



SYSTEMIC ANTI-BLACK DISCRIMINATION AT THE CHRC

The Association of Justice Counsel (AJC) is grateful for the opportunity to provide comments to the Senate Standing Committee on Human Rights for its study of anti-Black racism at the Canadian Human Rights Commission (CHRC). The AJC is the bargaining agent for approximately 3,100 lawyers employed by the government of Canada, including those who work for the CHRC, the Department of Justice (DOJ) and the Public Prosecution Service of Canada (PPSC). The AJC works collectively to improve the working conditions of members and to raise public awareness of the crucial work our lawyers do for the benefit of all Canadians.

We are one of the three bargaining agents, who together with the Public Service Alliance of Canada (PSAC) and the Canadian Association of Professional Employees (CAPE) represent members in policy grievances on systemic anti-Black racism at the CHRC on the intersecting grounds of race, sex and religion, which have now been referred to the Federal Public Sector Labour Relations and Employment Board (FPSLREB).

Canada has historically been a global leader in human rights, and has recently announced its bid for a seat on the United Nations (UN) Human Rights Council for 2028 to 2030. The world is watching how anti-Black racism is being addressed within our own federal institutions. In particular, the CHRC which is tasked with the important role of protecting human rights through a fair and effective complaints process, as well as representing the public interest to advance human rights for all Canadians.

In our view, the CHRC's largely performative response to these policy grievances has been deeply concerning. Not only has its response re-traumatized the Commission's Black employees, but this was a missed opportunity for the CHRC to take unqualified ownership of the existence of anti-Black racism within its own walls, and provide a road map for employers on how to effectively address race-based systemic discrimination in the workplace. As a result, Canadians have lost confidence in the CHRC's ability to meet its own mandate. This trust cannot be rebuilt without an overhaul of the Commission's leadership, as well as increased transparency, accountability, the oversight of an external third party. There needs to be a meaningful external review with a public report, and a set of important changes to the structure, function and leadership of the CHRC.

In this submission we address the issues of anti-Black racism raised by our members, the remedies requested in our policy grievances, and the Treasury Board Secretariat's (TBS) decision. We also address the lack of transparency and accountability in the CHRC's response, and our views on the systemic challenges and limitations relating to the federal labour relations legal framework, the role of unions in addressing issues of systemic racial discrimination within the federal public service, as well as some structural changes that need to take place. We conclude with a series of recommendations for the Senate Standing Committee's consideration.

BACKGROUND

Systemic Anti-Black racism, which is often intersectional, is deeply entrenched into the workplaces of Canada's federal institutions, including the CHRC. On June 2, 2020, the CHRC issued a statement on anti-Black racism in Canada in support of the Black Lives Matter movement, including the following paragraph:



Racist comments and racist acts, no matter how subtle, must no longer be ignored or tolerated in Canada. Even the most subtle forms of racism contribute to the conditions that permit overt racism and violence to occur. When we are complacent, we are complicit. When we are silent, we are complicit.

Nevertheless, Black employees from all levels at the CHRC have reported a pervasive longstanding pattern of discriminatory practices, which they have experienced for years without effective or meaningful resolution. In April 2020, Mark Hart, a former Vice-Chair of the Human Rights Tribunal of Ontario, released a Report addressing changes needed to the Commission's processing of race-based complaints, as well as a Supplementary Report focused on issues of an institutional and structural nature within the Commission, including the lack of representation of Black employees at all levels of the Commission, including front-line staff, managers, directors and commissioners. Most of the recommendations in this report have yet to be implemented.

LETTER FROM BLACK EMPLOYEES TO FORMER CHIEF COMMISSIONER

On July 10, 2020, following the resignation of a colleague due to racism experienced at the CHRC in the middle of the Covid-19 pandemic, a group of nine current and former Black CHRC employees wrote a letter to former Chief Commissioner, Marie-Claude Landry. In the letter, they raised various concerns regarding systemic barriers and anti-Black racism, especially for Black women, within the Commission.

These concerns included, for example, that while three Black women did the bulk of the work on the CHRC's Race-based pilot project, they were assigned to the project in addition to their regular duties, and no additional leadership recognition, or compensation was attributed to them.

The letter also described the detrimental impact that the working environment at CHRC had on the mental health and wellbeing of Black employees, resulting in the departure of many racialized employees from the Commission as a result of the discrimination and constant micro-aggressions they experienced. In addition, the letter outlined a list of concrete recommendations for substantive improvements in relation to both employment-related systemic issues and the high dismissal rate of race-based complaints.

The affected CHRC employees shared this letter and raised the issue of ongoing systemic anti-Black racism at the CHRC with their bargaining agents. In August 2020, the AJC, PSAC and CAPE wrote the CHRC to express support for their Black members' recommendations, and attempted to work constructively with the Commission to help improve its workplace and regain the trust of its employees, to no avail.

While bargaining agents had requested that the CHRC authorize a full external workplace assessment, the Commission responded by unilaterally retaining Arleen Huggins, and Nina Fernandez to conduct facilitated discussions with employees. -The Commission engaged these third parties without consulting the affected employees, their bargaining agents, or other relevant stakeholders. When the bargaining agents raised concerns about these processes, including their non-inclusive nature, no meaningful action was taken by the Commission. As a result, many of the affected members did not have confidence or trust in the process, and chose not to participate because they feared re-traumatization and reprisal.

The mandate of the third parties did not include written reports, which would have allowed for transparency and accountability, and no recommendations were shared with the affected employees. Eventually after several months, the Commission allowed Ms. Huggins to speak directly with bargaining agents on her overall impressions and the extent of her mandate.



Other performative responses to the affected members' concerns included the creation of a De-colonization Committee, which in the affected members' view lacks the authority or power to make real change in the workplace, and has been described as a "social club." When Black employees took issue with the fact that problematic members of management sat on that committee, the Commission refused to change the structure.

They also included the creation of an Anti-racism Action Plan, into which affected members had no meaningful opportunity to provide input. Again, the bargaining agents requested that the senior executive who was tasked with developing and implementing the plan be replaced for reasons related to the affected members' concerns, however the Commission chose not to do so.

The CHRC also failed to provide the bargaining agents with relevant information as requested, including employment equity data and data on the dismissal rates of race-based complaints, despite repeated requests as well as a complaint to the Information Commissioner. The Information Commissioner found that complaint to be well-founded and ordered the Commission to produce the documents. When the Bargaining agents finally received the information, it was so heavily redacted as to be unusable. The information requested was finally provided through TBS once the grievance process was well underway.

A TRILOGY OF POLICY GRIEVANCES

In October 2020, frustrated with the CHRC's response to their members' concerns, the Bargaining Agents filed a ground-breaking series of three policy grievances with the TBS pursuant to section 220 of the *Federal Public Sector Labour Relations Act* (FPSLRA) to address the systemic discrimination of Black employees at the CHRC, especially of Black women. The AJC alleged that, "*Black and racialized people working at the Commission continue to experience the adverse impact of policies, procedures, practices and attitudes that serve as barriers to their advancement, health, safety, and overall wellbeing*".

In particular, members reported being significantly under-represented in the workplace, including at managerial and senior levels, as well as being tokenized. They were consistently excluded from opportunities for career advancement, and subjected to differential treatment with respect to mentoring, coaching and networks.

They were repeatedly given work at classification levels below their job description, or at levels above their job description without commensurate remuneration, and were selectively excluded and/or not meaningfully included in discussions which required expert advice to be provided to senior management, unless such advice related to the lived experience of Black employees. They were not meaningfully consulted on projects and initiatives related to the handling of race-based complaints.

In addition, they were repeatedly subjected to (a) demeaning and humiliating behaviour from management and colleagues, (b) defensive responses when concerns about systemic racism were raised and, (c) the characterization of normal communication from Black employees as aggressive, thereby perpetuating the stereotype of the 'angry Black woman'. Black members felt targeted and further excluded when they spoke out against anti-Black racism.

In its grievance, the AJC sought a declaration that the employer had breached a number of articles of the LP Collective Agreement, as well as employer policies, and section 7 (b) of the *Canadian Human Rights Act* (CHRA). We also sought an order that the Employer take immediate action to ensure Black employees feel safe, respected, and valued in their workplace, that our members be made whole, and such



other remedy deemed just in the circumstances. Notably, in December 2020, a class action lawsuit involving Black public servants was filed against the Attorney General of Canada where allegations of systemic racism against the CHRC were also outlined.

In September 2021, the AJC along with the other bargaining agents wrote to the Office of the Auditor General (OAG) and federal parliamentarians, including the Speaker of the House of Commons and the Minister of Justice, to express our concerns. We suggested that an audit of the CHRC could help the institution regain the trust of Black Canadians, however we received no substantive response. We also requested that the CHRC join us in the request for an audit, however they declined.

Following a grievance-related meeting with the TBS on February 22, 2023 in which the bargaining agents had indicated that we were not interested in pursuing mediation in relation to the policy grievances prior to a decision being rendered, the TBS sent a letter exerting additional pressure on us to enter mediation with the CHRC prior to making a finding. At that meeting, we had expressed additional concerns that CHRC had reached out directly to union representatives at national labour management consultation committees to request that the parties engage in mediation, rather than direct their request through appropriate channels (i.e. the TBS representative or the bargaining representatives with carriage of the file).

On March 6, 2023, over two years after the bargaining agents filed their policy grievances, the TBS rendered its decisions on the three policy grievances, following combined hearings on October 4, 2022, and January 19, 2023. The TBS found that the CHRC had breached article 36, the 'no discrimination' clause of the [LP collective agreement](#). Without granting any specific remedies, it noted that the CHRC had already taken proactive steps to address matters, and invited the parties to engage in mediation to seek a meaningful resolution. This was an important decision for Black employees at the CHRC, with consequences that will be felt across the federal public service and beyond. The finding of discrimination at the CHRC became a matter of public interest and was reported nationally by the media.

ISSUES RAISED BY CHRC EMPLOYEES AND BARGAINING AGENTS LARGELY IGNORED

To date, the concern raised by Black employees and the bargaining agents have not been meaningfully or adequately addressed by the CHRC. In our view CHRC's response to the grievances and the TBS decision has been largely performative in nature, demonstrating a disappointing lack of ownership, respect, and transparency. Their failure to engage in meaningful consultation with affected employees and bargaining agents throughout was truly a missed opportunity

We understand that CHRC has introduced various anti-racism initiatives, which are now described on their website, such as their Race Pilot Project, Anti-Racism Action Plan, and Employment Systems Review. However, based on the feedback received from Black employees, and some of the correspondence we have seen, we observe a significant disconnect between CHRC's public pronouncements, staff communications and their actions. Many of our members' concerns remain unaddressed.

This has been disheartening and unhealthy for affected employees who continue to experience systemic anti-Black racism in their workplace. Since the July 2020 letter from Black employees to the CHRC, at least four other Black or racialized members have left the Commission for reasons related to workplace culture, and others are on extended leave. The Commission has provided a list of action items they have initiated without any meaningful evaluative objective data that supports the proposition that there has been meaningful progress to regain the trust of its Black employees.



FAILURE OF CHRC TO ACCEPT FULL RESPONSIBILITY AND APOLOGIZE MEANINGFULLY

While the CHRC has stated that they accept the TBS findings and recognize that employees experienced discrimination in their workplace, their ongoing failure to accept full responsibility, and to appropriately address the concerns raised in a transparent and collaborative manner has resulted in the re-traumatization of employees who were courageous enough to come forward despite the inherent risks in doing so, including the potential for strain on themselves and their families, retaliation, stalled career progression, and uncomfortable public exposure.

The bargaining agents were deeply troubled by an email from Interim Commissioner Charlotte-Anne Malischewski to all staff at the CHRC on March 30, 2023, following up on a town hall on March 22, 2023 regarding the policy grievances and the TBS decision. This email had the effect of undermining and downplaying the TBS finding of anti-Black discrimination, raising concerns about how that finding was being portrayed, and implying that the finding of anti-Black discrimination was unproven or unsubstantiated. The Commission's criticisms of the AJC to CHRC employees constitute in our view, interference with internal union activities, which is prohibited under the [FPSLRA](#).

More specifically, in the email the Interim Commissioner stated that, *"unfortunately, many unproven allegations have been presented as though they were OCHRO's decisions..."* Ms. Malischewski went on to provide the following clarifications from CHRC's Senior General Counsel, Holly Holtman:

"Because links to these submissions were included in the AJC's announcement about the decision, some thought they were OCHRO's decision or that OCHRO found that everything alleged in those submissions happened as alleged. To be clear, neither is correct..."

Because there appears to be some misunderstandings about what OCHRO decided, I think it is very important to explain that there were no factual findings made. In other words, OCHRO did not specifically decide whether the 'Facts and Context' as outlined in the union submissions did or did not occur.

It is also important to recognize that OCHRO did not order remedies. Instead, the OCHRO decisions acknowledge that the Commission has already taken proactive steps to address these matters and that this work will take time. OCHRO also encouraged parties to engage in mediation to seek a meaningful resolution."

These sentiments were echoed on the Anti-racism work page of their website, which includes the following statement, *"OCHRO did not make any factual findings and found that there was no violation of the other clauses invoked, which included 'managerial responsibilities', 'health and safety', 'career development', 'pay administration' and 'statement of duties'. OCHRO did not order any remedies and acknowledged that the Commission has already taken proactive steps to address these matters and that, by its very nature, this work will take time."*

Then again, on May 01, 2023, two months after the TBS decision was rendered, the Interim Chief Commissioner, Charlotte-Anne Malischewski finally agreed to an on-camera interview in which she gave what could be perceived as a hollow personal apology for the actions of a Commission to which she was only recently appointed in October 2022, following the departure of former Chief Commissioner Landry. There was another compelled apology before this Committee. For Black employees at the Commission it was far too little, too late.



A recent case involving allegations of misconduct by the Accessibility Commissioner which appears to have led to the departure of three senior managers, sheds additional light on the differential treatment experienced by Black members of the CHRC, including level of response and support shown by the Commission in addressing similar concerns raised by its Black employees. In the more recent case, the CHRC promptly put interim measures in place to protect the mental health of the employees who were alleged to have been mistreated, and appointed an external investigator, who we hope will produce a written investigation report

AN URGENT NEED FOR TRANSPARENCY, ACCOUNTABILITY AND OVERSIGHT

Questions have been raised as to whether the CHRC can be salvaged in its current form. If indeed it can be, which has yet to be determined, the Commission needs to take immediate, concrete, and trauma-informed steps to begin rebuilding the trust of its Black employees and the Canadians it serves. To start, there must be a clear, unqualified acknowledgement from the CHRC of the existence of systemic anti-black racism within its walls, and a formal apology to its affected members.

There needs to be greater transparency surrounding the measures and processes selected to address the concerns raised by affected employees, including the mandate and reports of investigators, subject matter experts, disaggregated employment equity data, and complaint dismissal rates. In addition, the CHRC must ensure the active and meaningful participation of affected employees and their bargaining agents in the selection and implementation of these measures.

The CHRC cannot be its own watchdog. If real change is to occur, it requires some form of effective external oversight by an independent third-party to address systemic anti-Black racism. There must also be transparency and accountability. This is why the AJC and other bargaining agents initially called on the OAG to initiate an audit of the CHRC to ensure accountability for both our members and the public. While the CHRC did not take bargaining agents up on our invitation to join us in the request for an audit, we hope that that they will reconsider in light of the TBS findings and the current Study undertaken by this Standing Senate Committee.

Other mechanisms that have been proposed to address anti-Black racism at the CHRC and more broadly within the federal public service include a national inquiry on anti-Black racism in federal public institutions, as well as the establishment of a Black Equity Commissioner, which we recommend might be contemplated as part of the existing structure of the OAG, for example, whose infrastructure, parliamentary reporting obligations, authorities, and legislative powers are already dictated by a pre-existing legislative framework. To do so however, it would be imperative that the OAG have adequate funding and resources at its disposal.

THE ROLE OF UNIONS IN ADDRESSING ANTI-BLACK RACISM WITHIN THE FEDERAL PUBLIC SERVICE

Modern unions play an important role in addressing systemic anti-Black racism within the federal public service. We firmly believe that addressing inequalities in the workplace is a key function of the union's duty to represent its members. It is important however, to acknowledge historic racism that existed within the early labour movement in Canada, which created a longstanding distrust of unions by Black and racialized employees. Unions still have a significant amount of work to do themselves to restore the confidence of their Black members. The AJC acknowledges its past failures in this regard, and apologizes on behalf of the AJC to our Black members, collectively we must do better.



More recently, federal unions have searched for ways to effectively support their Black and racialized members in addressing systemic workplace discrimination within the legislative framework, including the *Federal Public Sector Labour Relations Act* (FPSLRA), the *Public Service Employment Act* (PSEA), the *Employment Equity Act* (EEA), as well as the policy restrictions in which they operate. The current legal framework presents barriers to addressing systemic discrimination in a timely and effective way.

For example, bargaining agents are prohibited from negotiating matters relating to staffing or from filing grievances in relation to staffing decisions. Complaints must be filed under the PSEA and even then, only certain types of complaints can be filed, with the vast majority of the complaints being rejected by the FPSLREB, formerly the Public Service Staffing Tribunal (PSST). Staffing practices within the CHRC and the federal public service remain one of the most significant barriers to bargaining agents and their members in addressing systemic anti-Black racism within the workplace. Other barriers include the differential remedies depending on whether an individual, group or policy grievance is filed.

Bargaining agents have had to find ways to address systemic discrimination through novel approaches using our management rights clause as well as existing tools like job content grievances. The three policy grievances filed by the AJC, PSAC and CAPE were part of a joint collaborative effort, involving combined hearings to amplify the voices of our members.

Reflecting this reality, in 2020 the AJC committed to taking an organizational-wide approach to EDI, and has started to integrate EDI into all aspects of our work in order to improve representation services for Black and racialized lawyers. In order to address systemic discrimination issues more proactively, the AJC formed its first Equity Diversity and Inclusion Advisory Committee (EDIAC), which we hope will serve to improve AJC's internal and external capacity on EDI issues, with among other things, the creation of a new position of Special Advisor to the President in June 2022, whose current mandate is primarily focussed on EDI matters and employer and member outreach.

We continue to explore methods of addressing the underlying systemic and structural issues that permit inequality and discrimination to persist in our members' workplaces. This includes an examination of the grievance process, restrictions on what can be collectively bargained, and other barriers to addressing discrimination in a timely and effective way. We have also looked for ways to increase outreach and create a safe space for our racialized members.

AN URGENT NEED FOR STRUCTURAL REFORM OF THE FEDERAL CANADIAN HUMAN RIGHTS SYSTEM

While beyond the primary scope of our submission, we recognize the urgent need for significant structural reform to the federal human rights system in order to ensure meaningful access to justice for Black Canadians. The current system is simply not working. The high rates of dismissal of race-based complaints by the CHRC suggest a serious institutional deficiency in understanding the multi-generational trauma associated with systemic anti-Black racism in Canada, and the subtle ways in which this pervasive form of discrimination often manifests.

Numerous calls have been made by national organizations including the Canadian Association of Black Lawyers (CABL), the Canadian Bar Association (CBA), the Canadian Association of Labour Lawyers (CALL) and countless other community organizations to introduce structural changes to the federal human rights system to address the interconnected issues of discrimination within the CHRA workplace and access to justice for Black Canadians.



The changes proposed include, for example, introducing a direct access model whereby the CHRC no longer plays a gate keeper function, and complaints can be filed directly with the Canadian Human Rights Tribunal (CHRT). This type of model has already been introduced in a number of Canadian Jurisdictions, including British Columbia and Ontario. They also include the following:

- overhaul of the structure, functions and leadership of the CHRC and CHRT,
- allocation of appropriate resources for federal human rights institutions,
- measures to reduce delays in processing complaints,
- collection of disaggregated race data from claimants,
- removal of the monetary maximum caps for damages for breaches of the CHRA,
- introduction of cost recovery for successful applicants, and
- review of the appointment process for CHRC commissioners and CHRT members to increase representation of Black and racialized individuals.

In addition, recommendations were made by the Honourable Justice LaForest in his [report](#) made over 20 years ago in 2000, *Promoting Equality: A New Vision, Report of the Canadian Human Rights Act Review Panel*, to remove the gate-keeping function of the CHRC, and implement a direct access model. Mark Hart, a former Vice-Chair of the Human Rights Tribunal of Ontario, also released a [report](#) in April 2020, addressing changes needed to the CHRC's processing of race-based complaints. In his view the need to address equity issues within the Commission, as well as with its complaints process were inextricably intertwined, and needed to be addressed in tandem in order to achieve success.

It is also essential to increase representation of members of Black and racialized groups throughout the Canadian human rights system, as well as the FPSLRB who have lived experience and are in a better position to recognize and understand systemic discrimination, including more subtle forms such as micro-aggressions, as well as the trauma that results from it. In order to do so, the CHRC's staffing processes should be reviewed to identify any potential barriers. Having said this, it is equally important that Black employees also be recognized as having expertise on matters beyond race-based discrimination.

Black employees are chronically underrepresented in management at CHRC. At the time the policy grievances were filed, we understand that there were no Black employees in senior executive positions at the CHRC, and none of the Commissioners identified as Black, although we understand that since March 2021, this may have changed marginally, and there continues to be no Black individuals who hold positions at the EX-03 level or higher.

LEGISLATIVE REFORM AND IMPROVED ACCESS TO JUSTICE

As alluded to above, legislative reform is also necessary to remove barriers within the federal labour relations framework, including limits on what can be bargained or grieved, as well as the remedies available to affected employees in cases of systemic discrimination so that unions can obtain remedies for the benefit of their members through policy grievances to help reduce the impact of having to file an individual grievance that is more likely to be even more retraumatizing than a policy grievance. To support these necessary structural changes, the CHRA, which sets out the powers, duties, and functions of the CHRC will need to be amended with changes to monetary awards and access to enforcement mechanisms that effectively address systemic discrimination.

The FPSLRA also needs to be amended to remove legislative barriers to what can be grieved and negotiated, as well as to increase the remedies available for systemic issues. In addition, the PSEA places significant limits on the kinds of staffing complaints that can be filed with the FPSLRB, and in our experience



with members, most complaints are dismissed. Now that the PSEA has been amended to include the concept of systemic discrimination, it remains unclear how the FPRLREB will exercise its authority to grant adequate remedies that can help address staffing issues practices and rebuild confidence.

Adequate funding and resources need to be provided for the tribunals and bodies and departments such as TBS, responsible for examining and determining questions that have a significant impact on aggrieved members' confidence in the system and their ability to access justice in an effective and timely way. In addition, the FPRLREB should confirm that adequate training is being provided to board members on unconscious bias, systemic discrimination, anti-oppression, CHRA remedies, and trauma-informed approaches. At this juncture, it is unclear to participants of the system that this is occurring.

We urge the Senate Committee to carefully consider options for the meaningful reform the federal human rights system to address internal systemic discrimination and increase access to justice for Black Canadians. This should include a review of the structure, functions, and resourcing of the CHRC and CHRT, legislative reforms to address the institutional and structural barriers that may be contributing to anti-Black racism, and more specifically a review of the FPRLRA, PSEA, and EEA. Together, these changes should increase timely and fair access to justice for Black Canadians.

SUMMARY AND RECOMMENDATIONS

The Black employees of the CHRC continue to experience the adverse impact of policies, procedures, and a workplace culture that serve as barriers to their career development, advancement, health and safety, and overall well-being. This has been traumatizing to Black employees at the CHRC, as well as to the Black community in Canada, causing them significant harm, and damaging their mental health and wellbeing.

The finding of discrimination against the CHRC and its failure to meaningfully, acknowledge and adequately address it has eroded public confidence in CHRC's ability to meet its legislative mandate to protect and promote human rights in Canada, as well as its credibility as a leader in human rights on the international stage. Our Black members deserve better, and so do all Canadians. Eliminating systemic Anti-Black Racism within the federal human rights system as well as the federal public service requires immediate support from all levels of government to increase transparency and accountability, and to ensure that appropriate resources and measures are in place. The following is a list of recommendations to address the issue of anti-Black racism at the CHRC, as well as its implications:

RECOMMENDATION 1 A swift and complete overhaul of CHRC's senior leadership team in order to rebuild trust and confidence in the Commission. Black employees at the CHRC, the Black community, and the broader Canadian public have lost confidence in the Commission. Their trust cannot be restored while the senior leadership that contributed to the process and systems that has enabled Anti-Black Racism at the Commission to remain in place. The response of CHRC's senior leadership to the concerns raised by its Black employees has been performative at best, and actively harmful at worst. The very people who enabled Anti-Black racism at the CHRC cannot lead the fundamental reforms that need to take place.

RECOMMENDATION 2 External oversight of the CHRC to ensure transparency, accountability and restore the trust of Canadians in the Commission. At a minimum this should include an audit by the OAG, which the bargaining agents have been requesting since September 2021. The Public Service Commission (PSC) should also be asked to investigate staffing practices at the CHRC in relation to their impact on Black employees, as well as circumstances in which senior executives at the Commission appear to have been



promoted amid ongoing policy grievances on systemic anti-Black racism. In addition, the creation of a Black Equity Commissioner might work within the existing structure of the OAG, for example, provided that appropriate resources are allocated to the OAG for this function. This would provide faster results as the new Commissioner would have a pre-existing structure to support them, and would ensure that the Black Equity Commissioner has the power and authority to make the recommendations necessary to ensure accountability.

RECOMMENDATION 3 Fundamental reforms to the federal public service labour relations framework, without which it will be difficult for bargaining agents to address systemic anti-racism effectively. This should include legislative reforms to the FPSLRA, PSEA and EEA. Proper resourcing should also be provided for departmental labour relations teams, the Office of the Chief Human Resources Officer (OCHRO) and the FPSLREB to reduce delays in the grievance processes and ensure increased access to justice for employees experiencing anti-Black racism. In addition, FPSLREB members should have experience and training on relevant issues, such as systemic discrimination, CHRA remedies, anti-Black racism, anti-oppression, unconscious bias, and trauma-informed approaches.

RECOMMENDATION 4 Options for the significant and meaningful reform the federal human rights system to address internal systemic discrimination and increase access to justice for Black Canadians. These options might include transformation of the CHRC's mandate and the introduction of a direct access model such as those introduced in ON and BC, as well as adequate funding and resourcing for the CHRC and CHRT. They might also include measures such as the publication of annual data on the dismissal rates of complaints, disaggregated by ground of discrimination, the appointment of representative commissioners with adequate human rights expertise and training on anti-Black racism, and the removal of the statutory monetary cap on CHRA damages.

RECOMMENDATION 5 A workplace assessment of the CHRC by an independent expert with demonstrated expertise in anti-Black racism and workplace discrimination, which the bargaining agents had requested in 2020. This review should include a look at the Commission's formal and informal practices relating to the hiring, promotion, and retention of Black employees. It should cover at least a ten-year period prior to the policy grievances being filed to ensure the appropriate context, and the recommendations should be implemented within a specified timeframe. The expert's mandate should include a public report that includes recommendations to address any findings of anti-black racism to ensure transparency and accountability.

RECOMMENDATION 6 Immediate and concrete steps to reform the internal structure of the CHRC, including its staffing processes in order to address systemic factors and begin building the trust of its Black employees and the Canadians it serves. This includes reform of the Commission's policies and practices relating to staffing in order to identify barriers to the career progression of Black employees, and increase their representation at all levels of the organization, and ensure the types of knowledge, experience and abilities required for anti-Black racism work are reflected within the CHRC.

RECOMMENDATION 7 Finally, we also encourage the Senate Committee to formally recognize the strength, courage, and leadership of the nine CHRC employees who assumed a great deal of risk in coming forward, as well as the exceptional work of Patricia Harewood, formerly of PSAC, who led the three bargaining agents in achieving this important decision for Black Canadians. An unqualified and meaningful apology should also be offered by the CHRC, as well as by the Government of Canada to the affected employees.