being made and where gaps exist.

⁹ See Chapter 4 and Appendix A for an explanation of the Chief Human Resources Officer’s role in employment equity.

¹⁰ *Evidence*, 22 April 2013.

¹¹ See Appendix A for an explanation of the Public Service Commission’s role in employment equity.

¹² *Evidence*, 22 April 2013.

¹³ *Evidence*, 29 April 2013, <http://www.parl.gc.ca/content/sen/committee/411/RIDR/26EV-50107-E.HTM>.

¹⁴ *Evidence*, 29 April 2013.

¹⁵ *Evidence*, 29 April 2013.

Selected Key Statistics: Employment Equity in the Federal Public Service of Canada 2011-12

	Women	Aboriginal Peoples	Persons with Disabilities	Members of Visible Minorities
Workforce availability (2006 Census)¹⁶	52.3%	3.0%	4.0%	12.4%
% of total applicants to the federal public service¹⁷	45.3% [2009-10 ¹⁸]	4.0%	2.6%	21.4%
% of total appointments to the federal public service¹⁹	53.0%	5.3%	3.0%	22.3%
Representation rate in federal public service²⁰	54.6%	4.9%	5.7%	12.1%
% of total in executive positions²¹	45.9%	3.7%	5.5%	8.1%
% of those with a salary over \$100,000²²	41.5%	2.9%	5.5%	10.4%
% of those with a salary between \$45,000-49,999²³	67.4%	5.8%	7.0%	11.6%
% of those in administrative support positions²⁴	79.1%	6.1%	7.8%	13.2%

¹⁶ Provided to Public Service Commission of Canada by the Office of the Chief Human Resources Officer, as cited in: Public Service Commission of Canada, *Annual Report 2011-2012*, Table 11, at p. 43, <http://www.psc-cfp.gc.ca/arp-rpa/2012/rpt-eng.pdf>.

¹⁷ Public Service Commission of Canada, *Annual Report 2011-2012*, Table 11, at p. 43, <http://www.psc-cfp.gc.ca/arp-rpa/2012/rpt-eng.pdf>.

¹⁸ Due to a change in data capture, recent applicant data by sex is no longer available.

¹⁹ Public Service Commission of Canada, *Annual Report 2011-2012*, Table 11, at p. 43, <http://www.psc-cfp.gc.ca/arp-rpa/2012/rpt-eng.pdf>.

²⁰ Treasury Board of Canada Secretariat, *Employment Equity in the Public Service of Canada 2011-12, Annual Report to Parliament*, Table 6 at p. 15, <http://www.tbs-sct.gc.ca/reports-rapports/ee/2011-2012/ee-eng.pdf>.

²¹ Treasury Board of Canada Secretariat, *Employment Equity in the Public Service of Canada 2011-12, Annual Report to Parliament*, Table 3 at p. 11, <http://www.tbs-sct.gc.ca/reports-rapports/ee/2011-2012/ee-eng.pdf>.

²² Treasury Board of Canada Secretariat, *Employment Equity in the Public Service of Canada 2011-12, Annual Report to Parliament*, Table 4 at p. 13, <http://www.tbs-sct.gc.ca/reports-rapports/ee/2011-2012/ee-eng.pdf>.

²³ Treasury Board of Canada Secretariat, *Employment Equity in the Public Service of Canada 2011-12, Annual Report to Parliament*, Table 4 at p. 12, <http://www.tbs-sct.gc.ca/reports-rapports/ee/2011-2012/ee-eng.pdf>.

²⁴ Treasury Board of Canada Secretariat, *Employment Equity in the Public Service of Canada 2011-12, Annual Report to Parliament*, Table 3, at p. 11, <http://www.tbs-sct.gc.ca/reports-rapports/ee/2011-2012/ee-eng.pdf>.

% of total hirings ²⁵	53%	3.5%	2.4%	10.7%
% of total promotions ²⁶	57.6%	4.6%	4.6%	13.5%
% of total separations ²⁷	55.6%	3.8%	6.8%	7.7%

Aboriginal Peoples

The current statistics reveal that Aboriginal peoples are applying to, being appointed to and are represented in the federal public service at a rate that is higher than their workforce availability. At the same time, they are overrepresented in the lowest salary ranges. As Professor Agócs summarized:

In 2007 and 2011, the trend in the hiring of Aboriginal people turned negative: Hires were less than availability and the rate of separations exceeded the rate of hires. In 2011, Aboriginal representation among employees promoted was less than their representation in the public service. Throughout the study period, Aboriginal employees were clustered in departments that provide services to Aboriginal peoples.

In summary, the public service is a representative bureaucracy for Aboriginal people if we focus only on access to employment, but they do not have equal access to senior management or the top salary group, and the hiring of Aboriginal persons is trending downward. The representation of Aboriginal persons will not be sustained if separations continue to exceed hires.²⁸

In determining the representation of Aboriginal peoples in the federal public service, the PSC uses a type of self-identification process called the Affirmation of Aboriginal Affiliation Form. The most recent PSC annual report explained that while this process was initially used for appointment processes where the area of selection was limited to Aboriginal peoples (or limited to members

²⁵ Treasury Board of Canada Secretariat, *Employment Equity in the Public Service of Canada 2011–12, Annual Report to Parliament*, Table 5, at p. 14, , <http://www.tbs-sct.gc.ca/reports-rapports/ee/2011-2012/ee-eng.pdf>. “Hirings” is defined in this report as: “Refers to the number of persons added to the employee population in the past fiscal year. This includes indeterminate and seasonal employees, with the exception of those seasonal employees who are on leave without pay at the end of March, those with terms of three months or more, and students and casual workers whose employment status has changed to indeterminate, terms of three months or more, or seasonal. Hirings measure the flow of employees into the public service and may include more than one staffing action for term employees.”

²⁶ Treasury Board of Canada Secretariat, *Employment Equity in the Public Service of Canada 2011–12, Annual Report to Parliament*, Table 5, at p. 14, <http://www.tbs-sct.gc.ca/reports-rapports/ee/2011-2012/ee-eng.pdf>.

²⁷ Treasury Board of Canada Secretariat, *Employment Equity in the Public Service of Canada 2011–12, Annual Report to Parliament*, Table 5, at p. 14, <http://www.tbs-sct.gc.ca/reports-rapports/ee/2011-2012/ee-eng.pdf>.

²⁸ *Evidence*, 22 April 2013.

of the designated employment equity groups), it is now being applied to “other types of appointment processes.”²⁹ Maria Barrados, former president of the PSC, explained that it is hoped that the Affirmation of Aboriginal Affiliation Form process will be an “effective way to deter Aboriginal false self-declaration.” She added that, “the PSC will continue to work with organizations to see if additional support is needed to ensure consistency in implementing this approach.”³⁰

Another issue raised by witnesses over the years is that the Aboriginal Canadian population tends to be younger than the population of Canada as a whole. As Professor Agócs noted: “we are looking at the future labour force of Canada. We need to get on this idea of including Aboriginal people in the jobs that are available because they will be the labour force of the future.” Patty Ducharme, who was the National Executive Vice-President of PSAC when she appeared before the Committee in 2012, also highlighted societal challenges for young Aboriginal people in “accessing education opportunities”.³¹

Persons with disabilities

Persons with disabilities are represented in the federal public service at a number that is higher than their workforce availability, though they continue to apply and to be appointed at a lower rate through the PSC and hired at a lower rate as per the most recent hiring statistics in the TBS annual report. In *Reflecting the Changing Face of Canada*, the Committee expressed concern that these low appointment rates suggest that federal departments and agencies may be reaching their employment equity targets for persons with disabilities through reliance on the demographics of aging, rather than seeking to actively recruit them.³² Bearing in mind that disabilities are more likely to be acquired as people age, half of the persons with disabilities employed in the federal public service are aged 50 years or older, while the representation rate of persons with disabilities under 35 is only 2.8% (compared to a workforce availability of 4.0 % for this group as a whole).

Daniel Watson responded to these concerns about relying on the demographics of ageing: “We do not know for a fact that is the case, but if it were something other than that, we would want to look into it to determine whether any steps should be taken to address that.”³³ Anne-Marie

²⁹ Public Service Commission of Canada, *Annual Report 2011-2012*, at pp. 43-44, <http://www.psc-cfp.gc.ca/arp-rpa/2012/rpt-eng.pdf>.

³⁰ *Evidence*, 31 October 2011, <http://www.parl.gc.ca/content/sen/committee/411/RIDR/03EV-49141-E.HTM>.

³¹ *Evidence*, 22 April 2013.

³² Standing Senate Committee on Human Rights, *Reflecting the Changing Face of Canada: Employment Equity in the Federal Public Service*, June 2010, at p. 4, <http://www.parl.gc.ca/40/3/parlbus/commbus/senate/com-e/huma-e/rep-e/rep02jun10-e.pdf>.

³³ *Evidence*, 22 April 2013.

Robinson acknowledged that these low application, appointment and hiring rates represent an issue that the PSC does not “understand well enough” and can do more to address.³⁴

Another issue raised by witnesses is the higher separation rate persons with disabilities have compared to their appointment rate, which may be an indication that federal departments are not doing enough to accommodate them. Professor Agócs sees this as a “negative” trend that will affect “the representativeness of the public service for persons with disabilities ... into the future if this continues, particularly since employees with disabilities are older and more likely to retire than other employees.”³⁵

Robyn Benson informed the Committee that the largest number of discrimination grievances and complaints by PSAC members are from those with disabilities who are not properly accommodated in their workplaces. She suggested that what remains to be determined is whether “the high rate of separation of employees with disabilities is related to the lack of accommodation or to problems with reintegration into the workplaces after an absence.”³⁶

Patty Ducharme remarked that employees without indeterminate status and who get sick or develop disabilities can be less willing to come forward and share information about this.³⁷ Seema Lamba, PSAC’s Human Rights Officer, added another concern:

In addressing these issues with our members, we find it is difficult to actually facilitate their integrating back into the workplace properly or their being reasonably accommodated, and often they end up staying outside of the workplace, sometimes for years, until eventually their employer tells them their employment will be terminated. Often it is because of a lack of accommodation, or they may just need some more time to deal with their disability before coming back into their workplace. That is a significant issue and quite a concern for us now, with the cuts [i.e., workforce adjustment], because there are members on disability insurance who, as a way of saving funds, may be terminated.³⁸

Robyn Benson presented similar views and illustrated why she thinks public service employers are prioritizing cost reduction over workplace accommodation:

Under the *Public Service Employment Act*, managers have had the option to backfill a position if an employee has been on leave without pay for over a year. If the position is backfilled, the employee has no job to come back to when they are able to return to work. They are placed on a priority list for leave of absence. In the past, most managers would

³⁴ *Evidence*, 22 April 2013.

³⁵ *Evidence*, 22 April 2013.

³⁶ *Evidence*, 29 April 2013.

³⁷ *Evidence*, 13 February 2012, <http://www.parl.gc.ca/content/sen/committee/411/RIDR/08EVA-49320-E.HTM>.

³⁸ *Evidence*, 13 February 2012.

wait until the person was able to return to work and actually accommodate that person on their return, if required. Now, anecdotally, we find there is less flexibility, and employees are either forced to retire, to resign or to return to work before they are ready. Employees who cannot come back to their substantive positions due to their disability are placed on a leave of absence priority list.

These days, disability management is not focused on the prevention of illness or improving accommodation in the workplace so that workers with disabilities can be integrated productively. Instead, it encourages pushing workers back into the workforce before they are ready or forcing them to retire or resign. If they want to remain employed, they wait on priority lists, wondering whether they will have a job when they are ready to return because their job has been backfilled.³⁹

Witnesses from the PSC and the OCHRO described some of the initiatives they have already put in place to try to better recruit and retain employees with disabilities. Daniel Watson emphasized the importance of an accommodating workplace and spoke about the:

excellent work being done through the Disability Management Initiative, which has generated a number of tools and services to support departments better in supporting ill or injured employees, and to contribute to the participation of persons with disabilities in the workforce. This includes resources such as disability case management workshops, training programs for disability management advisers and advisers with responsibility for disability management.⁴⁰

In its *2011–2012 Annual Report*, the PSC explained that it has “enhanced its advisory role for persons with disabilities by delivering expert seminars on accommodation to 182 [human resources] practitioners in the public service.” It also implemented an online system to track accommodation requests, posted a “literature review” on its website about this issue, and has been pursuing research on best practices in the accommodation field to ensure relevance and consistency of services to organizations. In addressing the increased responsibilities of managers for employment equity, the 2011-2012 PSC report also identified some “best practices” for federal employers, including:

a fully integrated business and HR plan incorporating a diversity and [employment equity] plan covering key areas (Human Resources and Skills Development Canada); the development of a database of non-government organizations, colleges and university centres for students with disabilities for communications, marketing and outreach purposes (Health Canada); and increasing awareness of persons with disabilities issues

³⁹ *Evidence*, 29 April 2013.

⁴⁰ *Evidence*, 22 April 2013.

through in-house workshops on accommodation (Public Works and Government Services Canada).⁴¹

Linda Lizotte-MacPherson, the Employment Equity Champion for Federal Employees with Disabilities and President of the Canada School of Public Service, also acknowledged that the underrepresentation of persons with disabilities in certain areas remains insufficiently understood, but drew attention to some of the work being done through the Champions and Chairs Committee to address this issue, including working on an accessibility strategy and engaging in consultations with the Public Service Commission.⁴² Other promising initiatives brought to the Committee's attention were the Treasury Board's release of a *Disability Management Handbook for Managers in the Federal Public Service*⁴³ in 2011 and a Workplace Wellness and Productivity Strategy⁴⁴ that was launched in 2012.

PSAC raised one other issue related to disability, with Robyn Benson noting that:

We are also very concerned about the large increase in the number of disability insurance claims related to mental health issues. We believe these numbers will only grow as public services and jobs are cut, while demands and workloads increase. Even the increase in claims does not provide a true picture. Many employees with mental health issues will not report them or seek assistance because of the stigma and, more recently, the fear of being targeted during the workforce adjustment process.⁴⁵

Members of the Visible Minorities Group

While representation rates for members of the visible minorities group⁴⁶ have increased since *Reflecting the Changing Face of Canada* was released in June 2010, they still do not quite match the workforce availability numbers from the 2006 Census – though this gap is now almost closed. Given that the workforce availability numbers from the 2011 Census (not yet available) are expected to be higher for visible minorities, this gap will likely be much greater.

Professor Agócs reviewed the situation for visible minorities and concluded that the federal “public service has not been a representative bureaucracy for visible minorities in any respect, and this situation will not improve if present trends continue.”⁴⁷ The data reveal that they are

⁴¹ Public Service Commission of Canada, *2011–2012 Annual Report*, p. 44, <http://www.psc-cfp.gc.ca/arp-rpa/2012/rpt-eng.pdf>.

⁴² *Evidence*, 29 April 2013.

⁴³ Treasury Board of Canada Secretariat, *Disability Management in the Federal Public Service*, 21 September 2011, <http://www.tbs-sct.gc.ca/hrh/dmi-igi/index-eng.asp>.

⁴⁴ Treasury Board of Canada Secretariat, *Annual Report to Parliament 2011–12 - Human Resources Management*, 2012, <http://www.tbs-sct.gc.ca/reports-rapports/pmt-gpt/2011-2012/pmt-gpt-eng.pdf>.

⁴⁵ *Evidence*, 29 April 2013.

⁴⁶ Under section 3 the *Employment Equity Act*, “members of visible minorities” are “persons, other than aboriginal peoples, who are non-Caucasian in race or non-white in colour.”

⁴⁷ *Evidence*, 22 April 2013.

underrepresented in the executive group and in the higher salary categories and slightly overrepresented in the lower salary categories. Also, while they are entering the federal public service at a level above their workforce availability through PSC appointments, they are underrepresented in the percentage of total hirings. The Committee is encouraged, however, that their rate of promotion is higher than their representation in the public service and that they are leaving the federal public service at a lower rate than they are being hired.

Maria Barrados stated before the Committee in 2011 that because visible minorities have been appointed above workforce availability for some time, she does not have a “great deal of confidence in the number that is used to calculate the number of visible minorities currently working in the Government of Canada” and claimed it is “under-representative.”⁴⁸ She explained further that:

... [F]or the last five years, we have been measuring the numbers that have been coming in. They have been coming in at a very high rate, well above what is in the public service and well above workforce availability. The population number we are seeing is not really changing very much, so there is something wrong. I know they are not leaving; I know they are staying. We have been on about this quite consistently. We have to do better with that number.⁴⁹

One reason for the uncertainty behind these numbers pertains to the issue of whether employees are participating fully in the self-identification process, which is discussed in the next chapter.

Daniel Watson observed that progress is being made in the executive ranks for this group. The PSC has previously described its progress in creating pools of qualified candidates who are members of visible minorities who are eligible to fill executive level positions. Anne-Marie Robinson also discussed a study the PSC is currently undertaking to report on how members of all employment equity groups are proceeding in terms of promotions within the public service and to “better understand their experience with this staffing system to find out whether there are any additional barriers ... that need to be addressed.”⁵⁰

Another development noted by Anne-Marie Robinson is that the “drop-off” rate that used to be higher for members of the visible minorities groups has reversed such that the most recent appointment rate is higher than the application rate. In *Reflecting the Changing Face of Canada*, the Committee had noted its concern about past drop-off rates for visible minority applicants and recommended that the Public Service Commission undertake further study and report on the reasons for this. While these new statistics indicate that improvements are being made, as Ms. Robinson cautioned: “This is one year's data only, so we have to be vigilant and continue to

⁴⁸ *Evidence*, 31 October 2011.

⁴⁹ *Evidence*, 31 October 2011.

⁵⁰ *Evidence*, 22 April 2013.

watch the data as we go forward.”⁵¹ The Committee hopes that the drop-off rate will not resurface as a concern in future years, and that the Public Service Commission will report on its assessment of the reasons for previously high past drop-off rates and recent successes in addressing them.

Women

As the Committee previously noted in *Reflecting the Changing Face of Canada*, women are still lagging behind men in terms of being appointed to executive and high-salary positions and are still largely clustered in certain occupations and departments. They remain concentrated in administrative support jobs, generally hold lower-paying jobs than men and are over-represented in term appointments. As Professor Agócs summarized, “women have access to public service employment but they have not achieved equality, even though they have long constituted a majority of federal public servants.”⁵² They are, however, making gains in the scientific and professional occupational group and are now represented at 50.4%.⁵³

The Committee is pleased that the Public Service Commission has implemented our recommendation to present statistics showing the proportion of women appointed from within the three other designated groups. Its recent annual report notes that the percentage of women in the persons with disabilities and Aboriginal peoples designated groups decreased in 2011–2012, from 51.5% to 48.4% and 67.8% to 63.5%, respectively. In 2011–2012, the proportion of women appointed from the visible minority designated group was 55.0%, compared to 54.7% in 2010–2011.⁵⁴

Another area related to employment equity that has been raised during recent hearings by witnesses is pay equity, which refers to the policy of ensuring that those working in positions that are traditionally held by either men or women receive equal compensation for work of equal value. In 2009, this Committee reviewed and reported on the new *Public Sector Equitable Compensation Act*.⁵⁵ Once it comes into force, this Act will replace the complaints-based system previously found in the *Canadian Human Rights Act* with a system where employers and bargaining agents must take “proactive” steps during the collective bargaining process and then report on their achievements in realizing “equitable compensation” (a term that is intended to replace “pay equity”). Under the new system, disputes and complaints regarding equitable compensation matters will be handled by the Public Service Labour Relations Board rather than

⁵¹ *Evidence*, 22 April 2013.

⁵² *Evidence*, 22 April 2013.

⁵³ *Evidence*, 29 April 2013.

⁵⁴ Public Service Commission of Canada, *Annual Report 2011-2012*, at Table 34, <http://www.psc-cfp.gc.ca/arp-rpa/2012/rpt-eng.pdf>.

⁵⁵ Standing Senate Committee on Human Rights, *Report of the Standing Senate Committee on Human Rights re: The Public Sector Equitable Compensation Act*, June 2009, <http://www.parl.gc.ca/Content/SEN/Committee/402/huma/rep/rep03jun09-e.pdf>.

the Canadian Human Rights Commission (CHRC) and the Canadian Human Rights Tribunal. The Act will not come into force until the regulations are finalized by the Treasury Board of Canada Secretariat.⁵⁶ Ryan Campbell, a policy analyst with the Professional Institute of the Public Service of Canada remarked that PSECA is “imposing unfair and restrictive definitions” and could potentially prevent pay equity complaints from being properly heard.⁵⁷ The Committee intends to continue to monitor this legislation as it is implemented.

⁵⁶ For more information, see: Treasury Board of Canada Secretariat, *Equitable Compensation*, <http://www.tbs-sct.gc.ca/lrco-rtor/relations/equity-parite-eng.asp>.

⁵⁷ *Evidence*, 29 April 2013.

CHAPTER THREE: OBSERVATIONS AND RECOMMENDATIONS CONCERNING CURRENT STATISTICS AND THE MONITORING AND EVALUATION OF HIRING PRACTICES

The need for more accurate workforce availability estimates

Monitoring employment equity in the federal public service is a challenge when workforce availability estimates are out of date. The Office of the Chief Human Resources Officer, the Public Service Commission of Canada and the Canadian Human Rights Commission are currently using workforce availability estimates derived from 2006 census data, which are no longer considered to be accurate, particularly for the visible minorities group whose population has been increasing due to immigration. Chief Human Resources Officer Daniel Watson said that his organisation recognizes the limitations on the data being used.⁵⁸

Witnesses before the Committee have stressed the importance of having up-to-date data. According to Ryan Campbell from the Professional Institute of the Public Service of Canada:

Because the Canadian labour force is constantly changing, using 2006 data means that the government's 2012 employment equity report is not a true representation of the current situation. The Treasury Board should use rigorous statistical estimation techniques to determine the percentages of the four employment groups in the Canadian labour force.⁵⁹

When she appeared before the Committee, Maria Barrados stated that: “Improved methodology and more reliable data are essential for getting a more accurate picture of employment equity in the public service and for reducing the reporting burden on organizations.”⁶⁰

The Committee recommended in its *Reflecting the Changing Face of Canada* report that the Office of the Chief Human Resources Officer, the Public Service Commission of Canada and the Canadian Human Rights Commission work together to make sure that workforce availability numbers from the most recent national census are made available to both the public and individual federal departments and agencies as soon as they are published.⁶¹

Patty Ducharme from PSAC underscored the importance of data collection for achieving employment equity, stating that: “Numbers are important. Without them, employment equity is like

⁵⁸ *Evidence*, 22 April 2013.

⁵⁹ *Evidence*, 29 April 2013.

⁶⁰ *Evidence*, 31 October 2011.

⁶¹ Standing Senate Committee on Human Rights, *Reflecting the Changing Face of Canada: Employment Equity in the Federal Public Service*, June 2010, Recommendation #2, <http://www.parl.gc.ca/40/3/parlbus/commbus/senate/com-e/huma-e/rep-e/rep02jun10-e.pdf>.

a house without a foundation.”⁶² PSAC has been critical of the cancelling of the mandatory long-form survey for the 2011 census and recommended that the federal government reinstate it or, “at the very least”, include the questions that generate data for employment equity in the short form of the census.⁶³

Another concern raised by some witnesses is that, in addition to the cancellation of the mandatory long-form census, the Participation and Activity Limitation Survey, which collected data concerning persons with disabilities that was used to advance employment equity, was also cancelled in 2010. In Patty Ducharme’s view, “The loss of these important tools means that we do not know what kind and what quality of data we will have on which to base employment equity goals.” PSAC recommended that the federal government reinstate the funding for the Participation and Activity Limitation Survey and that Human Resources and Skills Development Canada continue to administer it.⁶⁴

New workforce availability estimates will be created by the Treasury Board using the new 2011 census data. It is not yet known whether this data will be sufficient to create accurate numbers. Until reliable workforce availability statistics can be developed from census data, the Treasury Board should develop and adopt more accurate employment equity estimates that reflect the current composition of the Canadian workforce.

Encouraging Self-Identification and Self-Declaration

Another challenge for assessing progress in employment equity is confirming the accuracy of the representation rates gained from the self-identification surveys of existing employees and of the appointment rates gained from the self-declaration surveys of new candidates for employment. Witnesses before the Committee have often raised concerns that many employees in the visible minorities group are reluctant to participate in these surveys since they fear this information may be used against them if they seek a promotion or another appointment; and yet, without their participation, gathering more accurate information that will better ensure a representative public service is not otherwise possible.

In *Reflecting the Changing Face of Canada*, the Committee reported on the on-going work of the Public Service Commission and the Treasury Board in addressing this issue and trying to encourage employees to participate in the surveys. The Committee recommended that the PSC

⁶² *Evidence*, 13 February 2012.

⁶³ *Evidence*, 13 February 2012.

⁶⁴ *Evidence*, 13 February 2012.

publish the results of the consultations it had begun for developing a common method for calculating representation and appointment rates in the federal public service.⁶⁵

In her last appearance before the Committee, Maria Barrados indicated she did not have a great deal of confidence in the statistics concerning the representation rates of visible minorities and agreed that a better estimate should be obtainable: “I have been trying to get my colleagues to agree to model it for me, because we should be able to model the applicants, the flow-in, and get a better estimate.”⁶⁶ Anne-Marie Robinson confirmed that the Public Service Commission continues to study these concerns and the reasons why employees chose to or choose not to participate. It is also actively promoting self-identification and self-declaration through outreach to federal departments and by explaining not only its importance in policy guides and during departmental orientation programs for new employees, but also by clarifying how applicants’ information will be used. Lastly, she also explained that the Commission is trying to merge the results from the self-identification and self-declaration surveys to ensure better data.⁶⁷

Daniel Watson also discussed how some employees may be reluctant to participate in the surveys if they don’t understand how the information is used and explained that “Demystifying [their] questions is an important part of the process.”⁶⁸ The Committee has learned about some of the efforts made in this regard, including a joint letter from the PSC and the OCHRO in May 2010 to the heads of human resources on *Using Self-Declaration Information for Self-Identification*,⁶⁹ advising that organizations can use applicant self-declaration information as self-identification information for their own employees, provided that the applicants’ prior consent has been obtained.

Professor Agócs provided suggestions for how to improve employee participation:

The main way to create a feeling of safety is by demonstrating over time that the information will be used in appropriate ways and not abused, by demonstrating that no one will suffer because they have self-identified and by creating support systems and a sense of inclusiveness. Doing that is a long and sometimes rather complex process, but it begins with respecting the diverse employees who are now present in the organization

⁶⁵ Standing Senate Committee on Human Rights, *Reflecting the Changing Face of Canada: Employment Equity in the Federal Public Service*, June 2010, Recommendation #4, <http://www.parl.gc.ca/40/3/parlbus/commbus/senate/com-e/huma-e/rep-e/rep02jun10-e.pdf>.

⁶⁶ *Evidence*, 31 October 2011.

⁶⁷ *Evidence*, 22 April 2013.

⁶⁸ *Evidence*, 22 April 2013.

⁶⁹ Public Service Commission of Canada, *Using Self-Declaration Information for Self-Identification*, <http://www.psc-cfp.gc.ca/plcy-pltq/eead-eeed/notes-exp-eng.htm>.

and calling upon them to give their ideas about what needs to be done to make culture change happen.⁷⁰

In *Reflecting the Changing Face of Canada*, the Committee recommended that the federal government undertake a systemic, government-wide study of the reasons why federal government employees choose not to self-identify as members of employment equity groups and that it make the results of this study publicly available as soon as possible.⁷¹ The Committee encourages the Public Service Commission and the Office of the Chief Human Resources Officer to continue with their efforts in promoting the value of self-identification and self-declaration and to report on their progress in doing so.

Tracking Hiring Practices

Appointment processes in the federal public service can be advertised or non-advertised and internal or external, depending on the position to be filled, the organization's needs and its human resources and employment equity plans. The Public Service Commission's reporting of how the federal public service is meeting its employment equity goals through appointment rates relies on data concerning advertised positions, and therefore does not account for non-advertised positions. "Non-advertised" processes refer to those in which an individual is appointed to a position without other applications being solicited. In *Reflecting the Changing Face of Canada*, the Committee recommended that the PSC provide statistics on recruitment rates for employment equity groups for the percentage of jobs that are not publicly advertised.⁷²

Although the Public Service Commission's *2011-2012 Annual Report* does not provide the recruitment rates for the four designated groups to non-advertised positions, it does explain how the PSC "changed the way it collects the information required to measure organizational use of non-advertised processes" to make it more efficient. It reports that "there was a decrease in the use of non-advertised processes by organizations [as the rate of their use] fell from 34.7% in 2010–2011 to 32.6% in 2011–2012." The PSC has also stated that it plans "to work with organizations in the coming year to provide additional policy guidance to be considered when choosing the most appropriate appointment process."⁷³

Anne-Marie Robinson explained that some managers are "using non-advertised appointments to some degree to help them meet their employment equity objectives" insofar as it appears that for

⁷⁰ *Evidence*, 22 April 2013.

⁷¹ Standing Senate Committee on Human Rights, *Reflecting the Changing Face of Canada: Employment Equity in the Federal Public Service*, June 2010, Recommendation #6, <http://www.parl.gc.ca/40/3/parlbus/commbus/senate/com-e/huma-e/rep-e/rep02jun10-e.pdf>.

⁷² Standing Senate Committee on Human Rights, *Reflecting the Changing Face of Canada: Employment Equity in the Federal Public Service*, June 2010, Recommendation #5, <http://www.parl.gc.ca/40/3/parlbus/commbus/senate/com-e/huma-e/rep-e/rep02jun10-e.pdf>.

⁷³ Public Service Commission of Canada, *Annual Report 2011-2012* at p. 39, <http://www.psc-cfp.gc.ca/arp-rpa/2012/rpt-eng.pdf>.

Aboriginal peoples and persons with disabilities, they are better represented in non-advertised appointments. However, she acknowledged that persons who are visible minorities are only being appointed at a rate of 8.1% for non-advertised positions, indicating that this group is doing less well by this process.⁷⁴

The PIPSC representatives discussed issues pertaining to the practice of managers “contracting out” for services and whether they are following proper policies and considering employment equity when hiring outside of the Commission’s advertised processes. Ryan Campbell said:

The abuse of contracting out provisions remains one of the biggest threats to the integrity of the federal government's equitable hiring practices. In 2010, the Public Service Commission reported that government managers are overusing these provisions, which circumvent established staffing principles. In 2012, the Auditor General echoed the sentiment of the PSC, further criticizing departments for not abiding by established policy. As long as the loopholes that facilitate these practices exist, the assertions made in the annual employment equity reports should be suspect. The lack of available information makes it impossible to know the extent to which tens of thousands of temporary staff skew the demographic makeup of the public service.⁷⁵

Al Ravjiani suggested that there “needs to be a mechanism in place that forces departments to abide by existing contracting out policies.”⁷⁶

Professor Agócs also provided some insight into how some hiring practices can affect employment equity:

One of the things happening in our economy right now is the greater use by many employers, including the federal public service, of term appointments, part-time work and term-limited work, which ultimately leads to turnover and a lack of retention. Because of our population right now, it is probable that visible minorities, women and Aboriginal peoples would be among the groups most likely to be employed on a term basis. It is a difficult situation that we are facing now, and if we are going through a period where recruiting into indeterminate positions is less and recruitment into term positions is more, that creates an issue.⁷⁷

The Committee continues to urge the Public Service Commission and the Treasury Board of Canada to develop better ways of tracking and overseeing hiring processes that are not directly

⁷⁴ Anne-Marie Robinson did not specify the source of this statistic. *Evidence*, 22 April 2013.

⁷⁵ *Evidence*, 29 April 2013.

⁷⁶ *Evidence*, 29 April 2013.

⁷⁷ *Evidence*, 22 April 2013.

administered by the Public Service Commission in order to better monitor whether employment equity goals are being reached.

TBS Report on Employment Equity

During the Committee's hearings, some witnesses expressed concerns about the lack of information provided in recent TBS employment equity reports (*Employment Equity in the Public Service of Canada 2010–11*⁷⁸ and *Employment Equity in the Public Service of Canada 2011–12*⁷⁹), which were both similar in terms of scope and the data provided. Patty Ducharme described the 2010-11 report as follows:

Unlike previous reports, it is much shorter – in fact, it is 19 pages long where the last report was 68 pages long – and lacks any analysis of the actual data collected. In addition, there are now six tables with employment equity data instead of 16, which were printed in the previous report. Crucial data is now missing, including information about term employees and employment equity data based on occupational groups. Our immediate reaction is that this report will do very little to advance employment equity in the federal public service.⁸⁰

Seema Lamba felt that: “The new employment equity report is not that meaningful any longer. With so little information in it, it is hard for us, for example, to bring forward a meaningful critique because we do not have the data any longer.”⁸¹ Robyn Benson also provided the following analysis:

If we were going to have a fully inclusive federal public service and build on the gains made in employment equity, we need to have accountability and transparency. Unfortunately, these two important factors have gone by the wayside. Treasury Board's last two employment equity reports contain too little information and lack critical data and analysis. It is hard to have a meaningful discussion about employment equity when their reports contain the bare minimum required by the act. While this committee has asked the office of the Chief Human Resources Officer to publish more statistics, such as retention rates and trends, this has not happened.⁸²

The Committee notes, to bring forward an example, that in the Treasury Board's most recent report, the only information provided concerning the Joint Employment Equity Committee is the

⁷⁸ Treasury Board Secretariat, *Employment Equity in the Public Service of Canada 2010–11*, <http://www.tbs-sct.gc.ca/reports-rapports/ee/2010-2011/eetb-eng.asp>.

⁷⁹ Treasury Board Secretariat, *Employment Equity in the Public Service of Canada 2011–12*, <http://www.tbs-sct.gc.ca/reports-rapports/ee/2011-2012/ee-eng.pdf>.

⁸⁰ *Evidence*, 13 February 2012.

⁸¹ *Evidence*, 13 February 2012.

⁸² *Evidence*, 29 April 2013.

topics upon which three sessions were held.⁸³ This is a missed opportunity to discuss what concerns were raised, what solutions were proposed, and how the outcomes of these sessions might influence policy and program development.

As indicated above, the OCHRO, the PSC and many other departments and agencies are engaged in a number of initiatives to help the federal public service meet the obligations set out in the *Employment Equity Act*. The Committee's hearings revealed that there are strong differences of opinion as to the effectiveness of the current framework. The data suggest that advances are being made and the federal public service is becoming more representative of the Canadian population, but also that there is much more work to be done to reach the goals of the *Employment Equity Act*. Furthermore, the workforce adjustment process adds another element of uncertainty.

The Committee believes that one of the most important steps that the Treasury Board can take towards addressing the gaps in representativity, and for ensuring that the federal public service emerges from the workforce adjustment process with its employment equity gains intact, is to share more up-to-date data, analysis, and information concerning its efforts in its annual reports. As noted above, information pertaining to the workforce adjustment processes needs to be shared in a timely manner to keep stakeholders informed, such as through supplemental updates to the annual report.

The Treasury Board should be using the Joint Employment Equity Committee as a primary forum for determining what should be included in future employment equity reports. It should be taking the information and data assembled by the Public Service Commission and the Canadian Human Rights Commission for their own reports and providing an analysis of the full picture of employment equity in the federal public service. Consultations should also take place with labour unions and the Chairs and Champions Committees to determine what data and information will help them to better monitor employment equity issues and provide constructive feedback.

The Treasury Board's annual employment equity reports should detail the progress being made through the Champions and Chairs Committees and the Interdepartmental Network on Employment Equity. They should include a summary of the guidance being provided by the OCHRO, the PSC and the CHRC to individual departments, agencies and deputy heads. These reports are also an opportunity to report back to employees on the importance of employment equity and what is being done to make it a reality, as well as to remind employees how their self-identification information is being used to improve the reliability of employment equity data.

⁸³ These sessions pertained to: exploring the vulnerability of employment equity groups in the federal public service; longitudinal evidence from the public service employment survey; stigmas surrounding the return to work of employees with invisible disabilities; and trends in discrimination cases and complaints, as well as in the United Nations' *Convention on the Rights of Persons with Disabilities*. Treasury Board Secretariat, *Employment Equity in the Public Service of Canada 2011–12*, <http://www.tbs-sct.gc.ca/reports-rapports/ee/2011-2012/ee-eng.pdf>.

Complying with the Employment Equity Act and Having a Representative workforce

Being in compliance with the *Employment Equity Act* does not necessarily mean that an employer's workforce is fully representative of the four designated groups. Rather, compliance may be achieved by meeting the nine elements set out in the Act; in other words, if the employer has assessed their workforce and established a suitable plan to achieve employment equity, then it will be in compliance.

In his appearance before the Committee in 2012, Acting Chief Commissioner David Langtry of the Canadian Human Rights Commission expressed that one of his "frustrations" is employers who say they are in compliance, but who in fact have "no representation." He explained that the Commission has now moved to conducting "results- and risk-based reporting," which asks such questions as "How are you doing? It is fine that you have [employment equity plans] in place, but how are your numbers? What are the gaps and how will you achieve it?"⁸⁴ His explanation suggests to the Committee that the current mandate of the Commission merits further review in order to ensure that it can properly encourage compliance with the purpose and principles of the *Employment Equity Act*.

In its *2012 Annual Report*, the Commission notes that because it no longer requires those employers that have demonstrated success in meeting their employment equity objectives to participate in a full audit, it has been able to focus on employers that need their guidance. It claims that it can, therefore, reach a greater number of organizations, thereby "broadening its influence and gaining a better understanding of how to best serve employers who face difficulty in eliminating barriers to employment for the designated groups."⁸⁵

Robyn Benson, the National President of the Public Service Alliance of Canada, noted that her organization is "very concerned about the change in shift of the Canadian Human Rights Commission from proactively conducting audits to allowing employers to do a self-assessment and then basing their decision on whether to conduct an audit on that assessment."⁸⁶

Discrimination and Fairness in the Workplace

Over the years that the Committee has studied employment equity, witnesses have raised concerns about cases of discrimination in the federal public service and debated the degree to which they are isolated or more systemic.

⁸⁴ *Evidence*, 12 March 2012, <http://www.parl.gc.ca/content/sen/committee/411/RIDR/10EV-49398-E.HTM>.

⁸⁵ Canadian Human Rights Commission, *2012 Annual Report*, 2013 at p. 33, <http://www.chrc-ccdp.ca/sites/default/files/chrc-annual-report-2012.pdf>.

⁸⁶ *Evidence*, 29 April 2013.

The Public Service Commission has conducted surveys concerning perceptions of fairness in the hiring processes, known as the *Survey of Staffing – Candidates* (SOS-C).⁸⁷ Not surprisingly, the PSC found that “the outcome of the staffing process is the main driver of perceptions about fairness: successful candidates were five times more likely to feel that a process was fair than unsuccessful ones.”⁸⁸ However, of concern is the fact that in its 2011–2012 report, the PSC notes a decline in those who believe the hiring process was fair:

Perceptions about the overall fairness of the staffing process have declined to 70% in 2011, as compared to 74% in 2010. The results of the 2011 cycle of the SOS-C also show that 63% of candidates felt that the assessment of their abilities, knowledge and work experience was fair, as compared to 68% in 2010. However, a closer examination of SOS-C response patterns for employment equity groups revealed that these percentages are lower for Aboriginal peoples (61%), members of visible minorities (58%) and persons with disabilities (54%).⁸⁹

With regard to discrimination in the workplace, however, Daphne Meredith, Chief Human Resources Officer until September 2012, noted that OCHRO has seen a “substantial decline,” noting that in a 2008 discrimination survey the “number went from 18% having perceived discrimination in 2008 to 14% in 2011. As well, respondents said they felt their departments were trying to actively address any discrimination in the workplace.”⁹⁰

Representatives from PSAC and PIPSC remain concerned however about discrimination in the federal public service. Patty Ducharme noted that PSAC has observed that “discrimination is still being reported by a large portion of respondents from the various equity groups.” She also reported that “PSAC currently has hundreds of members with grievances and human rights complaints related to discrimination at work.”⁹¹ Seema Lamba added that PSAC has “close to 400 disability related grievances at the national level,” but that they are “still seeing discrimination cases based on race and ethnicity.”⁹² Ryan Campbell explained how a failure to address these discrimination issues can lead to other problems in the workplace, such as mental health problems, including “depression, stress and burnout.”⁹³

⁸⁷ For more information, see: Public Service Commission of Canada, *Survey of Staffing: Organizational data release, November 2012 (12-30)*, <http://www.psc-cfp.gc.ca/lhr-lcrh/2012/12-30-eng.htm>.

⁸⁸ Public Service Commission of Canada, *Annual Report 2011-2012*, at Chapter 3.14, <http://www.psc-cfp.gc.ca/arp-rpa/2012/rpt-eng.pdf>.

⁸⁹ Public Service Commission of Canada, *Annual Report 2011-2012*, at Chapter 3.14, <http://www.psc-cfp.gc.ca/arp-rpa/2012/rpt-eng.pdf>.

⁹⁰ *Evidence*, 13 February 2012.

⁹¹ *Evidence*, 13 February 2012.

⁹² *Evidence*, 29 April 2013.

⁹³ *Evidence*, 29 April 2013.

Al Ravjiani also explained how one of the challenges in addressing discrimination in the workplace is that the complaints tend to reach a mediated settlement, so there is little public awareness about these occurrences. However, being involved with these complaints through his union work, he expressed his frustration in dealing with them. His request on behalf of PIPSC was for “more transparency and consistency when dealing with harassment and discrimination cases” so that “offenders are held accountable for their actions and that victims feel as if their grievances are taken seriously and dealt with appropriately.”⁹⁴

Anne-Marie Robinson recognised that discrimination can impact not just the hiring process, but also retention and career progression for persons in the four equity groups. She also mentioned some of the ways to address them:

I think some critical components are developmental opportunities, access to mentors and the normal good structure that you put around strong programs to develop individuals so they can succeed in the public service.⁹⁵

One initiative that can help address discrimination is the Canadian Human Rights Commission’s Human Rights Maturity Model that was described by Acting Chief Commissioner David Langtry as “a comprehensive roadmap for building better, healthier workplaces” designed in collaboration “with employers, unions and other stakeholders.” He added that: “It is a voluntary self-assessment tool, but it is to work with employers to talk about the benefits... [I]f there is a culture of human rights within the workforce, not only will they be recruiting but also retaining the people.” He also described how the Commission “does a lot of work in terms of accommodation policies and training.”⁹⁶

In *Reflecting the Changing Face of Canada*, the Committee reported on problems with discrimination in the federal public service, noting that two studies found that more than one third of visible minorities had felt discrimination. We called on the government to ensure its ability to protect individuals from discrimination and harassment in a concrete way by making the human rights protection system under the *Canadian Human Rights Act* more effective and accessible.⁹⁷

Despite the Government of Canada’s various committed efforts to deal with discrimination in the federal public service, this remains an important priority. The Committee agrees that in order to

⁹⁴ Evidence, 29 April 2013.

⁹⁵ Evidence, 22 April 2013.

⁹⁶ Evidence, 22 April 2013.

⁹⁷ Standing Senate Committee on Human Rights, *Reflecting the Changing Face of Canada: Employment Equity in the Federal Public Service*, June 2010, at p.21 and p.70, <http://www.parl.gc.ca/40/3/parlbus/commbus/senate/com-e/huma-e/rep-e/rep02jun10-e.pdf>.

effectively make progress in changing the attitudes that allow discrimination to persist there must be transparency in how these matters are handled. The Committee therefore urges the Office of the Chief Human Resources Officer, the Public Service Commission and the Canadian Human Rights Commission to not only continue with their efforts in tracking discrimination and developing programs to address it, but to publicly report in greater depth on the types of complaints of discrimination that are being brought forward and the solutions being applied in response. Such reporting should respect any reasonable expectations that complainants may have for privacy.

Workforce Adjustment

Since the Committee released *Reflecting the Changing Face of Canada*, a significant development has been the process of reducing the overall size of the federal public service; this is also referred to as “workforce adjustment”. Public service departments and agencies must continue to meet their obligations under the *Employment Equity Act* during this period of layoffs. When the prospect of layoffs became apparent in 2011, Maria Barrados warned:

My challenge to government ministries and departments is that as we go into downsizing, there will be a smaller government, but there will still be a need to recruit. It should be targeted recruitment, and we should not forget our objectives on representativity as we move to a smaller public service.⁹⁸

More recently, Anne-Marie Robinson described how employment equity obligations can be met with “sound planning” and by including employment equity considerations as “part of the process for selection for retention or layoff.” She also mentioned that workforce adjustment has created “an increased number of surplus employees and laid-off individuals who are eligible to be appointed ahead of all others to vacant positions in the public service, provided they meet the essential qualifications of the position.” A “priority administration program” has been designed to help redeploy skilled and experienced employees who can self-identify as a member of one of the designated groups.⁹⁹ Witnesses also discussed the Selection of Employees for Retention or Lay Off (SERLO) process, an assessment tool used in selecting employees for layoff, and the different options that are given to a person when they are “made surplus.”¹⁰⁰

Hélène Laurendeau, the Senior Vice President for Policy, explained how the PSC has been “tracking the representation of the four designated groups within the priority system” and concluded that “the figures are comparable to the normal appointment rates and are slightly above availability, which means that people are being reappointed in the priority system a little

⁹⁸ *Evidence*, 31 October 2011.

⁹⁹ *Evidence*, 22 April 2013.

¹⁰⁰ *Evidence*, 29 April 2013.

bit above the workforce availability, except maybe visible minorities who are at par with their representation.” Moreover, she said that: “The indications from the movement of the priority system are that we do not see anything overly worrisome.”¹⁰¹ George Da Pont, the Employment Equity Champion for Visible Minorities and President of the Canadian Food Inspection Agency, described a letter that was sent “to all deputy heads that emphasized the overarching importance of employment equity” and concluded that he believes “this action drew the concern on representation to the attention of all deputy heads early in the process so they could take it into consideration as they were working out their implementation plans.”¹⁰²

The PSC’s *2011–2012 Annual Report* indicates that: “investigations continue to corroborate the conclusion that merit is generally being respected.” It added that: “merit applies to appointments as well as to selection of employees for retention or lay-off.” It further explained that it had continued to work proactively with organizations to ensure that the downsizing process is merit-based.¹⁰³ Maria Barrados had previously informed the Committee that “overall” merit is being respected in the staffing system, though she had concerns that the concept of merit and how it can be applied to achieve employment equity is not always understood among hiring managers, employees and designated group members. She also noted concerns about the quality control of appointment processes, the lack of appropriate assessment and documentation of merit, and the poor rationale for non-advertised employment processes.¹⁰⁴

In reflecting on the current downsizing and federal government practices, Professor Agócs expressed her lack of confidence in the federal government’s commitment to employment equity and stated that “recent and planned government actions provide no reason to hope this will change.”¹⁰⁵ Representatives from PSAC and PIPSC were also not optimistic. Ryan Campbell said that:

Some of the latest figures show that employment equity groups seem to be strongly affected by the job cuts. The current workforce adjustment directive does not require the employer to maintain representation of employment equity groups. This increases the vulnerability of these groups and could lead to a significant decrease in their rate of representation in the federal public service.¹⁰⁶

Al Ravjiani added that:

¹⁰¹ *Evidence*, 22 April 2013.

¹⁰² *Evidence*, 29 April 2013.

¹⁰³ Public Service Commission of Canada, *Annual Report 2011-2012* at p.35, <http://www.psc-cfp.gc.ca/arp-rpa/2012/rpt-eng.pdf>.

¹⁰⁴ *Evidence*, 31 October 2011.

¹⁰⁵ *Evidence*, 22 April 2013.

¹⁰⁶ *Evidence*, 29 April 2013.

we have heard comments and there has been a lot of discussion on cutting jobs at lower levels. At the lower levels we have had the highest representation in the public service for [the four designated] groups; and that is our worry. ... We need to be proactive in trying to promote this at the lower levels so we can get the adequate documentation and take measures to ensure that everything we worked for -- the equity numbers -- is relevant. That is the frustration we are experiencing.¹⁰⁷

Lastly, Robyn Benson remarked that:

We do have anecdotal evidence from our members of situations where the workforce adjustment process has been used to discriminate against them... I have had discussions and sent examples to [President of the Treasury Board, Tony Clement] with respect to what we believe is discrimination. We have difficulties where individuals who have been with the government for 21 years have actually come out and said they have an invisible disability, are fully bilingual and have secret security clearance; yet they are unable to be successful at SERLO. I have members, young women expecting their first child, who are afraid to tell their employer that they are expecting because it will impact them in the SERLO process. Some individuals wonder why they are unsuccessful in the SERLO process if they have to have workplace accommodations.¹⁰⁸

The labour union representatives were also concerned that they were not receiving adequate information to assess the impact of the workforce adjustment on employment equity. Robyn Benson explained that:

PSAC and other federal bargaining agents have asked Treasury Board for data on all aspects of workforce adjustment, including the number of affected, surplus, opting and laid-off workers by equity group. Treasury Board has said they do not have the information and rely on the departments, who only provide it sporadically. Treasury Board refuses to direct the departments to actually provide us with the data. The Public Service Commission is only responsible for overseeing staffing and maintaining priority lists, so their information on the impact of workforce adjustment is very limited.¹⁰⁹

Seema Lamba echoed these concerns, noting that without having the data as to which options members of the four groups are choosing in the SERLO process, it is not possible for them to analyse how members of the designated groups are being affected by the workforce adjustment. She added that:

¹⁰⁷ *Evidence*, 29 April 2013.

¹⁰⁸ *Evidence*, 29 April 2013.

¹⁰⁹ *Evidence*, 29 April 2013.

Treasury Board refuses to give the data to us. They say they do not have the resources. They say it is not their responsibility. They give us a variety of reasons when we ask for the data. We think they are capable of getting it and being able to analyze it. They have told us to wait until the 2012-13 Treasury Board annual report, which usually is issued at the end of this year or next year. Almost one to two years after the process, we will find out how equity groups have been impacted when we actually see the representation rates go up or down or how they are impacted. We do not think that is good enough. We want them to be proactive and to be doing it and monitoring it as they go along.¹¹⁰

All witnesses seemed to agree that the workforce adjustment process should be accompanied by directives and helpful strategies to ensure that the objectives of the *Employment Equity Act* are being upheld, although there was disagreement between those representing the federal government and those representing the labour unions as to whether existing directives and strategies are adequate. This Committee shares the concern that by the time the workforce adjustment process is completed and the employment equity data is updated, it could be too late to address any negative impacts. The Committee therefore agrees with Al Ravjiani that “more information needs to be available to stakeholders throughout the adjustment process”¹¹¹ in order that they may analyse the data and provide constructive commentary as to how to best preserve the gains made in employment equity in recent years.

Recommendation on Monitoring and Evaluation

The Committee recommends that the federal government support greater monitoring and evaluation to achieve the goal of employment equity in the federal public service. This requires better tracking, development and collection of employment-related data by the Treasury Board of Canada Secretariat and for more information on this topic to be made available to the public. Such an effort should include improved review of the appointment process in the federal public service, including for non-advertised positions, to allow for more accurate tracking of employment equity goals and analysis of how effectively they are being integrated into hiring policies and practices.

Up-to-date data on the workforce adjustment processes is also necessary to ascertain their impact on employment equity. This information should be released as it becomes available to allow for analysis to be conducted in a timely manner. Tracking and reporting on the types of discrimination complaints being brought forward, as well as measures taken in response, are also necessary to provide important data to identify barriers to employment equity.

¹¹⁰ *Evidence*, 29 April 2013.

¹¹¹ *Evidence*, 29 April 2013

Finally, also to facilitate monitoring and evaluation, the Committee urges the Treasury Board Secretariat to include the following information in future annual reports with respect to employment equity:

- Data and information compiled further to consultations with federal public service labour unions and the Employment Equity Chairs and Champions Committees;
- The employment equity workforce analysis tables already being provided to federal departments and agencies each year to help them integrate employment equity considerations into their human resources and business planning;
- Updates concerning the relevant programs and initiatives of the Office of the Chief Human Resources Officer, the Public Service Commission and the Canadian Human Rights Commission and analyses of how these are impacting the overall implementation of the *Employment Equity Act*;
- Best practices from employment equity initiatives undertaken by individual departments and agencies;
- Summaries of the activities of the Joint Employment Equity Committee and the Interdepartmental Network on Employment Equity;
- Updates with regard to progress being made in encouraging self-identification and self-declaration among federal public service employees;
- Updates concerning progress in developing more reliable methods of determining the representation rates for the designated groups under the *Employment Equity Act*;
- Information concerning the guidance and direction provided by the Office of the Chief Human Resources Officer to deputy heads and individual departments and agencies concerning employment equity; and
- Analysis of the observable trends in employment equity statistics for the federal public service and the factors that may be influencing these trends.

CHAPTER FOUR: OBSERVATIONS AND RECOMMENDATIONS CONCERNING EMPLOYMENT EQUITY ADVOCACY AND EMPLOYEE PARTICIPATION

Organization and Mandate of the OCHRO

As noted earlier, another significant development since this Committee conducted its 2009 hearings for the *Reflecting the Changing Face of Canada* report was the creation of the Office of the Chief Human Resources Officer and the delegation of much of the responsibility for employment equity to the deputy heads of individual departments and agencies. When Michelle d’Auray, former Chief Human Resources Officer, appeared before the Committee in April 2009, she explained the difference between the role her office is expected to perform and the role formerly performed by the Canada Public Service Agency:

These changes ... recognize that the Office of the Chief Human Resources Officer should only undertake those roles that must be carried out on a corporate- or government-wide basis – for example, define the broad framework for people management, promote excellence in people management, track and assess overall performance and the state of the public service, establish common processes and systems, and be responsible for the compensation framework.¹¹²

In our recent 2013 hearings, Daniel Watson provided his own description of how these changes affect employment equity policy:

Key to this shift in attitudes is our fundamental approach, in which deputy heads play a leading role in employment equity and diversity issues within their own departments. Deputy heads are accountable for achieving excellence in all aspects of people management in their own organizations. As for my office, which is part of the Treasury Board Secretariat, we play an enabling role and have continued to work closely with all federal institutions to help them meet these requirements. ... In this structure, deputy heads are accountable as they are better and more directly placed to take the most effective, immediate and local actions to address the employment equity needs in their departments.¹¹³

¹¹² Standing Senate Committee on Human Rights, *Evidence*, 27 April 2009, http://www.parl.gc.ca/Content/SEN/Committee/402/huma/05ev-e.htm?Language=E&Parl=40&Ses=2&comm_id=77.

¹¹³ *Evidence*, 22 April 2013.

He also added that the OCHRO provides institutions with detailed departmental employment equity workforce analysis tables each year to help them integrate employment equity considerations into their human resources and business planning.

The Committee also discussed with Wilma Vreeswijk, the Deputy Secretary at the Privy Council Office, what the Clerk of the Privy Council was doing as head of the federal public service to proactively promote employment equity. While the Privy Council Office is doing well at meeting its own internal employment equity obligations, the Committee learned that it does not get very involved with how federal government departments are managing their own employment equity programs. Her testimony underscored that since deputy ministers “have primary responsibility for day-to-day operations, staffing and HR management in their departments. They therefore have primary responsibility for ensuring the representativeness of their organizations.” She added that: “It is through the means of having the dialogue with the deputies that the clerk provides that direction and encouragement to deputies to exercise these responsibilities.”¹¹⁴

During our 2009 hearings, some witnesses expressed unease with the OCHRO’s new role and the new framework for handling employment equity. They were concerned that with the devolution of more power and accountability to deputy heads of departments, the OCHRO would play less of an oversight role with respect to ensuring that deputy heads meet their employment equity targets. In 2013, Robyn Benson explained that PSAC continues to be concerned “that the decentralization of human resources and the dismantling of Treasury Board’s role to develop and monitor service-wide policies have weakened the central oversight of employment equity in the federal public service.”¹¹⁵

The Committee echoed these concerns in *Reflecting the Changing Face of Canada* and recommended, in part as a result of the OCHRO’s new mandate, that the federal government develop concrete mechanisms to hold deputy heads of federal government departments and agencies more accountable for meeting employment equity targets, such as:

- tying deputy head bonuses to employment equity performance assessments;
- enhanced and specific human rights training for deputy heads; and
- publishing the names of departments and agencies or statistics with respect to failure to meet employment equity objectives.¹¹⁶

¹¹⁴ Evidence, 27 May 2013, <http://www.parl.gc.ca/content/sen/committee/411/RIDR/27EV-50172-E.HTM>.

¹¹⁵ Evidence, 29 April 2013.

¹¹⁶ Standing Senate Committee on Human Rights, *Reflecting the Changing Face of Canada: Employment Equity in the Federal Public Service*, June 2010, at p. 66-67, <http://www.parl.gc.ca/40/3/parlbus/commbus/senate/com-e/huma-e/rep-e/rep02jun10-e.pdf>.

While the Committee has heard from the OCHRO about its efforts in providing guidance on employment equity for deputy heads, and although the Treasury Board's annual report does provide some indication of how departments and agencies are faring with regard to meeting overall employment equity targets, we have not heard of any specific mechanisms with consequences to directly hold deputy heads accountable for meeting employment equity targets. Daniel Watson did explain, however, that his office "holds deputy heads accountable for excellence in people management... through the Management Accountability Framework¹¹⁷ assessment exercise, which includes employment equity indicators."¹¹⁸ Wilma Vreeswijk emphasized that this process provides deputy ministers with feedback on how they are meeting their employment equity obligations so that they can take corrective measures.¹¹⁹

David Langtry also indicated that deputy heads are being held accountable for employment equity:

Holding management accountable for employment equity, as recommended by this committee a decade ago, has contributed greatly to [improvements in overall employment equity rates in the federal public service]. The commission provides the Clerk of the Privy Council with a progress report for each department and agency that was audited in a given year. This information can be used by the PCO during its performance assessment of deputy heads.¹²⁰

Seema Lamba cautioned, however, that as employment equity is only one of the factors that is considered when assessing deputy heads' performance, "if a deputy head is good at making cuts or doing something else with the budget, they will get their bonus." Employment equity could, therefore, be at "the bottom of their [priority] list".¹²¹ Again, this Committee continues to believe that there needs to be a stronger accountability mechanism to provide an incentive to managers to meet employment equity targets.

Other components of the new framework include the Employment Equity Chairs and Champions Committees that have been created to represent three of the four designated groups (and are discussed below). Another recent initiative is the Interdepartmental Network on Employment Equity (introduced in 2009), which is intended to create, according to Daphne Meredith, "a new

¹¹⁷ The Management Accountability Framework, according to the TBS website is "a key performance management tool that the federal government uses to: Support the management accountability of deputy heads [and] Improve management practices across departments and agencies." For more information see: Treasury Board of Canada Secretariat, *Management Accountability Framework*, 2012, <http://www.tbs-sct.gc.ca/maf-crg/index-eng.asp>; and the section about The Office of the Chief Human Resources Officer in Appendix A.

¹¹⁸ *Evidence*, 22 April 2013.

¹¹⁹ *Evidence*, 27 May 2013.

¹²⁰ *Evidence*, 22 April 2013.

¹²¹ *Evidence*, 13 February 2012.

model of shared departmental responsibilities, rather than a centralized top–down approach.” She explained that its members set their own agenda and activities and share information and ideas on the most effective ways to achieve employment equity objectives.¹²² The network also has a working group on self-identification to share best practices.

One other piece of the machinery for employment equity is the Joint Employment Equity Committee, which, according to the recent TBS annual report, “provides a forum for OCHRO, the Public Service Commission and bargaining agents to consult and collaborate on the development, implementation and review of public service–wide policies and practices that affect employment equity designated groups.” This Committee is intended to play “a major role in analyzing and providing recommendations related to employment systems”, including assessing the impact of and gaps in employment equity policies and practices.¹²³

Over the course of our hearings, the Committee has also heard much testimony about the various programs and initiatives being implemented by individual departments and agencies (in accordance with their increased independence for implementing employment equity under the new framework). Daniel Watson highlighted some of the programs he noted that have been particularly successful. For example, Environment Canada has set up the Employment Equity Express Lane Recruitment Initiative to help managers understand employment equity and the Atlantic Canada Opportunities Agency, which has developed a mentoring program in its Nova Scotia regional office to help ensure members of the designated groups receive the support they need to develop their careers.¹²⁴ George Da Pont also highlighted a mentoring program in the Department of Justice.¹²⁵

For all of these federal government efforts to be truly effective, there needs to more detailed information available on them for stakeholders to review and assess. As explained in the previous chapter, such information should be provided in the Treasury Board’s annual report. There is also a need for greater transparency regarding the OCHRO’s own initiatives, the policy guidance it is providing federal departments and agencies and the implementation of the framework it has created for holding deputy heads accountable.

Representatives from the PSAC explained their apprehension that employment equity is not a strong enough criteria under the current Management Accountability Framework assessments and the reasons why they support a new employment equity policy. As Robyn Benson explained,

¹²² *Evidence*, 13 February 2012.

¹²³ Treasury Board of Canada Secretariat, *Employment Equity in the Public Service of Canada 2011–12, Annual Report to Parliament*. <http://www.tbs-sct.gc.ca/reports-rapports/ee/2011-2012/ee02-eng.asp>.

¹²⁴ *Evidence*, 22 April 2013.

¹²⁵ *Evidence*, 29 April 2013.

Treasury Board has told PSAC that a workplace policy and a workforce policy would replace existing policies, including those on harassment, duty to accommodate and employment equity. These more comprehensive policies will be reduced to a few paragraphs. While deputy heads have been given more responsibility for human resource management, the draft workforce policy also reduces their responsibility for employment equity to a few broad principles. Where is the direction? Where is the accountability?¹²⁶

She underscored that what is needed is “a stand alone, comprehensive employment equity policy” to hold Treasury Board and departments accountable.¹²⁷ Seema Lamba thought there should be a stronger policy to deal with “accountability and consequences”, adding that it should include details of the financial and human resources dedicated to supporting the policy and create “stronger employment equity committees and stronger consultation and collaboration with bargaining agents, because that is inconsistent across departments and across the country.”¹²⁸

In *Reflecting the Changing Face of Canada*, the Committee recommended the “swift publication and effective implementation of the Office of the Chief Human Resources Officer’s updated employment equity policy.”¹²⁹ However, the employment equity policy on the TBS website still appears to be the one prepared in 1999.¹³⁰ The Committee urges the Treasury Board to provide an updated employment equity policy without further delay.

Employee Advocacy and Participation

At the time of the Committee’s 2009 hearings, the structure for advocacy and employee participation with regard to employment equity in the federal public service was in the process of changing. In the past, Aboriginal peoples, persons with disabilities and visible minorities were represented by the three separate National Employment Equity Councils: the National Council for Visible Minorities, the National Council for Federal Employees with Disabilities and the National Council for Aboriginal Federal Employees. Now, they are represented by three Champions and Chairs Committees, one for each of three of the designated groups: Aboriginal Peoples, visible minorities and persons with disabilities. There is no committee for women. Linda Lizotte-MacPherson explained that the National Employment Equity Councils had been consulted in the creation of this new model and they indicated that they “wanted more direct

¹²⁶ Evidence, 29 April 2013.

¹²⁷ Evidence, 29 April 2013.

¹²⁸ Evidence, 29 April 2013.

¹²⁹ Standing Senate Committee on Human Rights, *Reflecting the Changing Face of Canada: Employment Equity in the Federal Public Service*, June 2010, Recommendation #1, <http://www.parl.gc.ca/40/3/parlbus/commbus/senate/com-e/huma-e/rep-e/rep02jun10-e.pdf>.

¹³⁰ Treasury Board of Canada Secretariat, *Employment Equity Policy*, 1 July 1999, <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?section=text&id=12543>.

access to deputies, to DM Champions and to the policy centres” and “to influence the agenda and raise issues with those in a position to act on the recommendations.”¹³¹

A deputy minister is assigned to each of the committees as a “champion”, and there is also a champion from each department. Ross MacLeod, an Assistant Deputy Minister at the Treasury Board Secretariat, explained that given there are “about 70 large organizations” in the core public administration, there are approximately 200 champions in total.¹³² The “chairs” come from the employees within each department and their role is to represent the views of their networks or their communities, bring forward issues and best practices for discussion, and liaise and consult with their departmental champion on issues impacting their department or organization.

Linda Lizotte-MacPherson explained how the mandate of these interdepartmental committees is “to support the government's employment equity objectives by serving as a forum for networking and sharing of [employment equity] best practices among departments and agencies.” She explained that her role as one of the deputy minister champions is to chair and set the agenda for the committee meetings and to “act as a key liaison with the deputy minister community by, for example, reporting back to the deputy ministers or by raising issues at various [deputy minister] tables or with the policy centres.” She also described how her Committee has been developing courses and seminars on topics affecting persons with disabilities in the workplace.¹³³

In 2012, Daphne Meredith suggested that the Employment Equity Champions and Chairs Committees would allow “for better networking and sharing of best practices among departments” and “more direct access for employees to employment equity, deputy minister champions and departmental management who are in a position to act on the recommendations.” Speaking positively about the new system, she remarked that: “I think you would find that many of the active members of the National Council of Visible Minorities would be representatives at the table today as well.” She expressed confidence that the Champions would be able to present independent views on employment equity.¹³⁴

Daniel Watson expressed “how pleased” he was with the progress of these committees and that he believes they are “delivering better results” and providing “employment equity groups more access to senior leaders.” He described how “[c]ommon concerns and challenges have also been raised across the three committees, such as career development, the creation of a healthy workplace to address harassment and discrimination in the workplace, accountability and the

¹³¹ *Evidence*, 29 April 2013.

¹³² *Evidence*, 22 April 2013.

¹³³ *Evidence*, 29 April 2013.

¹³⁴ *Evidence*, 13 February 2012.

implementation of workforce reductions. Working groups have also been struck to provide recommendations to each committee on these issues and others.”¹³⁵

Alan Tourelle, the Employment Equity Champion for Aboriginal Federal Employees and CEO of Parks Canada, also felt that the new model is working and has created “a government-wide forum where senior executives and departmental chairs of employment equity groups are provided the opportunity to have meaningful discussions on common challenges, opportunities and learn together from best practices.” He added that the committees have been focussing on “recruitment, retention, career development, mentoring and advancement” as well as “the effects of the implementation of the deficit reduction action plans on employment equity groups in the federal public service.”¹³⁶ George Da Pont also felt the new model was an improvement and creates a “larger forum at which to share best practices.”¹³⁷

Patty Ducharme expressed a different view about the new model, indicating that the former members of the National Council for Visible Minorities no longer have the same “opportunity to champion employment equity for racially visible members.” She thought the previous cross-organization model was “incredibly important.”¹³⁸

Seema Lamba commented that this current model is too focused on management talking amongst themselves and there is therefore a lack of “employee input.” She explained that the previous National Employment Equity Councils were “employee-driven” and a place for open dialogue:

If they had issues, they could come and talk about it and have speakers. Often they would invite people from senior management to come. They had conferences, and they were accountable to themselves, in that essence.”

She continued to discuss the current climate created by the work force adjustment processes and the fear people have of losing their jobs:

employees are afraid to actually voice their concerns. They could be stigmatized or labelled, so why would they actually approach their champion or whoever is taking that leadership role and talk about the issues they might have? It may not make that department look good, so there is a fear going on as well at the same time.¹³⁹

¹³⁵ *Evidence*, 22 April 2013.

¹³⁶ *Evidence*, 29 April 2013.

¹³⁷ *Evidence*, 29 April 2013.

¹³⁸ *Evidence*, 13 February 2012.

¹³⁹ *Evidence*, 29 April 2013.

Al Ravjiani echoed these concerns, stating that it “is very difficult when you have to deal with an environment where it is top down.” He recollected how the National Council for Visible Minorities and the other groups had been able to organise together without having to rely on the assistance of the unions.¹⁴⁰

The Committee noted the absence of the independent voice provided by the National Employment Equity Councils during our most recent hearings for this study. These groups allowed for employees to organise and set their own agenda outside of the labour union and management context. Although the involvement of management in the Chairs and Champions Committees can understandably have its advantages, the chairs and other employees could benefit from their own forum in which to raise issues confidentially. Mechanisms and safeguards should be created to ensure that federal public service employees are able to freely voice their employment equity concerns and organise solutions together. These could be established as part of the existing model for the Chairs and Champions Committees or as something separate.

One other important advocacy concern was raised by Robyn Benson, who remarked upon how “disconcerting” it is not to have a champion for women: “You need only look at the statistics that we have provided and that PIPSC has provided to show there is an underrepresentation.”¹⁴¹ Given the evidence that women are still not equitably represented throughout the federal public service and the significant shift under the *Public Sector Equitable Compensation Act* in how women can bring forward pay equity concerns, this Committee believes that a Champions and Chairs Committee for women is very much needed.

Recommendation on Advocacy and Employee Participation

The Committee recommends that the federal government expand its efforts to promote greater advocacy and employee participation on issues concerning employment equity within the federal public service. Such efforts should include the creation of an Employment Equity Champions and Chairs Committee for women as already exists for the other employment equity groups, given that full employment equity for this group has also not yet been realized. The Committee also calls on the government to develop and support mechanisms and safeguards to ensure federal public service employees are able to organise and independently raise their concerns, address discrimination and advocate for employment equity.

The Committee plans to follow up on progress made to reach employment equity goals in the federal public service on an annual basis after the Treasury Board Secretariat publishes its annual report on employment equity.

¹⁴⁰ Evidence, 29 April 2013.

¹⁴¹ Evidence, 29 April 2013.

APPENDIX A – KEY EMPLOYMENT EQUITY LEGISLATION AND THE MAIN ORGANISATIONS WITH EMPLOYMENT EQUITY RESPONSIBILITIES

As stated in section 2 of the *Employment Equity Act*, its purpose is “to achieve equality in the workplace so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability.” While this goal is fairly straightforward, the framework and special measures in place to advance it can seem rather complicated to those who are not familiar with them.

This appendix presents an overview of the most important federal laws pertaining to employment equity and the key organisations that have a mandate to implement them.

Key Employment Equity Legislation

The Public Service Employment Act, S.C. 2003, c. 22, ss. 12, 13

The *Public Service Employment Act* states that the public service must be representative of Canada’s diversity. Under this Act, the Public Service Commission (PSC) is responsible for implementing the requirement of merit¹⁴² in a way that achieves a representative public service.

An appointment to the federal public service is made on the basis of merit when the candidate meets the essential qualifications of the position and when the operational requirements and future needs of the organisation have been considered. The Act allows hiring managers to include employment equity as a merit criterion in order to improve the representation of the four designated groups within their department or agency.¹⁴³

The Employment Equity Act, S.C. 1995, c. 44

The purpose of the *Employment Equity Act* is to ensure that federally-regulated employers provide equal opportunities for employment to four designated groups, namely, women, Aboriginal peoples, persons with disabilities, and members of visible minorities. Section 2 acknowledges “the principle that employment equity means more than treating persons in the same way but also requires special measures and the accommodation of differences.”

An employer who is subject to this Act is required under section 5 to implement employment equity by:

¹⁴² For more information, see: Public Service Commission of Canada, *Merit – Achieving Representativeness*, March 2008, <http://www.psc-cfp.gc.ca/plcy-pltq/eead-eeed/rprt/rprs/mar-lmar-eng.htm>.

¹⁴³ Subsection 34(1) of the Act states: “For purposes of eligibility in any appointment process, other than an incumbent-based process, the Commission may determine an area of selection by establishing geographic, organizational or occupational criteria or by establishing, as a criterion, belonging to any of the designated groups within the meaning of section 3 of the *Employment Equity Act*.”

- identifying and eliminating employment barriers against persons in the designated groups that result from the employer's employment systems, policies and practices (except where these are otherwise authorized by law); and
- instituting such positive policies and practices and making reasonable accommodations in order to ensure that persons in the designated groups achieve a degree of representation in each occupational group in the employer's workforce that reflects their representation in the Canadian workforce (or, where appropriate, that reflects a particular segment of the Canadian workforce that is identifiable by a qualification, eligibility or geography).

Federally-regulated employers must, therefore, assess the degree to which employment equity is a reality in their workplace and implement policies to produce the necessary changes. An assessment may be made by comparing how the representation of members of the four designated groups within a particular workplace compares with their availability in the overall Canadian workforce.

The *Canadian Human Rights Act*, R.S.C. 1985, c. H-6

The *Canadian Human Rights Act* prohibits, among other things, discrimination in employment based on any of the enumerated grounds¹⁴⁴ by federally-regulated employers. As such, public service employees who feel they have been discriminated against by their employers may bring complaints to the Canadian Human Rights Commission, which, if not resolved earlier, may proceed before the Canadian Human Rights Tribunal.

The Main Organisations with Employment Equity Responsibilities

The Public Service Commission of Canada (PSC)

The Public Service Commission of Canada is an independent body that is free from ministerial direction, but accountable to Parliament. The PSC monitors, among other things, how federal government departments and agencies exercise their responsibilities under the *Public Service Employment Act*, including those pertaining to employment equity. The Commission also provides support to public sector organizations and develops policies and guidelines. Under the *Employment Equity Act*, it is responsible for identifying and eliminating barriers in the appointment system for the four designated groups.

¹⁴⁴ As per s. 2, these grounds are: "race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered."

The PSC published a report on 25 October 2011 entitled *History of Employment Equity in the Public Service and the Public Service Commission of Canada*¹⁴⁵ that reviews the evolution of employment equity in the federal public service and some of the on-going challenges in this area. It notes, among other things, how leadership and personal commitment at the top level have been important in advancing employment equity; the efforts made in improving the methodology for calculating and reporting employment equity appointment and representation rates; the need to clarify the role of merit and affirmative action programs in hiring processes; and the on-going work done by the Commission to determine the reasons why job applicants from some of the four designated groups have had lower rates of success in being appointed to a position.

The Office of the Chief Human Resources Officer (OCHRO)

The Office of the Chief Human Resources Officer, part of the Treasury Board of Canada Secretariat, is responsible for, among other things, monitoring the compliance of deputy heads of federal government departments (deputy ministers in most cases) with the human resources or “people” component of their Management Accountability Framework, of which employment equity targets form a part.¹⁴⁶

The OCHRO was created on 2 March 2009. It replaced another agency, the Canada Public Service Agency, which operated between 1 May 2007 and 2 March 2009. This agency, in turn, replaced the Public Service Human Resources Management Agency of Canada, which operated between 12 December 2003 and 1 May 2007. These two agencies played roughly the same role as the OCHRO now plays; however, the role played by the OCHRO is somewhat more generalized, shifting more responsibility and accountability for meeting employment equity targets onto deputy heads of federal government departments and agencies.

The OCHRO has been given a mandate to play a slightly more “hands-off” role than its two precursor agencies with respect to ensuring employment equity targets are met, a fact made clear from the Prime Minister’s first news release announcing the creation of this new office, in which he stated that the new agency was designed to:

[s]implify the organizational structure for human resources management [in the federal public service], reduce overlap and

¹⁴⁵ Public Service Commission of Canada, *History of Employment Equity in the Public Service and the Public Service Commission of Canada*, October 2011, <http://www.psc-cfp.gc.ca/plcy-pltq/eead-eeed/rprt/ee-psc-cfp/index-eng.htm>.

¹⁴⁶ The Management Accountability Framework effectively becomes part of the performance agreements between deputy ministers and the Clerk of the Privy Council. Accordingly, deputy ministers are not required to specifically include management results in their performance agreements. For more information, see: Treasury Board of Canada Secretariat, *Management Accountability Framework*, <http://www.tbs-sct.gc.ca/maf-crg/index-eng.asp>; and, Privy Council Office, Senior Personnel and Special Projects Secretariat, *Performance Management Program Guidelines – Deputy Ministers, Associate Deputy Ministers, and Individuals Paid in the GX Salary Range*, January 2013, <http://www.pco-bcp.gc.ca/index.asp?lang=eng&page=secretariats&sub=spsp-psps&doc=pmp-pgr/dm-sm/guide-eng.htm>.

duplication and provide Deputy Ministers with the primary responsibility for managing the people in their own departments and agencies.¹⁴⁷

The Canadian Human Rights Commission (CHRC)

The Canadian Human Rights Commission has specific responsibilities with regard to employment equity, which are set out in the *Employment Equity Act*. The Commission conducts audits in order to determine whether federal employers are meeting their statutory obligations.¹⁴⁸ The obligations include the employer's general responsibility to implement employment equity and the more specific obligations to assess the employer's existing situation and to make a plan as to how to come into compliance with the Act.

If audits indicate that employers are not meeting these obligations, then the Commission may negotiate agreements with them that set out remedial measures that will be taken.

The Commission also receives complaints regarding matters of non-compliance with the Act. If complaints are not resolved or the negotiated agreements not properly implemented, then these cases may proceed before the Employment Equity Review Tribunal, which is empowered to order these departments and agencies to take additional remedial measures.¹⁴⁹ As noted above, the CHRC may also receive complaints from employees regarding discrimination in employment matters under the *Canadian Human Rights Act*.

The Commission generally audits employers with more than 500 employees and that have previously indicated a below-average employment equity result (in comparison with its sector). While the audit is being conducted, employers must submit workforce analyses to the Commission and provide access to employees, managers and union representatives for interviews. Organizations are then provided a report on their compliance with the Act, which may include a list of actions to be taken. The audit determines whether an organization has complied with the key elements laid out in the Act:

- encourages its employees to self-identify as a member of one of the four designated groups;

¹⁴⁷ Prime Minister of Canada, "Prime Minister Harper announces changes to streamline human resources management in the Public Service of Canada," News release, 6 February 2009, <http://pm.gc.ca/eng/media.asp?category=1&id=2413>.

¹⁴⁸ Under sections 5, 9 to 15 and 17 of the Act, employers are obligated to determine if all four designated groups are represented at every level of their organization's workforce at a level that reflects their representation in the Canadian workforce generally, identify employment barriers for any of the four designated groups, and work with employees to develop a plan that promotes the full representation of all four designated groups, among other responsibilities.

¹⁴⁹ Under the *Employment Equity Act*, the Employment Equity Review Tribunal is an expanded role performed by the Canadian Human Rights Tribunal.

- has identified gaps in the full representation of all four designated groups;
- has identified employment barriers for any of the four designated groups;
- has prepared and implemented an employment equity plan (including short-term goals);
- monitors and periodically reviews its employment equity plan;
- educates its employees on employment equity;
- informs its employees of all changes to the employment equity plan;
- consults with its employees and union representatives, by inviting them to voice their views and concerns; and
- develops and maintains its employment equity records.¹⁵⁰

¹⁵⁰ For more information on the auditing process, see Canadian Human Rights Commission, *On Employment Equity audits*, 9 January 2013, <http://www.chrc-ccdp.ca/eng/content/employment-equity>.

APPENDIX B – EXPLANATION OF KEY EMPLOYMENT EQUITY STATISTICS

This appendix reviews the statistics used for tracking whether the purpose of the Act is being fulfilled.

In order to determine how representative the federal public service is of the Canadian workforce, there are many statistics that are generated. The three that are most often referenced are workforce availability, representation rates and appointment rates.

Workforce availability estimates show the percentage of the Canadian population who identify as being members of one or more of the four designated groups under the *Employment Equity Act* and who are also part of the active workforce. These numbers are obtained from the Canadian census, which currently takes place every five years. Statistics Canada requires time to compile the numbers and analyse the census data. It then takes additional time to compile and release the workforce availability numbers. Up-to-date workforce availability statistics from the 2011 census are not yet available.

“Representation rates” reflect the current number of federal public service employees who are members of the four designated groups. These numbers are derived from self-identification surveys that individual departments or agencies are required to send out to their employees. Employers can make it mandatory to return the survey form, but the decision to self-identify as a member of one or more of the four employment equity groups is voluntary. The survey is provided to all indeterminate employees and term employees who are hired for periods of three months or more. The data from the surveys are collected by the individual federal departments and agencies themselves and then forwarded to the OCHRO, which captures the information in the Employment Equity Data Bank and then publishes the representation rates for the four employment equity groups in the core public administration of the federal public service.¹⁵¹

Another important employment equity statistic is the “appointment rate”, which is generated by the Public Service Commission and shows the percentage of new appointments to the federal public service who belong to the four designated groups. This information is collected by the Commission from job applicants who are given an opportunity to voluntarily indicate in a self-declaration survey whether they are members of any of the four designated groups. The purpose of this self-declaration is to allow hiring managers to consider an applicant’s membership in one or more of the four groups as forming part of the “merit criteria” under the *Employment Equity Act* that may be considered when selecting a candidate to fill a vacant employment position. The

¹⁵¹ For more see: *Standing Senate Committee on Human Rights, Reflecting the Changing Face of Canada: Employment Equity in the Federal Public Service, June 2010, at Chapter 2.B.v., <http://www.parl.gc.ca/40/3/parlbus/commbus/senate/com-e/huma-e/rep-e/rep02jun10-e.pdf>.*

appointment rate does not capture the full inflow of new employees to the federal public service, rather it only reflects those employees who were hired through the advertised positions administered by the PSC. According to the most recent statistics, 15.3% of appointments were made through non-advertised processes.¹⁵²

As this Committee has seen over the years, though appointment rates may be in keeping with workforce availability numbers, this does not necessarily guarantee a representative federal public service since employees who are members of the four designated groups may not remain as long as those employees who are not. The lack of retention of members of the designated groups can be seen in what is known as the “separation rate”, which tracks the rate at which they are leaving the public service.

Another important statistic is known as the drop-off rate, which reflects the rate at which applicants for positions in the federal public service are eliminated from the competitive process between the time they apply for an externally advertised job and the time that someone is hired to fill the job. High drop off rates can imply that members of a particular group are being discriminated against during the candidate selection process.

¹⁵² Public Service Commission of Canada, *Annual Report 2011-2012*, at Table 9, <http://www.psc-cfp.gc.ca/arp-rpa/2012/rpt-eng.pdf>.

APPENDIX C – RECOMMENDATIONS FROM *REFLECTING THE CHANGING FACE OF CANADA: EMPLOYMENT EQUITY IN THE FEDERAL PUBLIC SERVICE*¹⁵³

Recommendation 1 (see page 59)

The committee recommends that the federal government focus on concrete initiatives in order to achieve its employment equity goals. Such initiatives should include:

- Swift publication and effective implementation of the Office of the Chief Human Resources Officer's updated employment equity policy;
- Providing strong incentives for government agencies and departments to develop and submit staffing strategies that include plans to address gaps in employment equity representation by the end of 2010;
- Instituting processes which avoid immediate-needs hires that directly and indirectly circumvent employment equity goals;
- Providing on-the-job language training specifically targeted to assist the career advancement goals of individuals that enter the public service with only one official language;
- Providing funding to assist public service employees to earn their accreditation in Canada;
- Encouraging managers to balance the high value that they place on Canadian experience with employment equity priorities; and
- Renewing core funding, in order to allow all government agencies and departments to fulfill their employment equity objectives.

Recommendation 2 (see page 61)

The committee recommends that Statistics Canada work cooperatively with the Public Service Commission, the Canadian Human Rights

¹⁵³ Standing Senate Committee on Human Rights, *Reflecting the Changing Face of Canada: Employment Equity in the Federal Public Service*, June 2010, <http://www.parl.gc.ca/40/3/parlbus/commbus/senate/com-e/huma-e/rep-e/rep02jun10-e.pdf>.

Commission and the Office of the Chief Human Resources Officer to ensure that workforce availability numbers from the most recent national census, reflecting the workforce availability of Canadian citizens, are made available to both the public and to individual federal departments and agencies as soon as they are published.

Recommendation 3 (see page 61)

The committee recommends that individual departments and agencies in the core public administration of the federal public service, as well as monitoring agencies such as the Public Service Commission, Canadian Human Rights Commission and the Office of the Chief Human Resources Officer, make use of the most recent census data as soon as it is published, for the purpose of assessing departmental and agency performance in meeting employment equity targets and setting accurate and realistic goals for the future.

Recommendation 4 (see page 62)

The committee recommends that, in its 2009–2010 Annual Report, the Public Service Commission publish the results of its consultations on developing a common method for calculating representation and recruitment rates in the federal public service.

Recommendation 5 (see page 62)

The committee recommends that, in its future Annual Reports, the Public Service Commission:

- Release recruitment rates for all four employment equity groups, as it has recently done in its 2008–2009 Annual Report;
- Provide statistics on recruitment rates for employment equity groups for the percentage of jobs that are not publicly advertised;
- Publish statistics on executive advancement rates; and
- Make information available regarding trends in recruitment, for both advertised and non-advertised positions.

Recommendation 6 (see page 64)

The committee recommends that, in 2010, the federal government undertake a systemic, government-wide study as to the reasons why federal government employees choose not to self-identify as members of employment equity groups once they have been hired to positions in the federal public service, and that it make the results of this study publicly available as soon as possible following the conclusion of the study.

Recommendation 7 (see page 64)

The committee recommends that in its future Annual Reports, the Public Service Commission and the Office of the Chief Human Resources Officer publish statistics on retention rates and retention rate trends for all four designated employment equity groups.

Recommendation 8 (see page 65)

The committee recommends that, in their Annual Reports, the Public Service Commission and the Office of the Chief Human Resources Officer break down data for Aboriginal peoples, persons with disabilities and visible minorities by gender when providing statistics regarding employment equity matters in their Annual Reports.

Recommendation 9 (see page 64)

The committee recommends that in 2010–2011, the Public Service Commission undertake further study of appointment rates of employment equity groups, in order to identify reasons why visible minorities are “dropped-off” or eliminated from competitions for jobs in the federal public service at a rate that is higher than that of other designated groups, and that the Public Service Commission table a report in Parliament, outlining both the results of its study and a proposed strategy designed to address and eliminate the causes of visible minority “drop-off.”

Recommendation 10 (see page 65)

The committee recommends that the federal government develop concrete means of seeking accountability from managers in the federal

public service for their responsibilities in enforcing the standards outlined in the *Employment Equity Act*. Mechanisms to make managers more accountable could include:

- Tying deputy head bonuses to employment equity performance assessments, especially in those departments and agencies where special remedial measures have been put in place due to past difficulties in meeting employment equity targets;
- Enhanced and specific human rights training for deputy heads; and
- Publishing the names of departments and agencies or statistics with respect to failure to meet employment equity objectives.

Recommendation 11 (see page 69)

The committee urges the federal government to place special emphasis on the need for leadership and a strong organization culture when seeking to achieve its employment equity goals. This should be done for all four employment equity groups collectively, as well as for each employment equity group individually. The push for employment equity must begin at the highest levels – including the Prime Minister’s Office – and should encourage a policy of speaking directly to managers to teach them the importance of employment equity to the future of the federal public service.

Recommendation 12 (see page 70)

The committee recommends that the federal government implement a communication strategy to promote its employment equity goals. This strategy should seek to honestly admit the challenges the government has faced in achieving these goals, and the steps it intends to take to create a public service that fully reflects the composition of Canadian society. The strategy should also send a strong message selling the importance of working in the federal public service and the government’s renewed commitment to openness in the meeting of its employment equity objectives.

Recommendation 13 (see page 70)

The committee recommends that the government seek to make Canada's human rights protection system under the *Canadian Human Rights Act* more effective and accessible, in order to ensure its ability to protect individuals from discrimination in a concrete way.

APPENDIX D – WITNESSES WHO APPEARED BEFORE THE COMMITTEE 2011-2013¹⁵⁴

The following witnesses appeared before the Committee during the course of its hearings in preparation of this report.

Monday, October 31, 2011

Public Service Commission of Canada:

Maria Barrados, President;

Hélène Laurendeau, Senior Vice-President;

Paula Green, Director General, Equity and Diversity.

Monday, February 13, 2012

Treasury Board of Canada Secretariat:

Daphne Meredith, Chief Human Resources Officer;

Angela Henry, Director, Workplace, Policies and Programs.

Public Service Alliance of Canada:

Patty Ducharme, National Executive Vice-President;

Seema Lamba, Human Rights Officer.

Monday, March 12, 2012

Canadian Human Rights Commission:

David Langtry, Acting Chief Commissioner;

Marie-Claude Girard, Director.

¹⁵⁴ For transcripts from these meetings, please see: Standing Senate Committee on Human Rights, Evidence, 31 October 2011, <http://www.parl.gc.ca/content/sen/committee/411/RIDR/03EV-49141-e.HTM>, Evidence, 13 February 2012, <http://www.parl.gc.ca/content/sen/committee/411/RIDR/08EVA-49320-E.HTM>; Evidence, 12 March 2012, http://www.parl.gc.ca/Content/SEN/Committee/411/ridr/10ev-49398-e.htm?Language=E&Parl=41&Ses=1&comm_id=77, Evidence, 22 April 2013. http://www.parl.gc.ca/Content/SEN/Committee/411/ridr/50082-e.htm?Language=E&Parl=41&Ses=1&comm_id=77, Evidence, 29 April 2013. http://www.parl.gc.ca/Content/SEN/Committee/411/ridr/50107-e.htm?Language=E&Parl=41&Ses=1&comm_id=77; and Evidence, 27 May 2013, <http://www.parl.gc.ca/content/sen/committee/411/RIDR/27EV-50172-E.HTM>.

Monday, April 22, 2013

Public Service Commission of Canada:

Anne-Marie Robinson, President;

Hélène Laurendeau, Senior Vice President, Policy;

Stan Lee, Director General, Personnel Psychology Centre.

Treasury Board of Canada Secretariat:

Daniel Watson, Chief Human Resources Officer;

Ross MacLeod, Assistant Deputy Minister, Governance Planning and Policy Sector.

Canadian Human Rights Commission:

David Langtry, Acting Chief Commissioner;

Marie-Claude Girard, Director;

Piero Narducci, Acting Director General;

Tracey Donaldson, Acting Director.

University of Western Ontario:

Carol Agócs, Professor Emerita.

Monday, April 29, 2013

Government of Canada:

George Da Pont, Employment Equity Champion for Visible Minorities (President, Canadian Food Inspection Agency);

Alan Latourelle, Employment Equity Champion for Aboriginal Federal Employees (CEO, Parks Canada);

Linda Lizotte-MacPherson, Employment Equity Champion for Federal Employees with Disabilities (President, Canada School of Public Service).

Public Service Alliance of Canada:

Robyn Benson, National President;

Seema Lamba, Human Rights Officer.

Professional Institute of the Public Service of Canada:

Al Ravjiani, Ontario Regional Director;

Ryan Campbell, Policy Analyst.

Monday, May 27, 2013

Privy Council Office:

Wilma Vreeswijk, Deputy Secretary to the Cabinet, Business Transformation and Renewal Secretariat;

Filipe Dinis, Assistant Secretary to Cabinet, Business Transformation and Renewal Secretariat.