



Public Service Alliance of Canada
Alliance de la Fonction publique du Canada

PUBLIC INTEREST COMMISSION BRIEF
OF THE
PUBLIC SERVICE ALLIANCE OF CANADA

**IN THE MATTER OF THE FEDERAL PUBLIC SECTOR LABOUR
RELATIONS ACT and a dispute affecting the PUBLIC SERVICE
ALLIANCE OF CANADA and TREASURY BOARD, in relation to the
employees of the Employer in the**

Program and Administrative Services (PA)

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Chairperson

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Representative of the interests of the Employees

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Representative of the interests of the Employer

December 4-7, 2019

APPEARANCES

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PART 1

INTRODUCTION

COMPOSITION OF THE BARGAINING UNIT

The Program and Administrative Services Group comprises nine different categories of employees certified by the Public Service Labour Relations and Employment Board (PSLREB). These categories are:

• Administrative Services (AS):	30,716 employees
• Information Services (IS):	3,646 employees
• Program Administration (PM):	24,552 employees
• Welfare Programs (WP):	3,637 employees
• Communications (CM):	6 employees
• Data Processing (DA):	42 employees
• Clerical and Regulatory (CR):	22,042 employees
• Office Equipment (OE):	1 employee
• Secretarial, Stenographic and Typing	106 employees
Total:	84,748 employees

The Program and Administrative Services Group comprises positions that are primarily involved in the planning, development, delivery or management of administrative and federal government policies, programs, services or other activities directed to the public or to the Public Service.

Inclusions

Notwithstanding the generality of the foregoing, for greater certainty, it includes positions that have, as their primary purpose, responsibility for one or more of the following activities:

1. the provision of administrative services, including adapting, modifying or devising methods and procedures, in support of Public Service policies, programs, services or other activities, such as those dealing with administrative, financial, human resources, purchasing, scientific or technical fields, including:
 - a. the operation, scheduling or controlling of the operations of electronic equipment used in the processing of data for the purpose of reporting, storing, extracting and comparing information or for solving formulated problems according to prescribed plans;
 - b. the operation, routine servicing and minor repair of a variety of cryptographic, facsimile, electronic mail and associated communications equipment in preparing, receiving, transmitting, and relaying messages; and the performance of related activities including recording receipt and dispatch times of traffic, priority allocation and distribution of message copies that require special knowledge of communication procedures, format, schedules, message traffic routes and equipment operation;
 - c. the operation of bookkeeping, calculating, duplicating and mailing service or microphotography equipment to post data, calculate, produce copy, white-prints, blueprints, and other printed materials, prepare mail or produce and process microfilm;

- d. the collecting, recording, arranging, transmitting and processing of information, the filing and distribution of information holdings, and the direct application of rules and regulations;
 - e. the provision of secretarial, word-processing, stenographic and verbatim-recording services and the operation of related electronic equipment; and
 - f. the operation of micro-processor controlled telephone switching systems and peripheral equipment;
2. the planning, development, delivery or management of government policies, programs, services or other activities directed to the public or to the Public Service;
 3. the planning, development, delivery or management of policies, programs, services or other activities in two or more administrative fields, such as finance, human resources or purchasing, directed to the Public Service;
 4. the planning, development, delivery or management of government policies, programs, services or other activities dealing with the collection of taxes and other revenues from the public;
 5. the planning, development and delivery of consumer product inspection programs;
 6. the planning, development, delivery or management of the internal comprehensive audit of the operations of Public Service departments and agencies;
 7. the planning, development, delivery or management of policies, programs, services or other activities dealing with the privacy of and access to information;
 8. the research, analysis and provision of advice on employee compensation issues to managers, employees and their families or representatives;
 9. the provision of advice, support, and training to users of electronic office equipment, both hardware and software;

10. the planning, development, delivery or management of policies, programs, services or other activities dealing with the management of property assets and facilities, information holdings or security services in support of the Public Service;
11. the research into public attitudes and perceptions and the analysis, development, recommendation and delivery of strategic communications plans and activities dealing with the explanation, promotion and publication of federal government programs, policies and services;
12. the planning, development, delivery or management of policies, programs, services or other activities dealing with the social development, settlement, adjustment and rehabilitation of groups, communities or individuals including the planning, development and delivery of welfare services;
13. the provision of advice on and the analysis, development and design of forms and forms systems;
14. the delivery of mediation or conciliation services dealing with disputes in collective bargaining and industrial relations within the jurisdiction of Part I of the Canada Labour Code; and
15. the leadership of any of the above activities. ¹

¹ Treasury Board of Canada Secretariat, *Occupational Group Definitions* (2011)

HISTORY OF NEGOTIATIONS

This round of collective bargaining commenced with a first meeting and an exchange of proposals on May 29, 2018. Since then, the parties have met on the following dates.

- May 29-30, 2018
- July 10-11-12, 2018
- October 16-17, 2018
- November 27-28-29, 2018
- February 12-13-14, 2019
- March 19-20-21, 2019
- April 30, May 1-2, 2019
- September 1-6, 2019

Since the parties are engaged in bargaining for four separate tables for employees of the Federal Government, on issues that are common across all tables, the parties agreed to form a “Common Issues Table”. At this table, the Union sent a committee consisting of two members of each of those four tables. Bargaining was held separately at the Common Issues Table on the following dates:

- June 20-21, 2018
- October 10-11, 2018
- December 4-5-6, 2018

Looking at both tables combined, the parties have met for a total of 11 sessions consisting of 31 days. Despite this, the parties have reached agreement on very few issues. The Union would characterize all signed off language as housekeeping. All of the substantive issues remain outstanding. On May 1, 2019, the Employer tabled a comprehensive offer to settle all outstanding collective bargaining issues (Exhibit A1). However, this offer did not address key member concerns and on May 7th, 2019, for the second time this round, the Public Service Alliance of Canada (PSAC) requested the establishment of a Public Interest Commission to assist the parties in reaching an agreement on all of the outstanding issues.

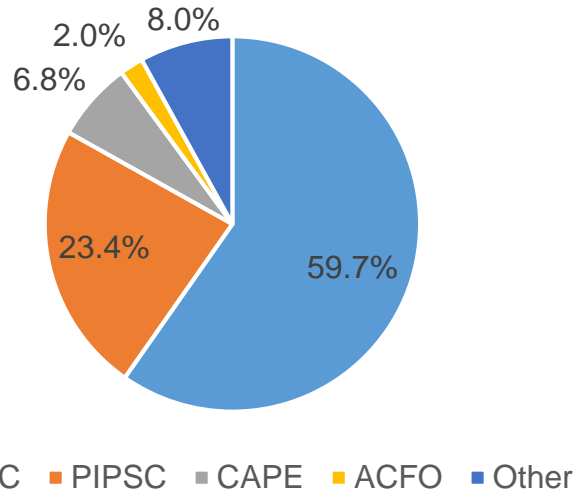
Federal public sector context

In early summer 2019, other bargaining agents in the federal public administration including the Professional Institute of the Public Service (PIPSC), the Association of Canadian Financial Officers (ACFO) and the Canadian Association of Professional Employees (CAPE) reached tentative agreements with the Treasury Board (Exhibit A2).

On September 1, 2019, the PA group resumed bargaining with Treasury Board with the expectation that the Employer would table a significantly improved offer. However, despite six continuous days of bargaining, the parties were not able to reach an agreement. One of the issues that proved to be contentious between the parties was the Employer's insistence that this bargaining unit replicate what other federal public administration bargaining agents have negotiated. PSAC represents the majority of members in the Federal Public Administration and is in no place to consent to a pattern that is imposed by smaller bargaining agents and is not acceptable to PSAC members. The next biggest bargaining agent in the sector has less than one-third of PSAC's membership. The tail doesn't wag the dog.

There are 15 bargaining agents in the federal public administration negotiating with the Treasury Board, PSAC is by far the largest, as illustrated in the chart below.

Federal bargaining agents by percentage of overall membership



As expected, when looking at the size of the bargaining units, traditionally, PSAC has set the pattern with the Employer in bargaining.

The fact that other smaller bargaining agents have settled is even less evidence of a true replication argument when examining some of the details of their agreements. Two important factors in these agreements relate to the ongoing debacle that is the Phoenix pay system:

- 1) While not formally part of the deal, the Employer and bargaining agents have negotiated an agreement on payment of damages to employees due to Phoenix.
- 2) The implementation of the collective agreements has been substantially altered due to the ongoing problems with Phoenix, and the Employer's concern about its ability to implement any agreement

On both of these issues, the other bargaining agents have negotiated "me-too" clauses which would provide them with superior benefits if another bargaining agent negotiates such superior conditions (Exhibit A3). This is a full acknowledgement by both these other

bargaining agents as well as the Employer that they do not expect PSAC to follow the pattern established by the smaller groups' agreements, and that there is a good likelihood that their settlements will be exceeded by PSAC.

As with any other set of negotiations, the large groups set the pattern. Consider, for example, a situation where PSAC represents Teaching Assistants at a university. Getting a settlement in this context will have little to no bearing on the larger campus bargaining units for faculty or for support staff. In the same vein, the groups that have settled with this Employer, under a situation of full and free collective bargaining, does not convince PSAC that the smaller groups' settlements ought to be imposed on its members.

Furthermore, the Union submits that the bargaining history between PSAC and Treasury Board should be considered. Indeed, several provisions negotiated by the PSAC bargaining units in previous rounds have differed considerably from what PISPC and other unions have negotiated with the same employer. For example, during the last round of bargaining PIPSC and several other unions have agreed to create an Employee Wellness Support Program (EWSP) to replace their current regime of sick leave. On the contrary, one of PSAC's key objective in the previous round of bargaining was to protect members' sick leave benefits, and we were successful in doing so.

In interest arbitration, as with the PIC process, one of the prevailing principles is replication: that the neutral panel should attempt to replicate the likely results between the parties. The Union submits that strict adherence to any pattern between the Employer other bargaining agents would not represent replication. Most importantly, in any round of collective bargaining in recent history, the sequence has never been to impose settlements of small units on the large ones. Additionally, there have not been rigid patterns of collective bargaining in the federal public sector, and the Union respectfully submits that a recommendation that strictly follows the settlements of small bargaining agents would not represent replication.

In light of this fact, and given the fundamental of principles of replication, the Union submits that the settlements of other Unions, while providing a certain amount of information to the parties, should not be the ultimate determining factor in assessing what the outcome of collective bargaining would have been.

It should be noted that this brief will follow the same format as the negotiations above. The issues that were negotiated at the common issues table will be presented in their own section.

PSAC BARGAINING TEAM

During the course of the Public Interest Commission process, bargaining team members may be called upon to provide a more detailed explanation of specific issues of the enclosed proposals.

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Roger Duffy

Travis Lahnalampi

Hayley Millington

Geoff Ryan

Dawn Staruiala

Julien Souque

Brad Stoodley

Brandon Thorne

Marianne Hladun, Prairies Regional Executive Vice-President

Appearing for the PSAC are:

Gail Lem, Negotiator, PSAC

Omar Burgan, Research Officer, PSAC

LEGISLATIVE FRAMEWORK

Section 175 of the *FPSLRA* provides the following guidance in relation to the conduct of the Public Interest Commission proceedings under Division 10 of the *FPSLRA*:

- 175.** *In the conduct of its proceedings and in making a report to the Chairperson, the public interest commission must take into account the following factors, in addition to any other factors that it considers relevant:*
- (a) *the necessity of attracting competent persons to, and retaining them in, the public service in order to meet the needs of Canadians;*
 - (b) *the necessity of offering compensation and other terms and conditions of employment in the public service that are comparable to those of employees in similar occupations in the private and public sectors, including any geographic, industrial or other variations that the public interest commission considers relevant;*
 - (c) *the need to maintain appropriate relationships with respect to compensation and other terms and conditions of employment as between different classification levels within an occupation and as between occupations in the public service;*
 - (d) *the need to establish compensation and other terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered; and*
 - (e) *the state of the Canadian economy and the Government of Canada's fiscal circumstances.*

In keeping with these legislative imperatives, the Union maintains that its proposals are fair and reasonable, and within both the Employer's ability to provide and the Public Interest Commission to recommend.

PART 2

OUTSTANDING WAGE ISSUES

PSAC PROPOSAL

APPENDIX “A” RATES OF PAY

Competitive economic increases

The Union proposes the following economic increases to all rates of pay for all bargaining unit employees:

Effective June 21, 2018: after grids restructuring: 3.25%.

Effective June 21, 2019: 3.25%.

Effective June 21, 2020: 3.25%.

Market adjustments

Adjustments based on CRA job rates

To restore appropriate relationships between and among classifications and occupations within the public service, the Union proposes to eliminate the pay gap between PA group members and comparable employees at the Canada Revenue Agency (“CRA”). To do so, we propose that, effective June 21, 2018, prior to applying an economic increase, the job rate for most levels in each classification (excluding the WP classification) be increased to equal the job rate (effective November 1, 2015) for the comparable SP level at CRA for which there is the largest disparity within that category.

AS, IS & PM classifications adjustment

Within the PA group, the AS, IS and PM classifications have pay grids that are reasonably harmonized. These groups also have large comparable groups within the CRA. To eliminate the pay gap between ASs, ISs and PMs and their respective

comparators at CRA, the Union proposes that the wage rates for all levels in each of the AS, IS and PM classifications be increased by the difference in the rate (effective November 1, 2015) for the comparable SP level at CRA with the largest disparity. (See table one below)

PM-5 and AS-5 levels

In addition to the economic increase applied to their entire classification group, there shall be an addition of one step equivalent to 4% added to the PM-5 and AS-5 levels in order to achieve parity with the EC-5 group for the job rate.

Thus, prior to the economic increase being applied on June 21 2018, the PM-5 and AS-5 levels shall be changed to:

\$86,788 \$90,259 \$93,869 \$97,625

CR, DA & ST classifications adjustment

To eliminate the pay gap between CRs, DAs and STs and their respective comparators at CRA, the Union proposes that effective June 21, 2018, prior to applying an economic increase the job rate for most levels in each of the IS, DA and ST classifications be increased to equal the job rate (effective November 1, 2015) for comparable SP level at CRA with the largest disparity.

The Union suggests one exception to the above proposals. DA-CON-1s and DA-CON-2s were viewed (by both the Union and the CRA) as anomalies in the CRA job evaluation and classification conversion process. The Union remains dissatisfied with the outcome of the CRA process for these underpaid employees. As a result, and for the purposes of internal relativity and equity, the Union proposes that the DA-CON-1 and DA-CON-2 levels be treated as if they do not have comparable levels at CRA.

Accordingly, the Union proposes that the job rate for DA-CON-1s and DA-CON-2s be increased by same rate of adjustment as for the rest of the DA classification.

CM & OE classifications

The CM and OE classifications do not have comparators at CRA. For the purposes of internal relativity and equity, the Union proposes that the job rate for each level in the CM and OE classifications be increased by same adjustment for the AS, IS and PM classifications.

WP classification

The WP classification does not have comparators at CRA. For the purposes of internal relativity and equity, the Union proposes that the job rate for each level in the WP classification be increased by the same adjustment as for the AS, IS and PM classifications.

Classification	Market adjustment on June 21 2018
AS*, PM*, IS	Add two increments to the top of all pay scales, drop the lowest two increments from the bottom of all pay scales. All members to immediately move up their pay scales by two increments. There shall be an addition of one step equivalent to 4% added to the PM-5 and AS-5 levels in order to achieve parity with the EC-5 group for the job rate.
CR	Add two increments to the top of all pay scales, drop the lowest two increments from the bottom of all pay scales. All members to immediately move up their pay scales by two increments.

DA	Add two increments to the top of all pay scales, drop the lowest two increments from the bottom of all pay scales. All members to immediately move up their pay scales by two increments. There shall also be an additional 6% Market adjustment.
ST	Add two increments to the top of all pay scales, drop the lowest two increments from the bottom of all pay scales. All members to immediately move up their pay scales by two increments. There shall be an additional 7% market adjustment.
CM, OE	Add two increments to the top of all pay scales, drop the lowest two increments from the bottom of all pay scales. All members to immediately move up their pay scales by two increments.
WP	Add two increments to the top of all pay scales, drop the lowest two increments from the bottom of all pay scales. All members to immediately move up their pay scales by two increments.

EMPLOYER PROPOSAL

The Employer proposes the following annual economic increases:

- Effective June 21, 2014: 1.50%
- Effective June 21, 2015: 1.50%
- Effective June 21, 2016: 1.50%
- Effective June 21, 2017: 1.50%

RATIONALE

Public service compensation serves to attract, retain, motivate and renew the workforce required to deliver results to Canadians. In this section, the Union will demonstrate how its proposal on rates of pay is consistent with the factors to be taken into account by the Public Interest Commission (PIC) in rendering its recommendation. We will also demonstrate how the Employer proposal is woefully inadequate in light of the factors in Section 175. However, it is important to first address and unpack one of the foundational arguments upon which the Employer's pay proposal is based.

Employer 'Rationale': (In)ability to Pay

This section discusses the Employer's arguments pertaining to the ability to pay, for which the Union believes greater context and caution should be given. Arbitral jurisprudence speaks clearly and consistently to the need to look past the financial status of public sector employers when considering ability to pay. The precedence and rationale behind rejecting ability to pay arguments will be referred to and discussed throughout this sub-section.

The Employer's framing of the current economic climate, the state of Canadian economy and the fiscal situation of the Government of Canada conveniently attempts to imply the need for meagre economic increases due to ongoing circumstances for budgetary restraint. Arguments put forward by the Employer, whereby agreeing to the Union's proposed rates of pay requires to be funded within pre-established budgets set by the Government of Canada, or to follow wage trends established by other bargaining agents, should be rejected.

The Federal Government is the 'ultimate funder' of the Treasury Board Secretariat. The PSAC cannot take part in the funding and budgetary decisions within the Treasury Board Secretariat and rejects the argument that the Employer's financial mandate should be determined by the constraints imposed as a result of such decisions.

The issue of lack of ability to pay, as a result of pre-determined funding mechanisms, was addressed by Arbitrator Arthurs in his seminal case on the topic *Re Building Service Employees Local 204 and Welland County General Hospital* [1965] 16 L.A.C. 1 at 8, 1965 CLB 691 award:

If, on the other hand, the Commission refuses to assist the hospital in meeting the costs of an arbitral award, the process of arbitration becomes a sham. The level of wages would then be in fact determined by the Commission in approving the hospital's budget. Since the Union is not privy to budget discussions between the hospital and the Commission, it would then be in the unenviable position of being unable to make representations regarding wage levels to the very body whose decision is effective - the Commission.²

Arbitrator Arthurs reasoned that an award solely reflecting an employer's financial mandate as determined by another level of governance would, in effect, result in the 'ultimate funder' determining the wage rates in collective bargaining. It would logically follow that if an arbitrator were to consider ability to pay in this circumstance, it would evaluate the Federal Government's ability to pay rather than the Treasury Board Secretariat's ability or willingness to pay.

In light of another decision, Arbitrator Swan outlines that arbitrators give virtually no weight to "ability to pay" arguments and clarifies that the use of comparators, rather than Public Sector financial data, is not rooted in a cavalier attitude towards Union wage demands. Swan states that the arbitrator's role is to evaluate whether wages are equitable rather than an evaluation of the political processes from which budgets are invariably developed:

"Public sector arbitrators have never paid much attention to arguments based upon "the ability to pay" of the public purse, not because they do not think that the public

² H. W. Arthurs, Award *Re Building Service Employees Local 204 and Welland County General Hospital*, 16 L.A.C.-1, 1965.

*purse needs to be protected from excessive wage demands, but because the other factors which fashion the outcome of an arbitration are so much more influential and so much more trustworthy than the national constraints of "ability to pay". The extraneous influences which may be applied to the resources available to the individual hospital bound by the present arbitration are such that, either by manipulation or by sheer happenstance, those forces could render meaningless the entire negotiation and basis for the outcome of collective bargaining. The decision as to whether a specific service should be offered in the public sector or not is an essentially political one, as is the provision of resources to pay for that service. Arbitrators have no part in that political process, but have a fundamentally different role to play, that of ensuring that the terms and conditions of employment in the public service are just and equitable.*³

Furthermore, interest arbitrators have consistently recognized that to give effect to government fiscal policy would be equivalent to accepting an ability to pay argument and thus abdicating their independence: The parties know that ability to pay has been rejected by interest arbitrators for decades. Arbitrator Shime in *Re McMaster University*:

*"...there is little economic rationale for using ability to pay as a criterion in arbitration. In that regard I need only briefly repeat what I have said in another context, that is, public sector employees should not be required to subsidize the community by accepting substandard wages and working conditions."*⁴

By and large, the concept of 'ability to pay' has been rejected as an overriding criterion in public sector disputes by an overwhelming majority of arbitrators and has been summarized as follows:

³Kenneth P. Swan, Re: Kingston General Hospital and OPSEU, Unreported, June 12, 1979.

⁴ O.B. Shime, Q.C., Re: *McMaster University and McMaster University Faculty*. Interest Arbitration, Ontario. July 4, 1990

1. "Ability to pay" is a factor entirely within the government's own control;
2. Government cannot escape its obligation to pay normative wage increases to public sector employees by limiting the funds made available to public institutions;
3. Entrenchment of "ability to pay" as a criterion deprives arbitrators of their independence, and in so doing discredits the arbitration process;
4. Public sector employees should not be required to subsidize public services through substandard wages;
5. Public sector employees should not be penalized because they have been deprived of the right to strike;
6. Government ought not to be allowed to escape its responsibility for making political decisions by hiding behind a purported inability to pay;
7. Arbitrators are not in a position to measure a public sector employer's "ability to pay".⁵

Therefore, the Union submits that Employer's inability to pay argument is moot, particularly when the Government has it within its power to determine its own ability to pay by setting its budget, and specifically when jurisprudence has consistently rejected such claims from the Employer.

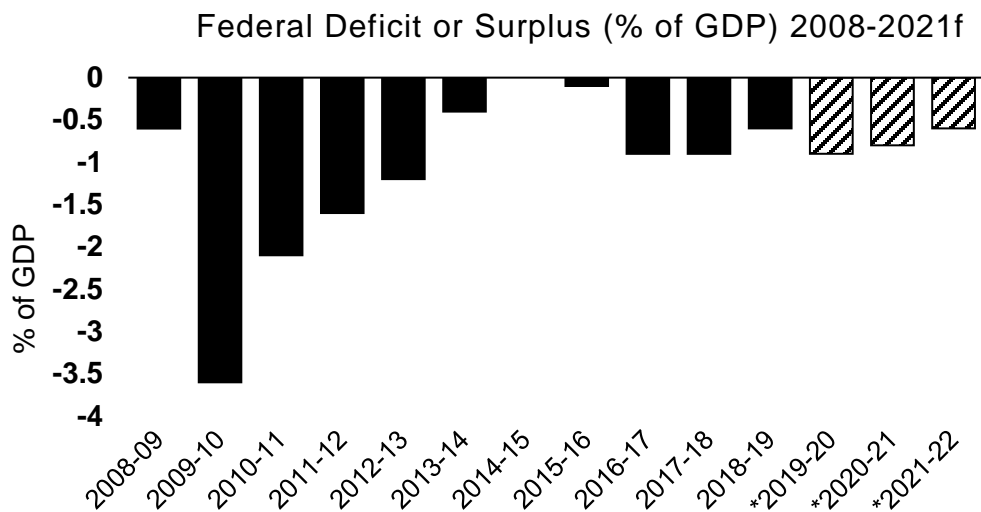
The Canadian Economy and the Government of Canada's fiscal circumstances

The Federal Government's fiscal position is historically healthy

Though much attention tends to be paid to the dollar amount associated with deficits, deficit size relative to GDP is much more representative of the Government's actual fiscal position. In the last 10 years, Canada has successfully mitigated economic challenges.

⁵ Jeffrey Sack, Q.C., "Ability to pay in the Public Sector: A Critical Appraisal", *Labour Arbitration Yearbook*, 1991, vol. 2, 277 to 279.

Going forward, decreasing debt-to-GDP for years 2018 to 2022 are projected and form part of the Government’s mandate, as set in Budget 2019 (see graph below).^{6 7 8}



Source: Finance Canada, *Fiscal Reference Tables*, October 2018
 * Projected in Budget 2019. *Maintaining Canada’s Low-Debt Advantage*

The current deficit in relation to GDP is historically small and the current fiscal position of the Federal Government shows no obstruction to providing fair wages and economic increases to federal personnel. In addition, the present government has not identified fighting the deficit as a priority, but instead increased program spending.

Canada’s strong fiscal position and positive economic outlook

Budget 2019’s assurances to Canadians that “*Canada’s economy remains sound*”, that “*the Canadian economy is expected to strengthen over the second half of 2019*”, and that Canada is “*to remain among the leaders for economic growth in the G7 in both 2019 and*

⁶ Budget 2019 <https://www.budget.gc.ca/2019/docs/plan/overview-apercu-en.html>
 Le Budget de 2019 <https://www.budget.gc.ca/2019/docs/plan/overview-apercu-fr.html>
⁷ Finance Canada, *Fiscal Reference Tables*, October 2018, <https://www.fin.gc.ca/frt-trf/2018/frt-trf-18-eng.pdf>
 Finance Canada, Tableaux de référence financiers Octobre 2018 <https://www.fin.gc.ca/frt-trf/2018/frt-trf-18-fra.pdf>
⁸ Annual Financial Report of the Government of Canada 2018-2019, <https://www.fin.gc.ca/afr-rfa/2019/afr-rfa19-eng.pdf>

2020” are clear statements indicating the Government of Canada believes the Canadian economy is healthy.

There is further confirmation, in Budget 2019, that Canada has some of the strongest indicators of financial stability in the G7 economies and Canadians are reassured that *“In a challenging global economic environment, Canada’s economy remains sound”*, whereby *“At 3 percent growth, Canada had the strongest economic growth of all G7 countries in 2017, and was second only to the U.S. in 2018.”*⁹ These statements are in contrast to the Employer’s traditional position that financial constraint is necessary.

In July 2019, Fitch Ratings Inc. affirmed Canada’s stable economy by issuing Canada’s *Long-Term Foreign Currency Issuer Default Rating (IDR)* its highest rating AAA with a *Stable Outlook*.

“The [AAA] rating draws support from its advanced, well-diversified and high-income economy. Canada’s political stability, strong governance and institutional strengths also support the rating. Its overall policy framework remains strong and has delivered steady growth and low inflation.”

The *Bank of Canada* expects activity to pick up later in 2019 and that economic activity will spill over into 2020, supporting Canadian economic growth of 2.1%.¹⁰

Canada is to remain a leader in economic growth

Growth in GDP during the second quarter of 2019 GDP accelerated to 3.7%, beyond economists’ expectations, due to factors including the reversal of weather-related slowdowns and a surge in oil production¹¹. The Bank of Canada and Fitch’s Ratings¹²

⁹ Budget 2019, Maintaining Canada’s low-debt advantage

¹⁰Canada’s State of Trade 2019 Report, Global Affairs Canada, Chapter 2.1 Canada ‘Economic Performance, Looking Forward, August 2019, https://www.international.gc.ca/gac-amc/publications/economist-economiste/state_of_trade-commerce_international-2019.aspx?lang=eng#Section2.1

¹¹ Bank of Canada Monetary Policy Report July 2019

¹² Fitch Affirms Canada’s Ratings at ‘AAA’; Outlook Stable. Fitch’s Ratings. July 17, 2019

expect GDP to pick up by 1.7% to 2% by 2021, slightly above potential growth, driven by a stabilizing oil sector, rising non-oil investment, and household consumption buoyed by a tight labour market¹³. Canada’s largest banks¹⁴ agree that GDP will follow this growth trend and improve through 2020 (see table below for a summary of actual and projected GDP – Major Canadian Banks).

Actual and projected GDP – Major Canadian Banks

Canada – GDP	2018	2019f	2020f
	Annual Average Percentage Change (%)		
TD Economics	1.9	1.3	1.7
RBC	1.9	1.4	1.8
CIBC	1.9	1.4	1.4
BMO	1.9	1.4	1.7
Scotia Bank	1.9	1.4	2.0
National Bank of Canada	1.9	1.5	2.0
Desjardins	1.9	1.9	1.6
AVERAGE:	1.9	1.5	1.7

A decreasing debt-to GDP ratio

The federal debt-to-GDP ratio is one of the main measures of sustainability of federal finance, where

“A stable or declining federal debt-to-GDP ratio over time means that the federal debt is sustainable because GDP, the broadest measure of the tax base, grows at the same pace or more rapidly than the federal debt.”¹⁵

¹³ Bank of Canada Monetary Policy Report, July 2019

¹⁴ All accessed August 9-12, 2019: TD Longterm Economic Forecast June 18, 2019 https://economics.td.com/domains/economics.td.com/documents/reports/qef/2019-jun/long_term_jun2019.pdf;
CIBC Forecast Update July 8, 2019 https://economics.cibccm.com/economicsweb/cds?ID=7649&TYPE=EC_PDF;
BMO Capital Markets Economic Outlook August 9, 2019 https://economics.bmo.com/media/filer_public/df/b8/dfb80b31-59a3-43b2-b280-eccdcacc0006/provincialoutlook.pdf;
RBC Provincial Outlook June 2019 <http://www.rbc.com/economics/economic-reports/pdf/provincial-forecasts/provtbl.pdf>;
Desjardins Economic & Financial Outlook June 2019 <https://www.desjardins.com/ressources/pdf/peft1906-e.pdf?resVer=1561036871000>;
Scotiabank Global Economics July 12, 2019 https://www.scotiabank.com/content/dam/scotiabank/sub-brands/scotiabank-economics/english/documents/provincial-pulse/provincial_outlook_2019-07-15.pdf;
Bank of Canada Monetary Policy Report July 2019

¹⁵ What Does Budget 2019 Tell Us about Projected Federal Revenues, Expenditures, Budgetary Balance and Debt? <https://hillnotes.ca/2019/04/03/what-does-budget-2019-tell-us-about-projected-federal-revenues-expenditures-budgetary-balance-and-debt/>

Federal tax revenues surpassed budget expectations, contributing to a surplus of 0.4% of GDP on a Government Finance Statistics (GFS) basis for 2018¹⁶. We can expect a further reduction of the debt-to-GDP ratio over the next years – as our tax base grows, the federal debt is shrinking more rapidly.¹⁷

“The federal debt-to-GDP ratio is also expected to decline every year over the forecast horizon, reaching 28.6 percent by 2023–24. A declining federal debt-to-GDP ratio will help to further reduce Canada’s net debt-to-GDP ratio, which is already the lowest among G7 countries.”

The Federal Government is in a strong fiscal position, where Program Expenses and the overall debt, as a percentage of GDP, are forecast to decrease through 2022. Budgetary balance (as percentage of GDP) is forecast to remain steady throughout 2019-2021 and decrease through 2022. With Program Expenses trending down and budgetary revenues remaining constant, the fiscal position of the Federal Government is “in the green” and deficits are expected to stay within risk adjustments^{18 19}.

Que nous apprend le budget fédéral de 2019 sur les projections relatives aux recettes, aux dépenses, au solde budgétaire et à l'endettement? <https://notesdelacolonne.ca/2019/04/03/que-nous-apprend-le-budget-federal-de-2019-sur-les-projections-relatives-aux-recettes-aux-depenses-au-solde-budgetaire-et-a-lendettement/>

(accessed September 17, 2019)

¹⁶ Fitch Affirms Canada's Ratings at 'AAA'; Outlook Stable. Fitch's Ratings. July 17, 2019 (as above)

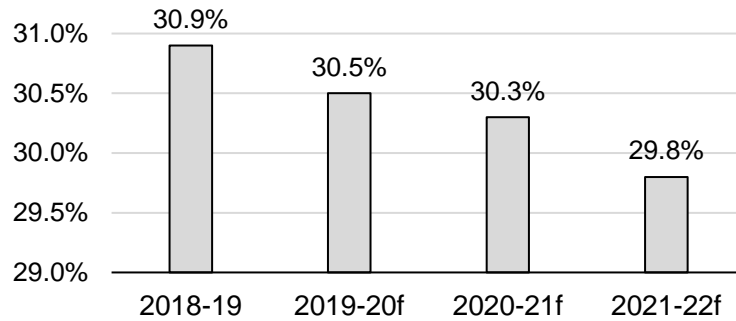
¹⁷ Federal Budget 2019, Maintaining Canada's Low Debt Advantage, <https://www.budget.gc.ca/2019/docs/plan/overview-apercu-en.html>

¹⁸ Budget 2019: Highlights of Bill Morneau's fourth federal budget, CBC, March 19th, 2019, <https://www.cbc.ca/news/politics/bill-morneau-budget-2019-highlights-1.5061661> (accessed September 16, 2019)

¹⁹ Fall Economic Statement 2018 <https://www.budget.gc.ca/fes-eea/2018/docs/statement-enonce/fes-eea-2018-eng.pdf>

Énoncé économique de l'automne 2018, <https://www.budget.gc.ca/fes-eea/2018/docs/statement-enonce/fes-eea-2018-fra.pdf> (consulté 17 septembre, 2019)

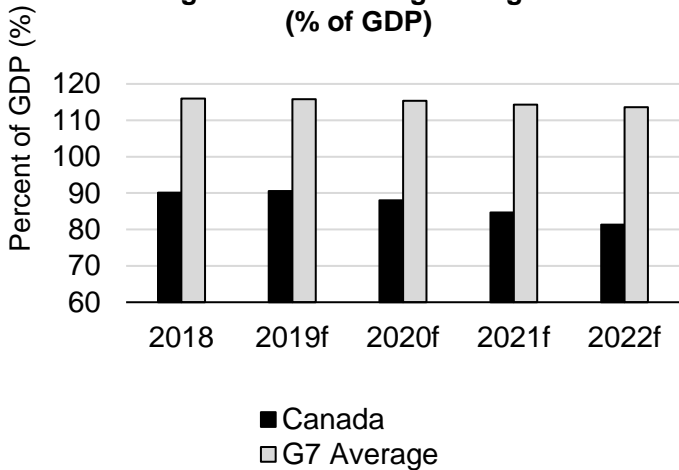
Federal debt as percent of GDP is decreasing



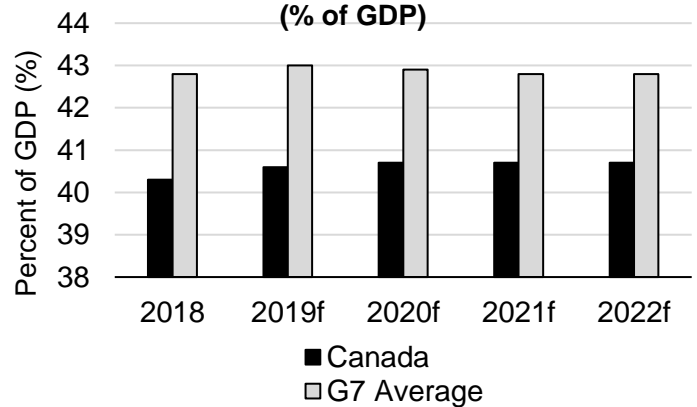
Canada has better fiscal sustainability than the other G7 countries²⁰

Canada’s general gross debt is forecast to decline consistently through 2022. This contrasts with other G7 countries which are expected to only see modest decreases. General expenditures as a percentage of GDP are forecast to remain steady, while remaining far below the G7 average, indicating that the economy is expected to remain sustainable without increasing direct economic stimulation from government (see below).

Canada's gross debt is smaller than the G7 average and decreasing through 2022 (% of GDP)



Canada's general expenditures are steady and below G7 average (% of GDP)



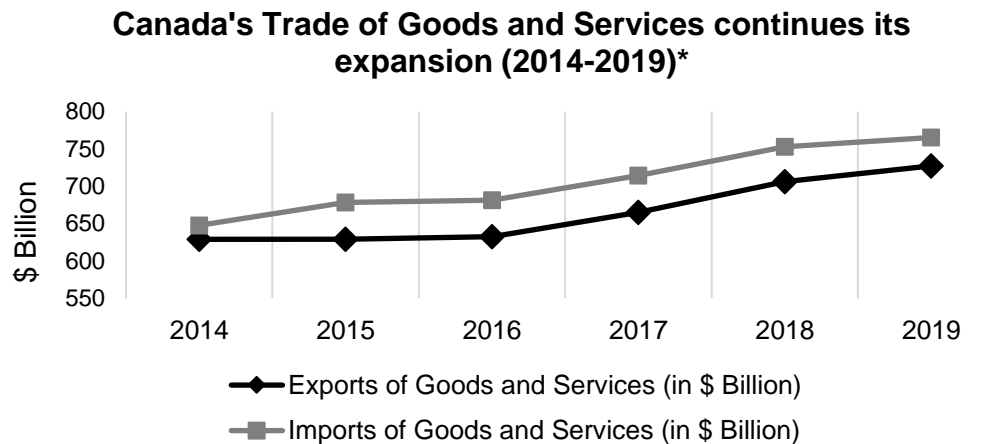
²⁰ Data from: International Monetary Fund - Fiscal Monitor, April 2019 <https://www.imf.org/external/datamapper/datasets/FM/1> (accessed September 16, 2019)

Note: IMF indicators include Federal and Provincial Governments.

Increasing export and trade

Canada's trade of goods and services expanded to "a record high of \$1.5 trillion, or 66% of GDP" in 2018.²¹ Growth in business investment and exports is expected to gain momentum through 2019, supported by new arrangements with many trading partners and tax incentives to encourage business investment.²² The signing and anticipated ratification of the Canada, U.S., and Mexico, the USMCA trade agreement (successor to NAFTA) has alleviated some trade uncertainty.²³

Trade expansion for the first two quarters of 2019 continues to increase, with notable growth in export by 4% in the second quarter in a quarter-on-quarter comparison-



Source: Statistics Canada, Table 36-10-0104-01; retrieved on August 11, 2019

*2019 data represents Q1 and Q2 only.

Canada has defied global patterns by attracting foreign investment in 2018 amounting an increase by 60% year-over-year.²⁴ This trend continues with a jump in second quarter foreign investment to \$21.7 billion, the highest in the five years.²⁵

²¹ Canada's State of Trade 2019 Report, Global Affairs Canada, Chapter 2.2 Canada's Trade Performance, August 2019, https://www.international.gc.ca/gac-amc/publications/economist-economiste/state_of_trade-commerce_international-2019.aspx?lang=eng#Section2.1

²² Budget 2019

²³ Fitch Affirms Canada's Ratings at 'AAA'; Outlook Stable. Fitch's Ratings. July 17, 2019

²⁴ Why Canada saw a 60% increase in foreign direct investment last year. Globe and Mail. May 22, 2019

²⁵ Statistics Canada The Daily August 29, 2019.

<https://www150.statcan.gc.ca/n1/daily-quotidien/190829/dq190829b-eng.htm>

Le Quotidien <https://www150.statcan.gc.ca/n1/daily-quotidien/190829/dq190829b-fra.htm> (accessed September 17, 2019)

Canada has a strong labour market and low unemployment

According to Budget 2019, Canada's job creation is on track:²⁶

“Since November 2015, targeted investments and strong economic fundamentals have contributed to creating over 900,000 new jobs, pushing the unemployment rate to its lowest levels in over 40 years. In 2018 alone, all employment gains were full-time jobs.”

Canada added 224,000 net jobs in the first seven months of 2019 and another 81,000 positions in August, exceeding economists' expectations of 15,000. Compared with August 2018, employment increased by 471,000 with gains in both full-time (+360,000) and part-time (+165,000) work.^{27 28}

The Union respectfully submits that the state of the Canadian economy and the Government of Canada's fiscal circumstances are healthy, as indicated by Budget 2019 and comparable fiscal factors with G7 economies. Canada's trade is currently increasing, with imports and exports defying global patterns. The current federal deficit, when analyzed as a percentage of GDP, is historically low and does not hinder the Employer in providing decent wages and economic increases to members of this bargaining unit.

Rates of Pay - Trends and Circumstances

Broad settlement patterns

The Employer's proposed rates of pay are well below recent major settlements (500+ employee bargaining units) in both the Federal Public Administration and the private sector, according to data published by the Human Resources and Social Development

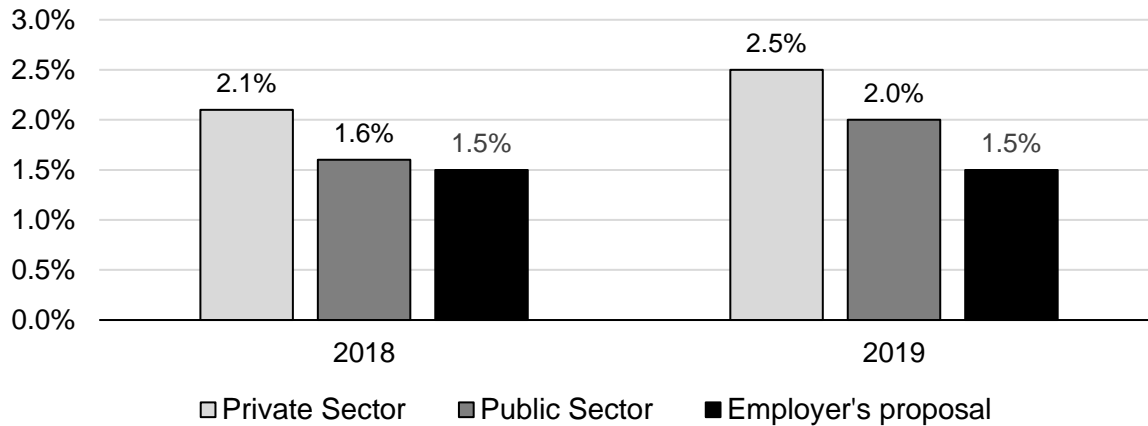
²⁶ Federal Budget 2019

²⁷ Labour Force Survey, August 2019 <https://www150.statcan.gc.ca/n1/daily-quotidien/190906/dq190906a-eng.htm>
Enquête sur la population active, août 2019 <https://www150.statcan.gc.ca/n1/fr/daily-quotidien/190906/dq190906a-fra.pdf>

²⁸ Canada's economy blows past expectations with gain of 81,100. Financial Post. Kelsey Johnson. September 6, 2019. [jobshttps://business.financialpost.com/news/economy/canada-gains-81100-jobs-in-august-as-national-election-looms](https://business.financialpost.com/news/economy/canada-gains-81100-jobs-in-august-as-national-election-looms)

Canada's *Labour Program* (Employment and Social Development Canada) (see graph below).²⁹

The Employer's proposal is below the average annual percentage wage adjustments in the Federal Public Administration and private sector (major settlements of 500+ employees)



	2018		2019	
	Collective Agreements	Employees	Collective Agreements	Employees
Private Sector	64	118,380	42	65,255
Public Sector	117	456,955	60	234,010

Recent and relevant settlements in the Federal Public Sector

The Employer's proposal for economic increases of 1.5% falls well below relevant recently negotiated settlements in the public sector (2018-2020). The wage settlement data below clearly demonstrates a trend and a substantial gap between the Employer's proposal and increases that were already received (or will be received) by relevant federal public service bargaining units represented by other unions.

²⁹ Major wage settlements by jurisdiction (aggregated) and sector; Publication date: September 3, 2019
<https://www.canada.ca/en/employment-social-development/services/collective-bargaining-data/wages/wages-sector-jurisdiction.html>
 Règlements salariaux selon la sphère de compétence (agrégée) et le secteur; Date de publication : le 3 septembre 2019
<https://www.canada.ca/fr/emploi-developpement-social/services/donnees-conventions-collectives/salaires/salaires-secteur-spheres-competence.html>

Economic increases and wage adjustments for Treasury Board and Agencies – Other unions (2018-2020)

Group	Union	General Economic Increase			Additional Market Adjustments
		2018	2019	2020	
Audit, Commerce & Purchasing (AV)	PIPSC	2.0	2.0	1.5	Up to 2.25% in 2018
Health Services (SH)	PIPSC	2.0	2.0	1.5	Up to 2% in 2018
Applied Science and Patent Examination Group (SP)	PIPSC	2.0	2.0	1.5	0.8% in 2018 and 0.2% in 2019
Engineering, Architecture and Land Survey (NR)	PIPSC	2.0	2.0	1.5	0.8% in 2018 and 0.2% in 2019
Electrical Workers	IBEW	2.0	2.0	1.5	0.5% in 2020
Financial Management	ACFO	2.0	2.0	1.5	0.8% in 2018 and 0.2% in 2019
Nuclear Safety Comm. (NuReg)	PIPSC	2.0	2.0	1.5	0.8% in 2018 and 0.2% in 2019
TR Group	CAPE	2.0	2.0	1.5	0.8% in 2018 and 0.2% in 2019
EC Group	CAPE	2.0	2.0	1.5	0.8% in 2018 and 0.2% in 2019
Canadian Revenue Agency - AFS Group	PIPSC	2.0	2.0	1.5	0.8% in 2018 and 0.2% in 2019
National Film Board	PIPSC	2.0	2.0	1.5	0.8% in 2018 and 0.2% in 2019
National Research Council (RO/RCO, AS, AD, PG, CS, OP)	PIPSC	2.0	2.0	1.5	0.8% in 2018 and 0.2% in 2019

Further wage settlements have also been negotiated by the PSAC for federally funded or partially federally funded sectors. Once again, the Employer's proposal pertaining to wages falls below most of these already negotiated increases.

Wage increases for PSAC signed with Separate Agencies and federally funded organizations for 2018-2020

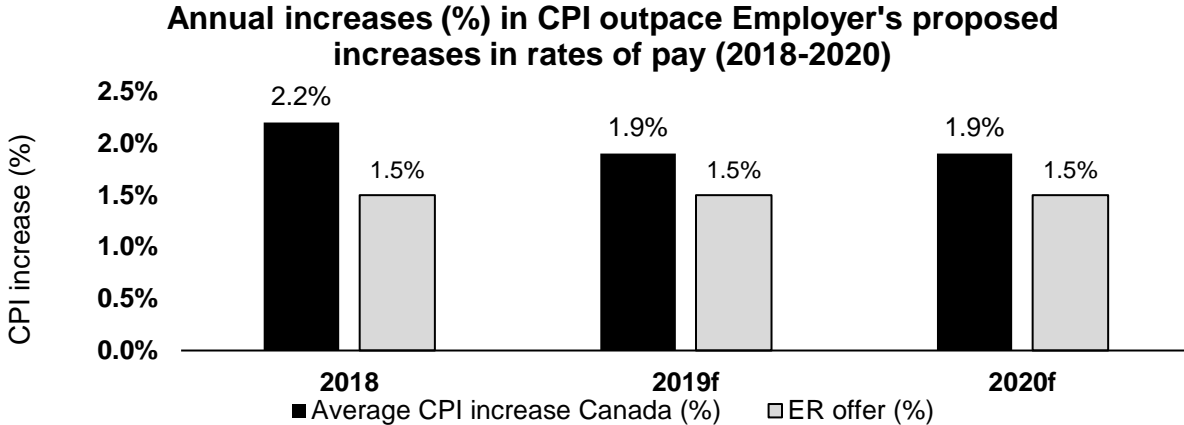
Sector	Members		
	# in Unit	2018	2019
National Units (CLC)			
NAV Canada (Multi-Group)	301	4	3
Royal Canadian Mint	685	2.0	2.0
Canadian Post Corporation	1549	1.75	1.8

Staff of Non-Public Funds	# in Unit	2018	2019
Kingston – Operational	88	2.85	n/a
Valcartier – Operations/Admin	113	3	n/a
Goose Bay – Operations/Admin	19	1.5	n/a
MTL/St. Jean – Operational	79	2.5	n/a
Bagotville – Operations/Admin	27	2.85	n/a
Bagotville – Operations/Admin	27	2.85	n/a
Trenton – Admin Support	21	1.5	n/a
Suffield, AB – NFP	44	2.75	n/a

The Employer’s wage proposal will certainly not allow for increases in household spending. It also does not reflect forecasted nor established wage increases for 2018, 2019 and 2020. Within a Canadian middle-class context, the Union’s wage demand proposing fair economic increases is not simply good for employees but could be considered beneficial overall for the Canadian economy in the long-term.

Employer offer is below inflation rate

The latest projections put forward by Statistics Canada for 2019³⁰ and by the Bank of Canada for 2020³¹ indicate future losses if the Union were to accept the Employer’s offer.³²



³⁰ Statistics Canada Consumer Price Index, monthly, not seasonally adjusted, Table: 18-10-0004-01

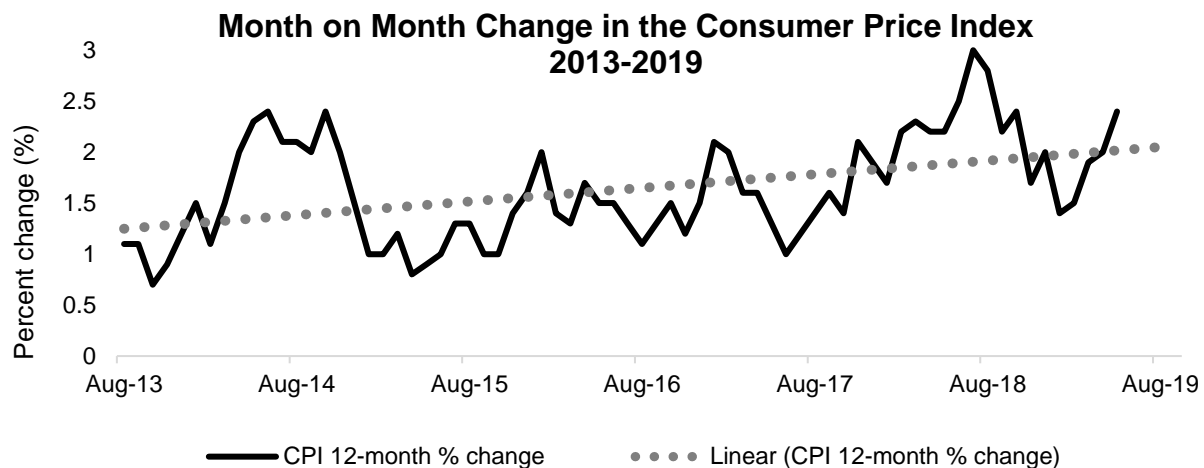
³¹ Bank of Canada, January 2019 Monetary Report, <https://www.bankofcanada.ca/2019/01/mpr-2019-01-09/>

³² Statistics Canada Consumer Price Index, monthly, not seasonally adjusted, Table: 18-10-0004-01

Source: Statistics Canada Consumer Price Index, monthly, not seasonally adjusted, Table: 18-10-0004-01

Current and projected cost of living

Canadians, including members of this bargaining unit, are subject to continuing increases in living expenses. The Consumer Price Index (CPI) measures inflation and an increase in CPI/inflation translates into a reduction of buying power. As CPI rises, we must spend more to maintain our standard of living.



Source: Statistics Canada. Table 18-10-0004-01 Consumer Price Index, monthly, not seasonally adjusted.³³

The following table of inflation rates (annual CPI increase shown in percent) for 2018, 2019 (forecast) and 2020 (forecast) was constructed from rates published by seven major financial institutions.³⁴ This data clearly demonstrates that the Employer’s proposal

³³ Statistics Canada (accessed August 16, 2019) <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1810000401>

³⁴ All accessed August 9-12, 2019:

TD Long-term Economic Forecast June 18, 2019

https://economics.td.com/domains/economics.td.com/documents/reports/qef/2019-jun/long_term_jun2019.pdf; TD

CIBC Forecast Update July 8, 2019 [https://economics.cibccm.com/economicsweb/cds?ID=7649&TYPE=EC_PDF](https://economics.cibccm.com/economicsweb/cds?ID=7649&TYPE=EC_PDF;);;

BMO Capital Markets Economic Outlook August 9, 2019

https://economics.bmo.com/media/filer_public/df/b8/dfb80b31-59a3-43b2-b280-eccdcacc0006/provincialoutlook.pdf;

RBC Provincial Outlook June 2019

<http://www.rbc.com/economics/economic-reports/pdf/provincial-forecasts/provtbl.pdf>;

Desjardins Economic & Financial Outlook June 2019 <https://www.desjardins.com/ressources/pdf/peft1906-e.pdf?resVer=1561036871000>;

Scotiabank Global Economics July 12, 2019 https://www.scotiabank.com/content/dam/scotiabank/sub-brands/scotiabank-economics/english/documents/provincial-pulse/provincial_outlook_2019-07-15.pdf;

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comes in below inflation rates of 2018 and is also below the anticipated inflation rates for 2019 and 2020, trending around 2%.

Canada-CPI	2018	2019f	2020f
Ave. annual increase in CPI (%)			
TD Economics	2.2	1.9	2.0
RBC	2.3	1.9	2.1
CIBC	2.3	2.0	2.0
BMO	2.3	1.9	2.0
Scotia Bank	2.0	1.9	1.9
National Bank of Canada	2.3	2.0	1.9
Desjardins	2.3	1.8	1.6
AVERAGE:	2.2	1.9	1.9

Source: CPI averages in this graph as per all-banks averages in the tables above.

The rising cost of food and shelter

While CPI increases outpace wage increases, as per the Employer's proposal, members would continue lose buying power and find it more difficult to meet their basic needs. For example, the cost for shelter increased 2.5% in the 12 months ended June 2019. Canadians also paid an overall 3.5% more for food in June compared to the same month last year (Statistics Canada).³⁵ Vegetable prices are especially volatile and continue to increase year over year, even in the summer months (Statistics Canada).³⁶

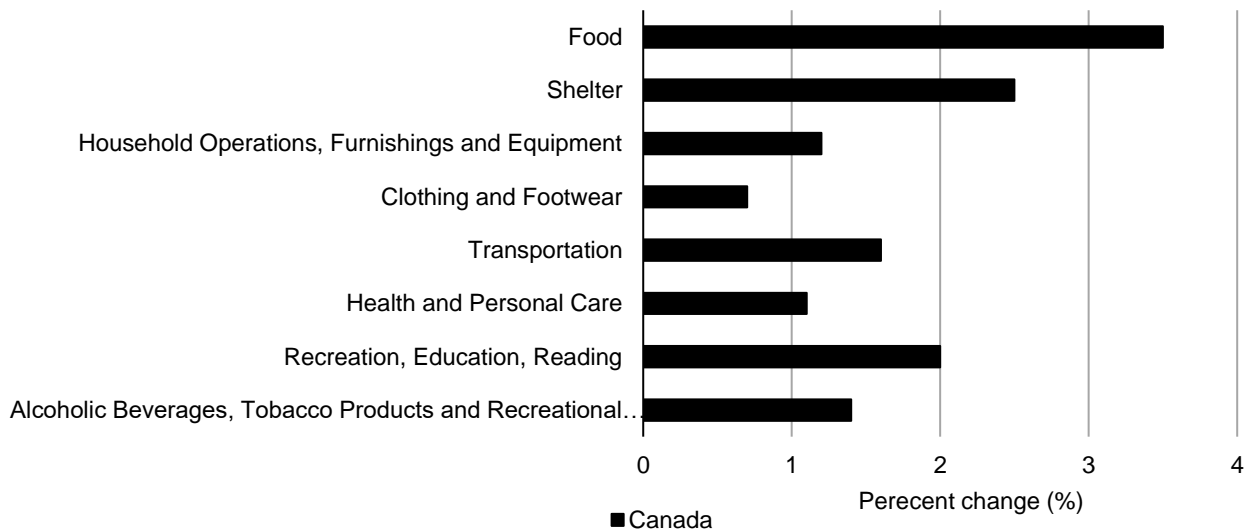
³⁵ Statistics Canada Latest Snapshot of the CPI, June 2019 (accessed August 18, 2019)

<https://www150.statcan.gc.ca/n1/pub/71-607-x/2018016/cpi-ipc-eng.htm>; Table: 18-10-0007-01

³⁶ Statistics Canada Consumer Price Index, monthly, not seasonally adjusted, Table: 18-10-0004-01

<https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1810000401>

CPI detail, 12-month price change (percentage)



*Canada's Food Price Report 2019*³⁷ forecasts that food prices in nearly all categories will continue to rise in most provinces in 2019.

2019 Food Price Forecasts

Food Categories	Anticipated increase (%)
Bakery	1% to 3%
Dairy	0% to 2%
Grocery	0% to 2%
Fruit	1% to 3%
Meat	-3% to -1%
Restaurants	2% to 4%
Seafood	-2% to 0%
Vegetables	4% to 6%
Total Food Categories Forecast:	1.5% to 3.5%

Source: Canada's Food Price Report 2019

³⁷ Food Price Report 2019 (accessed August 12, 2019) *Canada's Food Price Report 2019* is a collaboration between Dalhousie University, led by the Faculties of Management and Agriculture, and the University of Guelph's Arrell Food Institute.

<https://cdn.dal.ca/content/dam/dalhousie/pdf/management/News/News%20&%20Events/Canada%20Food%20Price%20Report%20ENG%202019.pdf>

The predicted 6% hike in the cost of produce is alarming, and vegetable prices may increase even more if deteriorating weather conditions continue to cause poor growing conditions.³⁸ Dr. Somogyi, one of the authors of the Food Price Report, anticipates an increase in vegetable consumption due to recent changes in Canada's Food Guide, published by the Government of Canada. Canadians are advised in Canada's Food Guide to "have plenty of vegetables and fruits."³⁹ An increase in demand in vegetables would also contribute to raising prices.

Rising prices for food especially hurt lower and middle-income households and families, for whom food exhausts a much larger share of their budget. Any price increases put a disproportionate amount of strain on the family budget. This is especially relevant to our members; they need the Treasury Board to provide competitive general economic increases that help offset surging costs for healthy foods and enable them to follow the Canada Food Guide.

The rising cost of shelter is also affecting our members. The Canadian Centre for Policy Alternatives' (CCPA) latest housing report⁴⁰ found that, nationally, *"the average wage needed to afford a two-bedroom apartment is \$22.40/h, or \$20.20/h for an average one bedroom."* The numbers become even more worrisome when investigating the housing and renting costs around major Canadian hubs *"like in the Greater Toronto Area, the Vancouver neighbourhoods containing over 6,000 apartments also have among the highest rental wages: Downtown Central (\$46/hr), English Bay (\$46/hr) and South Granville (\$40/hr)."*

³⁸ Pricey Produce Expected to Increase Our Grocery Bills in 2019, Says Canada's Food Price Report University of Guelph December 4, 2019 (accessed August 12, 2019)

³⁹ Canada's Food Guide Exhibit A (accessed August 12, 2019)
<https://food-guide.canada.ca/static/assets/pdf/CDG-EN-2018.pdf>

⁴⁰ Unaccommodating, Rental Housing wage in Canada, CCPA, David MacDonald, July 18th, 2019,
<https://www.policyalternatives.ca/unaccommodating>

According to the Canadian Real Estate Association's latest report⁴¹, the actual (not seasonally adjusted) national average price for homes sold in August 2019 was approximately \$493,500, up almost 4% from the same month last year. In its latest monthly housing market update, RBC Economics⁴² also raised its forecast for home prices by 0.8% for 2019 and 3.5% for 2020, while resale prices are projected to go up by 4.6% in 2019 and by 5.8% in 2020. With maintenance costs, home insurance, taxes and the cost of energy being other factors homeowners need to consider in affording a household, there is no indication of these expenses slowing down for middle-class Canadians who are or want to become homeowners.

In summary, costs for the necessities of life including food and shelter continue to rise,⁴³ making it more difficult to "just get by". The Employer's proposed wage increases for 2018, 2019, and 2020 fail to address these increasing costs of living.

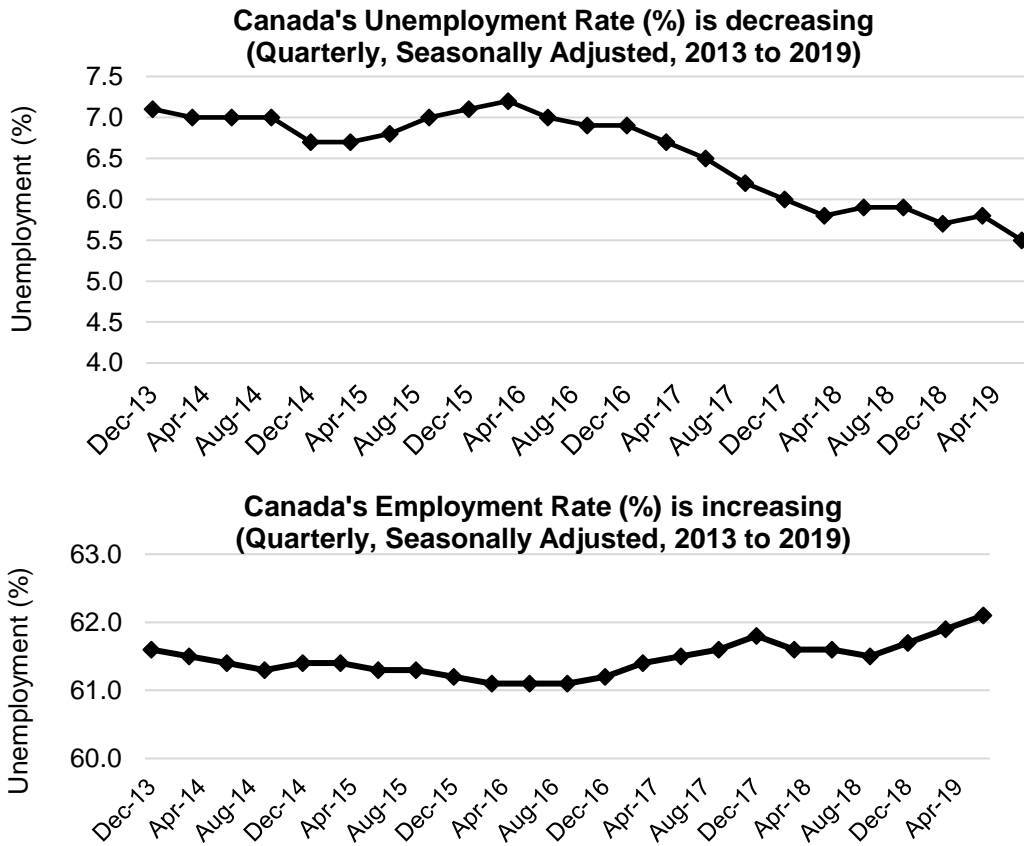
Highly competitive labour market

Unemployment rates today are well below those from previous years, remaining at 5.7%, near an all-time low. Employment rates have remained steady, inching closer and closer towards full employment, recently peaking in June 2019 (see figures below). Given a consistently strong labour market and low unemployment, the Union believes salaries and wages should reflect these trends and remain competitive.

⁴¹ Canadian Real Estate Association, Housing Market Stats/National Statistics, September 16, 2019, <https://creastats.crea.ca/natl/index.html>

⁴² Monthly Housing Market Update, RBC Economics, September 16th, 2019, <http://www.rbc.com/economics/economic-reports/pdf/canadian-housing/housespecial-sep19.pdf>

⁴³ Statistics Canada. Table 18-10-0004-01 Consumer Price Index, monthly, not seasonally adjusted <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1810000401> April 2019 (accessed August 9, 2019)



Source: Statistics Canada. Table 14-10-0294-01 Labour force characteristics by census metropolitan area, three-month moving average, seasonally adjusted and unadjusted, last 5 months⁴⁴

⁴⁴ Statistics Canada Table 14-10-0294-01 <https://doi.org/10.25318/1410029401-eng>
 Statistics Canada. Table 14-10-0294- <https://doi.org/10.25318/1410029401-fra> (accessed September 17, 2019)

Canada's tight labour market has made it more likely for workers to seek alternative positions if they are not happy with their current employment situation. Almost 90% of respondents to the *2019 Hays Canada Salary Guide* indicated that they are open to hearing new opportunities⁴⁵. According to a 2018 survey the most common reason to leave was the desire for better compensation. Additionally, 80% of participants working in 584 Canadian organizations reported being stressed about money and pay issues on a regular basis, while 2% were *very* or *extremely* stressed.⁴⁶ This rings especially true for federal public servants: over 40% experienced "substantial problems" with their pay in 2018, and 22% reporting a large or very large impact on their paycheques according to the 2018 Annual Federal Public Service Employee Survey.⁴⁷

Salary forecasts within a tight Canadian labour market (2019)

The labour market certainly influences trends in salary increases. At the same time, declining unemployment and stability in employment levels are indicators that the Canadian economy is doing well. Employers wishing to retain trained staff must increase wages to appropriate levels or risk losing them should the right opportunity present itself.⁴⁸ Indeed, the competitive labour market is influencing wages, which posted a real increase. Year over year wage growth (for all employees) in July 2019 accelerated by 4.5%, the fastest rate in a decade.⁴⁹ ⁵⁰ Projections derived by research conducted by the Conference Board of Canada, Normandin Beaudry, Morneau Shepell, Tower Watson,

⁴⁵ It's never been a better time to find a new job — but do employers realize it? CBC. Brandie Weikle. January 13, 2019 (accessed August 19, 2019)

⁴⁶ Welcoming wage increases. Canadian HR Reporter. Sarah Dobson. July 8, 2019 (accessed August 19, 2019)

⁴⁷ iPolitics. Marco Vigliotti. Feb 26, 2019. Phoenix had significant effect on pay for over 40 percent of public servants: poll. <https://ipolitics.ca/2019/02/26/phoenix-had-significant-effect-on-pay-for-over-40-per-cent-of-public-servants-poll/> (accessed September 17, 2019)

⁴⁸ Most Canadian employees are ready to quit their jobs, survey finds. CBC Business. December 16, 2018 (accessed August 13, 2019)

⁴⁹ Statistics Canada Table 14-10-0320-02 Average usual hours and wages by selected characteristics, monthly, unadjusted for seasonality (x 1,000) <https://doi.org/10.25318/1410032001-eng>

⁵⁰ Canadian wages hit fastest growth pace in 10 years. CTV News/The Canadian Press. Andy Blatchford. August 9, 2019. (accessed August 13, 2019)

Mercer and Korn Ferry indicate that employers are planning to increase salaries by an average of between 2.0% to 2.8% in 2019.^{51 52}

Observer	Sector	Projected Increase (%)
Conference Board	Public Sector	2.2
	Private Sector	2.7
Normandin Beaudry	All-sector	2.5
	All-sector	2.6
Morneau Shepell	Public Administration	2.8
	Professionals	2.7
Tower Watson	Professionals	2.7
Mercer	All-sector	2.6
Korn Ferry	All-sector	2.4

A population getting ready for retirement and the risk of an increased workload

The tables below highlight the percentage of members by age-band and are sourced from demographic data provided by the Employer as of March 31st, 2018. According the Employer's data, significant cohorts of members of this bargaining unit are currently above 50 and/or above 60 years of age. According to Statistics Canada, in 2018, the average retirement age of a public sector employee was 61 years.⁵³

PA Group (Source: TBS Demographic Data, March 31st, 2018)

	50-59	60+	Above 50	Average Age of sub-group
AS	29.20%	6.80%	35.90%	44.97
CM	16.70%	16.70%	33.30%	50.05
CR	29.10%	10.40%	39.50%	45.21
DA	50.00%	19.00%	69.00%	53.2
IS	5.20%	11.10%	25.10%	42.49
OE	100%	0%	100%	55.81
PM	25.80%	5.70%	31.50%	44.04
ST	50.50%	15.20%	65.70%	51.56
WP	26.20%	5.10%	31.40%	44.6

⁵¹ CPQ Salary Forecasts Special Report 2019

⁵² Slightly higher salary increases expected for Canadian Workers in 2019. Conference Board of Canada. October 31, 2019.

⁵³ Retirement age by class of worker, annual, Table: 14-10-0060-01, Statistics Canada, <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1410006001>

Staffing levels and increased workload was presented by Public Services and Procurement Canada as a key risk in their 2017-2018 Departmental Results Report: “*The simultaneous implementation of complex, transformational initiatives within PSPC and throughout the Government of Canada, coupled with budget and time restrictions, can expose the department to risks associated with increased workload and resource constraints, and lead to employee disengagement and stress.*”⁵⁴

In the current tightening labour market, the pool of qualified candidates is shrinking and competition for applicants is rising. With many members sitting at the top of their pay scale and nearing retirement, the Union argues there is a potential for recruitment and retention issues which ought to be considered.

The weight of the public sector in the Canadian economy

In the last 20 years, public sector programs and staff expenses have been trending down, mostly attributed to cuts from the Harper Government, which disrupted Canada’s middle-class. As such, the Union suggests that the wages negotiated beyond the Employer’s proposal for our members would help reverse this trend and account for a greater and positive impact on the Canadian economy. Public sector jobs contribute to a social context which favors growth by creating stability hubs throughout economic cycles, and by mixing up industries and economic growth in non-urban regions, while maintaining a strong middle-class and reducing gender-based and race inequities in the workforce.⁵⁵

⁵⁴ Operating context and key risks—2017 to 2018 Departmental Results Report, Public Services and Procurement Canada, <https://www.tpsgc-pwgsc.gc.ca/rapports-reports/rrm-drr/2017-2018/rrm-drr-02-eng.html#a2>

⁵⁵ Portrait de la contribution de la fonction publique à l’économie canadienne, Institut de Recherche et d’informations socio-économiques, François Desrochers et Bertrand Schepper, Septembre 2019, https://cdn.iris-recherche.gc.ca/uploads/publication/file/Public_Service_WEB.pdf

In summary:

The following summary reiterates the facts and arguments presented above which support the Union's position pertaining to rates of pay:

- i. "Ability to pay" is a factor entirely within the government's own control;
- ii. The concept of 'ability to pay' has been rejected as an overriding criterion in public sector disputes by an overwhelming majority of arbitrators;
- iii. Budget 2019 stipulates the Canadian economy is growing and healthy whereby Canada has some of the strongest indicators of financial stability in the G7 economies;
- iv. Canada's trade and exports are increasing, defying global patterns;
- v. Canada has a strong labour market and low unemployment, whereby competitive wages play a major role;
- vi. The Government of Canada finds itself in healthy fiscal circumstances and has the ability of the deliver fair wages to its employees;
- vii. The Government of Canada's deficit, as % of GDP, is historically low and does not present an obstruction to providing fair wages and economic increases to federal personnel;
- viii. The Employer's proposed rates of pay are below established and forecast Canadian labour market wage increases;
- ix. The Employer's proposal for economic increases of 1.5% falls well below relevant recently negotiated settlements in the public sector;
- x. The Employer's proposed rates of pay come in below inflation, affecting the economic value of salaries without accounting for the rising cost of living expenses such as food and shelter;

- xi. A significant cohort of members of this bargaining unit is within range of retirement or nearing it, suggesting the Employer will soon be facing a significant diminution in staffing levels;
- xii. Public Sector jobs contribute to a social context which favours growth and the prosperity of the middle-class on which Canada's economy heavily relies.

In conclusion, the Union's proposals concerning economic increases reflect broader economic trends both inside and outside the federal public service. As has been demonstrated here, the Employer's current position with respect to wages is well below economic forecasts and inflationary patterns. The Union submits that when looking at recent core public administration settlements, its wage proposal is reasonable, particularly given that the Employer's wage proposal is completely out of sync with all recent settlements in the core public administration. If the PSAC were to agree to the Employer's wage proposal as submitted, the Union would be agreeing to the lowest wage settlement of all recently negotiated agreements in the core public administration. In light of these facts, the Union submits that its economic proposals are both fair and reasonable. Consequently, the Union respectfully requests that they be included in the Commission's recommendations.

Market adjustment

The Union is seeking a market adjustment to obtain parity with salaries at the Canada Revenue Agency as well as adjustments to certain classification levels in order to close the gap with the EC-05 classification.

The compensation principle that wages should be determined in relation to relevant comparators is standard in interest arbitration and consistent with the Federal Public Sector Labour Relations and Employment Act (FPSLREA) and the criteria set out in the parties agreed-upon binding conciliation parameters.

The issues that the market adjustments proposed seek to rectify can be summarized as follows:

1. Closing the wage gap between PA group members and CRA members. This disparity and the appropriateness of the comparators have been clearly stated by the CRA and previous Public Interest Commissions.
2. Closing the wage gap between EC-05 members and PM-05, AS-05 and all pay-matched classifications in the PA group in order to correct for disparity with other Treasury Board EX-02 members and re-establish pay proximity with EC-05 employees.

It should be noted that during this round of bargaining, the Employer offered no comment or rationale for its rejection of these demands throughout numerous bargaining sessions over the span of a year.

CRA-PA disparity

It is the Union's position that the CRA is an appropriate external comparator for wages in the PA group given that members under the CRA SP classification system were originally under the PA group classification. The appropriateness of this comparison has been validated by affirmations made by the Canada Revenue Agency as well as the Public Interest Commission.

The CRA bargaining unit was carved out of the PA group in 1999. The new SP classification came into effect in November 1, 2007 after a classification review was completed. Non-supervisory positions classified as PM, IS, AS, CR, etc. were converted to this new classification and consequently, new wages were negotiated following this conversion. The legacy groups of the SP classification at CRA are found in the Exhibit B of the CRA collective agreement (Exhibit A4)

In its January 24, 2018 submission to the binding conciliation Board, the Canada Revenue Agency was of the view that:

The CRA submits that comparing wage rates between the CRA and the Treasury Board is the appropriate indicator of external comparability. The legacy groups from the CPA are those with which employees of the SP and MG groups relate to most. In comparing the maximum rate of pay for each level of the SP and MG groups to the former PA group, from which the vast majority of the positions were converted, the CRA leads the PA group at all maximum salary step levels. (Exhibit A5)

In its 2018 submission to the Board, CRA also notes that:

Furthermore, the PSAC-PDAS group maintains an approximate salary advantage of 10.5% when compared to the PSAC PA group in the core public sector.

The calculation table which CRA included in its 2018 submission is found in Exhibit A5.

Indeed the idea of external comparability of CRA and the PA group was highlighted in the Public Interest Commission report regarding the CRA chaired by Ian R. Mackenzie and released on November 26, 2014, affirming that:

[27] (...) The factors for a PIC to consider in making its recommendations include the comparability of terms and conditions of employment between occupations within the public service and comparability relative to employees in similar occupations (section 175 of the PSLRA). The majority of the PIC is of the view that the most comparable group within the core public service is the PA group. (Exhibit A6)

In its 2018 binding conciliation report, the Board again made note of the Employer's reliance on the 2014 PIC response, stating:

[22] To support its position, the Employer cites the findings of the 2014 Public Interest Commission (PIC), chaired by Ian R. Mackenzie, which found that "The majority of the PIC is of the view that the most comparable group within the core public service is the PA group." In comparing the maximum rate of pay for each level of the SP and MG groups to the former PA group, from which the vast majority of the positions were converted, the CRA maintains that it leads the PA group at all maximum salary step levels. (Exhibit A7)

It also reiterated the argument presented by the Employer regarding the mandate given to CRA by Treasury Board:

Effective December 2012, the CRAA was amended to require that the CRA have its negotiating mandate approved by the President of the Treasury Board before entering into collective bargaining with the Bargaining Agent for a bargaining unit composed of Agency employees. Additionally, the CRA is required by section 112 of the FPSLRA to obtain Governor in Council approval to enter into a collective agreement. Collective bargaining must be done within the mandate approved by the President of the Treasury Board, who maintains an expenditure management role in relation to separate agencies. The Board of Management continues to exercise oversight over collective bargaining and now recommends negotiating mandates to the President of the Treasury Board.

As is the case with most other federal government employers, the CRA receives funding from the Treasury Board. The CRA must submit to the Treasury Board an annual financial statement outlining, among other things, its expected expenses and liabilities. In addition, each fiscal year the Minister of National Revenue is required to report to Parliament on the CRA's planned expenditures through its Report on Plans and Priorities and subsequently provides a summary of its accomplishments against the planned resource requirements in the Departmental Performance Report.

Furthermore, as the PIC and the CRA have noted, the mandate for bargaining salaries for CRA and the PA group are both provided by Treasury Board.

The Union believes that the calculations submitted by to the Board by the CRA comparing the SP group classifications to PA group classifications are accurate (Exhibit A5). Below are the comparable PA classification groups for 2016. The Union submits that within each classification, there is a disparity with CRA which reaches up almost 7% in each classification. In order to fix that disparity, the Alliance is thus proposing an adjustment of adding two 4% increments to the top of all pay scales, dropping the lowest two increments from the bottom of all pay scale, and moving all members immediately up their pay scales

by two increments in order to correct the disparity with CRA and preserve relativity of wages amongst levels within each classification.

Comparison table of the 2016 maximum wage rate for each level with its associate level at CRA:

PA	CRA	TB 2016	CRA SP 2016	DIFF
CR-01	SP 01	38181	42017	10.0%
CR-02	SP 01	40084	42017	4.8%
CR-03	SP 02	45893	48175	5.0%
CR-04	SP 03	50882	53410	5.0%
CR-05	SP 04	55774	59725	7.1%
PM-01	SP 04	56931	59725	4.9%
PM-02	SP 05	61113	64646	5.8%
PM-03	SP 06	65505	69945	6.8%
PM-04	SP 07	71763	75681	5.5%
PM-05	SP 08	85717	88943	3.8%
PM-06	SP 10	106290	111406	4.8%
AS-01	SP 04	56931	59725	4.9%
AS-02	SP 05	61113	64646	5.8%
AS-03	SP 06	65505	69945	6.8%
AS-04	SP 07	71763	75681	5.5%
AS-05	SP 08	85717	88943	3.8%
AS-06	SP 09	95270	98725	3.6%
AS-07	SP 10	106290	111406	4.8%
IS-02	SP 05	61113	64646	6%
IS-03	SP 07	71763	75681	5%
IS-04	SP 08	85717	88943	4%
IS-05	SP 09	95270	98725	4%
IS-06	SP 10	106290	111406	5%
DA-PRO-02	SP 02	42178	48175	14%
DA-PRO-03	SP 03	47214	53410	13%
DA-PRO-04	SP 04	52583	59725	14%
DA-PRO-05	SP 05	58516	64646	10%
STCOR02				
STOCE02	SP-02	43173	48175	12%
STOCE03	SP-03	47297	53410	13%
STSCY01				

STSCY02	SP-03	48021	53410	11%
STSCY03				
STSCY04				

With regards to the WP classification, the Union is proposing the same adjustment in order to maintain relativity with other classifications. Furthermore, the Union has determined that this is congruent with the economic adjustment required for the growing disparity between WP members relative to CX classifications as described in the rationale for the Primary Responsibility Allowance. The Union is proposing an additional 7% and 6% market adjustment to be added to the DA and ST groups in order to adjust for the disparity with associated members at the CRA.

The Union respectfully requests that the PIC recommend a market adjustment that corrects for the disparity between CRA and PA group members in line with its previous affirmations of the appropriateness of the market comparison.

Pay-matching with EC-05 employees and relativity with EX-02 employees

The proposal to add an extra step, in addition to the two steps proposed earlier, to PM-05 and AS-05 classification is intended to close the grown disparity between these members and other Treasury Board EX-2 positions as well as those classified as EC-05. On its website, Treasury Board provides a list of what it considers EX-02 classifications (Exhibit A8). In order to ensure that the relativity exercise is carried out by comparing groups and levels that fit the Employer's definition of equivalent, the Union has used Treasury Board Secretariat's list of equivalents. Based on the calculations of the Union, the disparity between these classifications and PM-05/AS-05 classifications has grown by 10.08%. The internal relative disparity with other EX-02 positions at Treasury Board highlighted through this exercise provides clear justification for the step adjustments requested by the Union in order to achieve comparability with the average increases between this position and other EX-02 positions at Treasury Board.

EX MINUS 2 (PM-05)	DIFFERENCES 1999		DIFFERENCES 2017		ACCUMULATED
	MAXIMUM	% DIFF. PM-05	MAXIMUM	% DIFF. PM-05	%DIFF 2017-%DIFF 1999
	60595		86788		
WP-05	63548	-4.9%	113729	-31%	-26.17%
ENSUR-04	69674	-15.0%	122237	-41%	-25.86%
PH-03	67697	-11.7%	116177	-34%	-22.14%
AG-04	65947	-8.8%	112429	-30%	-20.71%
AR-05	68285	-12.7%	115776	-33%	-20.71%
TI-07	65246	-7.7%	109964	-27%	-19.03%
MT-06	67729	-11.8%	113132	-30%	-18.58%
SGPAT-06;	74812	-23.5%	122992	-42%	-18.25%
VM-03	63548	-4.9%	104803	-21%	-15.88%
CH-04	70510	-16.4%	112429	-30%	-13.18%
BI-04	70527	-16.4%	112429	-30%	-13.15%
SGSRE-07	74452	-22.9%	117436	-35%	-12.45%
CS-03	65024	-7.3%	103304	-19%	-11.72%
FI-03	69514	-14.7%	109683	-26%	-11.66%
TR-04	65244	-7.7%	103404	-19%	-11.47%
EL-08	67088	-10.7%	105608	-22%	-10.97%
FO-03	69564	-14.8%	106233	-22%	-7.60%
AU-04	72115	-19.0%	109596	-26%	-7.27%
SOINS-01;	64911	-7.1%	98958	-14%	-6.90%
EC-06	71491	-18.0%	107528	-24%	-5.92%
RO-06	61006	-0.7%	92226	-6%	-5.59%
CO-02	70176	-15.8%	105131	-21%	-5.32%
HR-04	65960	-8.9%	98569	-14%	-4.72%
PC-03	66499	-9.7%	98777	-14%	-4.07%
PG-05	67454	-11.3%	100095	-15%	-4.01%
PS-04	70127	-15.7%	103319	-19%	-3.32%
LS-05	78487	-29.5%	114526	-32%	-2.43%
MA-04	65104	-7.4%	95271	-10%	-2.33%
AS-06	66407	-9.6%	96461	-11%	-1.55%
EG-07	67081	-10.7%	96902	-12%	-0.95%
IS-05	67389	-11.2%	96461	-11%	0.07%
ED EDS-04	68056	-12.3%	96894	-12%	0.67%
GT-07	71498	-18.0%	101794	-17%	0.70%
				AVERAGE	-10.08%

There is an established precedent for re-establishing proper relativity between EX-02 and EX-01 classifications in a binding arbitration decision by the PSLREB. In 2012, the Canadian Association of Professional Employees (CAPE) entered into binding arbitration with Treasury Board over the issue of wages for the EC classification. In its submission to the Board, CAPE provided the following rationale regarding comparability stating that:

In order to ensure that the relativity exercise is carried out by comparing groups and levels that fit the employer's definition of equivalent, the Association has used the Treasury Board Secretariat's list of equivalents for the EX minus-1 and EX minus-2 levels in the federal public service.⁴³ Tables F and G below describe the evolution of rates of pay in the public service from 1999 to 2010 (in some case 2009 where 2009 was the latest year for a pay adjustment prior to the current round). Table F compares all EX minus-1 level pay scales, including the ES-06, now EC-07, pay scales.

CAPE had found that the gap between EC-06 classifications and EX-02 had grown by 3.2% while it had increased between EC-07 and EX-01 by 4.29%. (Exhibit A9) This is roughly one-third of the difference that PM-05 classifications have shown in the table above.

The Board awarded a step increase to ECs in its 2012 decision primarily on the basis of establishing relativity with other classifications. The Board stated:

(12) In this case while there does not appear to be significant recruitment and retention problems for employees in the EC group, there was evidence presented by the Bargaining Agent showing some lagging with internal and external comparators. Although the Employer denied the usefulness of that evidence, it did not present any evidence to the contrary.

Prior to the award, lateral deployments between PM-05, AS-05 and EC-05 positions were common practice. According to interviews with many PM-classified employees, they would often deploy between these classifications with ease because the job requirements and responsibilities were operationally viewed as comparable and the pay differential was

considered by Employer policies as negligible. Subsequent to the 2012 arbitration award, AS and PM members have been told that the pay disparity no longer allows for such deployments. Some members are even reporting that they have been left “stranded” and unable to return to their previous EC classification for a deployment, which the Employer allowed prior to the 2012 wage adjustment for ECs. Our AS-05 and PM-05 members have reported working alongside EC-05 members with virtually identical duties and responsibilities, yet their wage rates are 8.6% less.

	2017 Max. Rate		Pay Disparity
EC-05	94,219		8.6%
PM-05/AS-05/IS-04	86,788		

Another widespread occurrence being reported by members is the mass conversion of PM and AS Program Advisor positions in departments across the federal public service to EC classifications in order to attract and retain employees who were leaving for departments with similar “program officer” or “program analyst” positions classified as EC in order to attain a higher rate of remuneration. These conversions are reportedly being termed “transitions” by management and not “reclassification” or “promotions”.

During this round of bargaining, Treasury Board recognized that this practice has indeed been widespread, which, the Union believes, would seem to indicate that operationally, numerous departments view the AS-05/PM-05 and EC-05 duties and responsibilities as identical and are continuing to transition staff to the EC-05 classification in order to retain staff. Treasury Board has also mentioned that memos have been sent to departments to cease this practice. At the bargaining table, PSAC requested that the Employer share such memos with the Union. We have, however not received anything.

Finally, it is the Union’s position that should such a wage adjustment be applied to AS-05 and PM-05 classifications, any pay-matched classifications should also be adjusted subsequently. The Union has identified the IS-04 level as one such classification, and the Union respectfully requests that in its recommendation for adjustment the Board include IS-04 employees in order to maintain parity with PM-05 and AS-05 employees.

The Union respectfully requests that the PIC recommend the market adjustment to AS-05, PM-05 and IS-04 classifications that correct for the EX-02 differential as well as bring the wages in proximity to those in EC-05 positions.

PSAC PROPOSAL

ARTICLE 27 SHIFT AND WEEKEND PREMIUMS

Excluded provisions

This article does not apply to employees on day work covered by clauses 25.06 to 25.12 inclusive.

27.01 Shift premium

An employee working shifts will receive a shift premium of **three dollars (3\$)** ~~two dollars (\$2)~~ per hour for all hours worked, including overtime hours, between 4 pm and **00:00** am. ~~The shift premium will not be paid for hours worked between 8 am and 4 pm.~~

An employee working on shifts will receive a shift premium of five dollars (\$5.00) per hour for all hours worked, including overtime hours, between 00:00 and 08:00 hours

27.02 Weekend premium

a. An employee working shifts during a weekend will receive an additional premium of ~~two dollars (\$2)~~ **three dollars (\$3)** per hour for all hours worked, including overtime hours, on Saturday and/or Sunday.

b. Where Saturday and Sunday are not recognized as the weekend at a mission abroad, the Employer may substitute two (2) other contiguous days to conform to local practice.

RATIONALE

Workers in the PA Group have not seen an increase in shift premium since 2002 - over seventeen years. While wages have been adjusted substantially over the same period, shift and weekend premiums have remained unchanged—their value eroded by inflation. In that seventeen-year period, inflation has increase just over 36%. Given the time that has elapsed since the last increase, the Union submits that its proposal is entirely reasonable. As well, other federal public sector employers have agreed to a considerable increase in shift premium for other groups of workers it employs. For example, the PSAC bargaining unit for Scanner Operators at Parliamentary Protective Services, Operational workers and both editors and senior editors at the House of Commons, workers at the Senate of Canada and at the Museum of Science and Technology Corporation have all

seen their shift and weekend premiums increase. Some of these increases were achieved via PSLRB arbitral awards. (Exhibit A10)

While shift work may be critical for the operation of important government services that require around-the-clock staffing, the impact of those schedules on the health and welfare of the employees is significant. The most common health complaint cited by shift workers is the lack of sleep. However, as was noted in a Statistic Canada report (Exhibit A11), shift work has also been associated with several illnesses including: cardio-vascular disease, hypertension and gastrointestinal disorders. Shift workers also report higher levels of work stress which has been linked to anxiety, depression, migraine headaches and high blood pressure. Research has also shown that sleep deprivation generated by shift work is related to an increased incidence of workplace accidents and injury. The interference that shift work causes in individuals' sleep patterns has resulted in workers experiencing acute fatigue at work, impaired judgements and delayed reaction times.

Of equal significance are the limitations that shift work poses for participation in employees' leisure time and family activities. Employees required to work non-standard hours face incredible challenges in balancing their community, family and relationship obligations, frequently leading to social support problems. The current rates paid for shift work do not adequately compensate members for this sacrifice of their time and health. Additionally, the Union views the hours between 00:00 and 8:00 to be the most disruptive for members and thus should be compensated at a higher rate.

As wages and inflation increase, the relativity between the value of the shift/weekend premium and the hourly rates of pay also needs to be maintained through an upward adjustment to the premium. Otherwise the premium pay associated with shift work would not properly compensate employees for the hardship and inconvenience represented by this kind of work. Treasury Board Secretariat should be able to compensate employees more fairly for the imposition on their personal lives and the disruption to their work/life balance.

PSAC PROPOSAL

NEW ARTICLE INDIGENOUS LANGUAGE ALLOWANCE

Employees who are required to work in an indigenous language shall be paid an Indigenous Language Allowance of \$1,015 annually, paid hourly.

RATIONALE

The Union is seeking an annual allowance of \$1,015 to recognize and compensate employees who communicate orally and/or in writing in an indigenous language in the performance of their job duties.

As a result of colonization, indigenous peoples in Canada have suffered a long period of “cultural genocide” as demonstrated by the experience of children and families affected by the residential school system in Canada. In 2008, the Prime Minister of Canada formally apologized to former students of the residential schools, acknowledging that the policy of sending Aboriginal students away from their families to these schools “... has had a lasting and damaging impact on Aboriginal culture, heritage and language.” (Exhibit A12).

Recognition of, and support for indigenous languages in Canada are a significant part of the Calls for Action included in the Truth and Reconciliation Commission of Canada’s 2015 Report (Exhibit A13). The recommendations notably call for federal funding for “preservation, revitalization and strengthening” of indigenous languages. Similarly, the Calls for Justice from the National Inquiry into Missing and Murdered Indigenous Women and Girls include calls for the federal government to invest in indigenous language and culture in order to recognize, protect and revitalize them (Exhibit A14).

The federal government itself has shown its commitment to indigenous languages by passing Bill C-91 – the *Indigenous Languages Act* (Exhibit A15). In passing the

legislation, the government recognized that “there is an urgent need to support the efforts of Indigenous peoples to reclaim, revitalize, maintain and strengthen” their languages.

The Government of Nunavut recognizes four official languages: English, French, Inuktitut, and Inuinnaqtun. The Government of the Northwest Territories recognizes 11 official languages: Chipewya/Dene, Cree, English, French, Gwitch'in, Innuinaqtun, Inuktitut, Inuvialuktun, North Slavey, South Slavey and Tlicho. Both governments pay bilingual allowances to employees who speak indigenous languages. (Exhibit A16)

The Government of Canada is advertising jobs with asset qualifications of “Ability to communicate in Inuktitut (orally and / or in writing). A sampling of these job posters is provided in Exhibit A17.

Government of Canada departments in Nunavut are working with Pilimmaksaivik (Federal Centre of Excellence of Inuit Employment) to hire more Inuit employees as required the Nunavut Land Claim Agreement signed with the Federal government. Nunavut Tunngavik Incorporated did sue the Government of Canada for failure to implement parts of the agreement including Article 23, which requires jobs to be posted in Inuktitut as well as in English and French, where required. Article 23 also speaks to knowledge of Inuit culture, society and economy and fluency in Inuktitut to be included in search criteria and job descriptions. The lawsuit was settled out of court. (Exhibit A18)

The amount of the allowance the Union is seeking is, for the sake of consistency, based on the allowance provided to federal teachers under Article 49 of the EB Collective Agreement who teach specialized subjects.(Exhibit A19) In the current round of bargaining, the EB group is seeking to extend this specialized subject allowance to its members who teach indigenous languages in First Nations schools.

As Parliament has taken steps to advance the cause of recognizing and supporting indigenous languages in federal law, the Union believes that as an Employer, the federal

government should lead the way and formally recognize and encourage the contributions of its employees who use indigenous languages in the performance of their job duties.

PSAC PROPOSAL

ARTICLE XX PUBLIC SAFETY ALLOWANCE

AMENDED

The Union proposes to renew current Article 60 – Correctional Service Specific Duty Allowance with no changes.

XX.01 A Public Safety Allowance (PSA) shall be payable to incumbents in positions in the bargaining unit who by reason of duties being performed under the Ministry of Public Safety assume responsibilities and/or inherent risks of exposure associated within an policing environment, or in the interaction with inmates or offenders or criminal files; and to incumbents in positions in the bargaining unit who by reason of duties being performed under the Ministry of Veterans Affairs Canada assume responsibilities and or inherent risks of exposure associated with the provision of services to veterans.

XX.02 The Public Safety Allowance shall be two thousand dollars (\$2,000) annually and paid on a biweekly basis in any pay period for which the employee is expected to perform said duties.

XX.03 Where the employee's basic monthly pay entitlement (including any applicable allowances) in the position to which they are temporarily acting or assigned is less than their monthly pay entitlement plus the PSA in his or her substantive position, the employee shall retain the PSA applicable to his or her substantive position for the duration of that temporary period.

XX:04 An employee will be entitled to receive the PSA in accordance with XX.01:

- (a) during any period of paid leave up to a maximum of sixty (60) consecutive calendar days;**
- (b) during the full period of paid leave where an employee is granted injury-on-duty leave with pay because of an injury resulting from an act of violence from one or more clients.**

XX.05 The PSA shall not form part of an employee's salary except for the purposes of the following benefit plans:

**Public Service Superannuation Act
Public Service Disability Insurance Plan
Canada Pension Plan
Quebec Pension Plan**

**Employment Insurance
Government Employees Compensation Act
Flying Accident Compensation Regulations**

XX.06 If, in any month, an employee is disabled or dies prior to establishing an entitlement to the PSA, the PSA benefits accruing to the employee or the employee's estate shall be determined in accordance with the PSA entitlement for the month preceding such disablement or death.

National Parole Board of Canada

XX:07 The PSA shall be payable to incumbents of specific positions in the bargaining unit within the National Parole Board of Canada by reason of duties being performed in relation to the conditional release of offenders as defined in the Corrections and Conditional Release Act as amended from time to time.

Royal Canadian Mounted Police

XX:08 The PSA is used to provide additional compensation to an incumbent public service employee of the Royal Canadian Mounted Police by reason of duties being performed in relation to the handling of highly sensitive materials and information.

Department of Justice

XX:09 The PSA is used to provide additional compensation to an incumbent public service employee of the Department of Justice by reason of duties being performed in relation to the handling of highly sensitive materials and information.

XX:10 Veterans Affairs Canada

The PSA is used to provide additional compensation to an incumbent public service employee of Veteran's Affairs Canada by reason of duties being performed in relation to:

- (a)** the adjudication or review of Veterans Affairs Canada programs and benefits;
- (b)** any other employee who provides direct service to a veteran.

RATIONALE

The Union is seeking an allowance, equivalent to the allowance provided under *Article 60 – Correctional Service Specific Duty Allowance*,⁵⁶ to recognize and compensate for the inherent risk of mental health injury or potential physical harm to employees engaged in what may be broadly defined as law enforcement activities.

National Parole Board and Department of Justice and Public Safety

Like Parole Officers employed by Correctional Service of Canada, the jobs of employees at the National Parole Board require them to work in close proximity to violent or potentially violent offenders who additionally may be emotionally distraught at the time of Parole Board hearings. There is no reason to deny to employees at the National Parole Board of Canada an allowance equivalent to that received by employees of the Correctional Service of Canada in light of the fact that these employees deal, in the performance of their duties, with the same offenders whom Parole Officers deal with.

PSAC is also seeking to extend the proposed Public Safety Allowance to other employees of the Department of Justice and Public Safety who deal with highly sensitive and often disturbing materials and information, putting them at risk of vicarious trauma and mental health injury, which is explored in more detail below. Included among this group of employees are the staff of Victim Services Offices, who besides dealing with the same emotionally distressing materials and information, also work face-to-face with victims or families of victims who themselves are typically dealing with intense emotions which may potentially lead to violent behavior.

Veterans Affairs Canada

Employees in the WP classification at Veterans Affairs Canada, be they adjudicators or case managers or benefit administrators or call centre employees, also deal on a daily

⁵⁶ The CSSDA was negotiated in the 2014 round of bargaining to consolidate and harmonize to the maximum rate the former Penological Factor Allowance and Offender Supervision Allowance that were paid to employees working for Correctional Service of Canada.

basis with a potentially volatile and unstable clientele, and one that is very familiar with the handling of weapons.

Veterans returning from war, in particular, have generally been exposed to horrifying situations and as a result, may be suffering from Post-Traumatic Stress Disorder. The damaging and long-lasting impact of PTSD on soldiers has been amply studied elsewhere and is vividly and capably chronicled in the book *Waiting for First Light: My Ongoing Battle with PTSD* by former General and retired Senator Romeo Dallaire.⁵⁷

The life experience of today's veterans is very different from those who fought in the Great Wars. The veterans of World War I and World War II were typically workers or farmers who had lives and families and goals and aspirations outside of military life. The modern army, however, is made up of career soldiers who typically join the military at a relatively young age. The military is a cocoon. It becomes their home and their family and, whether intended or not, shields them from the challenges and decision-making of everyday life. The crisis occurs when they are discharged, often well before their normal retirement date, due to physical or mental injury. Case managers report that many such veterans don't have the slightest idea, for example, of how to go about finding a family doctor or a dentist, let alone what their goals might be for the rest of their lives as civilians.

Benefit administrators, enquiries resolution officers, case managers and other employees at Veterans Affairs Canada provide direct services to veterans; adjudicators review and rule on programs and services veterans are seeking. Veterans Affairs offices are organized so that veterans can contact staff by telephone, email, scheduled appointments or walk-ins. Members tell us that a veteran who walks in off the street to seek immediate support is typically in crisis at the time. In at least one Veterans Affairs office, after a violent incident involving a veteran, the department replaced all glass with bullet-resistant glass.

⁵⁷ Published in 2019 by Vintage Canada (Penguin, Random House)

Interviews with members suggest that as many as 50 percent of veterans served by the department have experienced or are experiencing mental health issues. Employees in the WP-01 classification in Veterans Affairs call centres, who are often the first point of contact with veterans, report numerous calls from veterans who are suicidal, or from spouses of veterans in crisis. The Employer, they say, does not understand the psychological toll such repeated emotional turmoil has on employees.

Personal security is a major issue for case managers, who have reported death threats when meeting clients not only in their offices but when they find themselves alone with a veteran at his or her place of residence, as they are sometimes required to visit veterans at their homes in the course of developing rehabilitation plans.

When adjudicators are required by departmental policy to rule against benefits that veterans are seeking, the reaction of such veterans can range from disbelief to indignation to anger and even to fury.

“The government has spent a lot of money to teach them to how to use lethal force,” a Veterans Affairs adjudicator told us. “They are then sent on missions where they experience severely traumatic situations. Then they send them to us.”

He emphasized the need of Veterans Affairs staff for specific training to cope with potentially unstable clients, and also emphasized the emotional toll that dealing with the needs of struggling veterans takes on employees.

“PTSD is one of the things we need to hear about, read about and look at, in order to provide benefits for our veterans. We do have to hear over and over and over again about the worst events in military life.”

Unsurprising in our on-line world, today’s veterans also have a well-connected network. Denial of a benefit or service to a veteran is often shared immediately and widely, from coast to coast to coast, often with a concomitant threat or implied threat against the

Veterans Affairs employee involved with the file. Veterans have facebook pages and websites where they tag and target Veterans' Affairs staff on social media, contributing to both the physical insecurity of employees and to their risk of mental health injury.

Royal Canadian Mounted Police

About 500 employees work in an administrative capacity for the RCMP, many scores of them in very small detachment offices in rural municipalities across the country, where there are often only two clerks to a detachment. These employees transcribe, file, catalogue, and review for release to lawyers, courts, other police services, researchers and the public audio files, written reports, and photographs of accidents and crime scenes. *"We see and hear everything the police officer sees and hears, except that we are not physically at the scene,"* one member explained to us.

These clerical workers handle, every day, highly disturbing files from minor and major accidents and minor and major crimes, up to and including sexual crimes against children and other vulnerable populations, as well as torture and murders.

To make matters worse, in small communities, the perpetrators, victims, or families of perpetrators or victims, are often known to them, sometimes being their neighbours. As a result, aggressive behaviour, physical threats, and fears of physical threats against these employees are not unknown. Vicarious trauma from viewing and dealing with criminal and accident files is also damaging to their mental health, and possibly more challenging to deal with, as the concept of mental health injury is still not well-understood or accepted. Workers report difficulty functioning in their daily lives, being unable to put their work experience during the day behind them when they come home to their families in the evening, being unable to put out of their minds the horrors that they have read about, viewed, or transcribed during the day. They describe hyper-vigilance with their children, difficulties with their intimate relationships, and other debilitating behaviours.

An independent study commissioned by the Union of Safety and Justice Employees in 2018 found that 45.3 percent of respondents who work for the RCMP said that they were exposed to traumatic content within written materials several times a week or more while 20 percent said that they were exposed to traumatic content several times a day. And 75.5 percent of RCMP workers said that they experienced at least one of insomnia, nightmares, depression, increased consumption of alcohol and drugs and unhealthy eating habits. More than 66 percent said that they dealt with insomnia (Exhibit A20).

Additionally, in the detachments in the small communities, of which there are many, there is no career path for these employees, no opportunity for upward mobility or even a change of job responsibilities or venue. They are trapped, and every offender in the community knows these workers are familiar with their files.

“Will the allowance [the Union is proposing] help me?” one such detachment clerk emailed to the PA bargaining team after describing both the physical and calamitous emotional impact of transcribing an interview an RCMP officer had conducted with a seven-year-old child who had been sexually tortured by her father.

“Because it was a small child’s voice, I had to listen [to the audio] over and over again to transcribe it correctly”, she wrote, adding that when she finally understood what the child was saying, she ran to the bathroom, vomiting.

“I can’t unsee what I’ve seen, and I can’t unhear what I’ve heard. But perhaps it [the allowance] can pay for additional counselling when my [Public Service Health Care] benefits run out.”

For all of the reasons cited above, the Union respectfully requests that the Commission recommend the Union’s proposal for a Public Safety Allowance to support employees at the National Parole Board of Canada, the Department of Justice and Public Safety, Veterans Affairs Canada, and the RCMP, who are subject to physical risk, vicarious trauma and mental health injury as a result of the performance of their duties.

PSAC PROPOSAL

NEW PRIMARY RESPONSIBILITY ALLOWANCE

General

XX.01 A Primary Responsibility Allowance shall be payable to incumbents in certain positions in the bargaining unit which are in the Correctional Service Canada, subject to the following conditions.

XX.02 The Primary Responsibility Allowance is used to provide additional compensation to an incumbent of a Parole Officer position who acts as the principal manager of the Correctional Intervention process as well as to an incumbent of a Parole Officer Supervisor position who supervises or manages a team of said officers.

Amount of the PRA

XX.03 The value of the Primary Responsibility Allowance is seven thousand (\$7,000) ~~ten thousand dollars (\$10,000)~~ per annum. This allowance shall be paid on the same basis as the employee's regular pay. Employees shall be entitled to receive the allowance for any month in which they receive a minimum of ten (10) days' pay in a position to which the allowance applies.

Application of the PRA

XX.04 The Primary Responsibility Allowance shall only be payable to the incumbent of a position on the establishment of, or loaned to, Correctional Staff Colleges, Regional Headquarters, and National Headquarters, when the conditions described in clause XX.02 above are applicable.

XX.05 An employee will be entitled to receive the PRA during any period of paid leave.

XX.06 The PRA shall not form part of an employee's salary except for the purposes of the following benefit plans:

Public Service Superannuation Act
Public Service Disability Insurance Plan
Canada Pension Plan
Quebec Pension Plan
Employment Insurance
Government Employees Compensation Act
Flying Accident Compensation Regulations

XX.07 If, in any month, an employee is disabled or dies prior to establishing an entitlement to the PRA, the PRA benefits accruing to the employee or the

employee's estate shall be determined in accordance with the PRA entitlement for the month preceding such disablement or death.

RATIONALE

The Union is seeking a Primary Responsibility Allowance of \$7,000 annually to be paid to Parole Officers and to Parole Officer supervisors and managers (who have varying titles) employed by the Correctional Service of Canada, in recognition of their unique roles and in recognition of the distinct responsibilities and substantial legal liabilities these employees bear.

Parole Officers are classified as WP-04s and their supervisors and managers are in the WP-05 classification. These classifications are shared with Program Officers in the institutions, the community correctional centres and the community parole offices. They are also shared with Adjudication Officers and other positions at Veterans Affairs Canada. While all of these jobs, both in Corrections and in Veterans Affairs, carry with them significant responsibilities, Parole Officers function as the principal managers of the entire correctional intervention team, and carry with them exceptional legal liabilities. As a result, the unique responsibilities and legal accountability which form part of the job of a Parole Officer is not reflected in their wages, relative to those employees whose jobs do not have the same responsibilities or educational requirements.

Approximately 2,200 employees are classified as WP-04 in the federal public service and there are roughly 500 WP-05 employees. Within these classifications, slightly more than half are Parole Officers or Parole Officer managers/supervisors. Parole Officers and their managers/supervisors work solely at CSC.

Parole Officers are the “drivers” of the case management process at CSC. They manage a caseload of offenders and offer direction, leadership and expertise to a multi-disciplinary team that may be comprised of scores of correctional and criminal justice partners (such as Program Officers, Aboriginal Liaison Officers, social workers, psychiatrists,

psychologists, behavioural therapists, health care providers, and so on); as well as independent third parties.

Job descriptions make note of these unique responsibilities and the leadership role of Parole Officers within the WP-04 and WP-05 classification, stating that:

As the driver of the case management process, the incumbent manages a caseload and offers direction, leadership and expertise to a multi-disciplinary team comprised of correctional and/or criminal justice partners (including other Parole Officers, Managers, Assessment and Intervention and/or Parole Officer Supervisors, Program Officers, Psychologists, Community-Based Residential Facility staff, health care providers, police, lawyers, Crown counsel, judges, provincial probation and parole officers, provincial authorities, reserve Chiefs, etc.), independent third parties and offenders (...)

May represent the Department and/or participate/chair on various committees or working groups including interdepartmental or federal/provincial/territorial/municipal government committees; joint Correctional Service of Canada/Union Solicitor General Employees working groups/advisory committees; and/or, may participate in legal proceedings at trials, in courts or at hearings.

(Exhibit A21)

In order to be hired as a Parole Officer or manager or supervisor of Parole Officers, the employee is required to be a Peace Officer, and must have a university degree (often in a social sciences field such as social work, criminology, sociology, or psychology).

The job description for Parole Officers also recognizes the contribution Parole Officers make to the safety of the public and of other staff, and their role in managing offender risk by encouraging and assisting offenders under sentence to become successfully reintegrated as law-abiding citizens in the community.

Moreover, Parole Officers and their supervisors make the final recommendation as to whether an offender is a candidate for parole or not. This is a singular legal liability for a Parole Officer or their supervisors, who are held accountable if a released offender re-offends. Both Parole Officers and their supervisors must sign off on the release reports.

The central responsibilities as well as legal accountability borne by Parole Officers are also borne by WP-05 Parole Officer supervisor and managers, regardless of whether they work in institutions or in the community, and whether their titles are Supervisor, Manager of Risk and Assessments (MAI) or Community Correctional Centre Managers.

The job description of a WP5 Community Correctional Centre Manager highlights not only the high level of responsibility accorded to Parole Officer supervisors but also the legal accountability:

Ensures that offender risk is effectively managed through continuous assessment of offenders and information sharing with all members of the Case Management Team, law enforcement agencies and the Parole Board of Canada. When it is determined that an offender's behaviour cannot be adequately managed within the CCC, the CCC Manager has the designated authority to suspend release and return the offender to a correctional institution. If it is subsequently determined that the offender can be managed in the community, the CCC Manager has the authority to cancel the Warrant of Suspension. A consequence of error could result in legal action being taken by the offender against the Service, loss of credibility with the Parole Board of Canada or loss of jurisdiction which could impact negatively on public safety.

(Exhibit A22)

Parole Officers and their managers/supervisors are distinct in terms of responsibilities and accountability in a myriad of ways. They are responsible for representing CSC during Parole Board of Canada hearings, they are almost always chosen to represent CSC as witnesses during court trials and are investigated following any incidents involving a delinquent.

As leaders of case management teams, Parole Officers are also the representatives on several committees:

- Mental health committees
- Methadone / suboxone committees
- Aboriginal committees
- Institutional visits committees

Their presence or recommendation is always mandatory as they have the primary responsibility of the delinquent.

A precedent for providing an allowance for Parole Officers who share their classification with other employees who do not have the same responsibilities has also been established between Treasury Board and PSAC. In the TC bargaining unit, GT employees who perform duties of Enforcement and Wildlife Officers at Environment Canada and who are fully designated with Peace Officer powers are eligible to receive an annual allowance of \$3,000, which is paid biweekly. (Exhibit A23)

The responsibilities of case management have greatly increased in the last 20 years, putting a heavier administrative workload on Parole Officers than previously. In fact, these responsibilities, once held by Correctional Officers, have shifted to Parole Officers. According to a 2003 report by the Auditor General of Canada:

4.39 In 1996 and 1999, we observed that senior correctional officers were not consistently carrying out the case management duties as required by Correctional Service policy. Among other things, these officers were expected to complete clear, concise reports for case management purposes, inform colleagues about significant incidents and behavioural changes of inmates, and participate in assessing inmates. We recommended that these officers perform the case management duties required of them by policy.

4.40 Recently, Correctional Service adjusted its division of case management responsibilities. As a result, many of the senior correctional officers' responsibilities for case management reporting were shifted to the institutional parole officers. While the Service made this operational decision over a year ago, it has just started the process of rewriting and re-evaluating the job description for senior correctional officers

(Exhibit A24)

The increased administrative responsibility downloaded to Parole Officers in recent years, over and above their central role in the reintegration process, the legal accountability placed on them, and their designation as Peace Officers, has not been reflected in any increased compensation or changed classification.

Moreover, despite the fact that Parole Officers have taken on additional administrative work previously assigned to Correctional Officers, and have had caseloads increased from 1:25 to 1:30, the wage gap between the two classifications has been shrinking.

Between 2002 and 2019, the wages between the WP-04 and CX-02 classification and between the WP-05 and CX-03 classification have been reduced by 10 percent and 18 percent respectively (Exhibit A25). The Union's proposed allowance is approximately eight percent of WP-04 and WP-05 wages. Although this allowance would not of itself re-establish the historic relativity between WP and CX positions, it provides a correction in the right direction.

For the reasons noted above, recognizing the role of Parole Officers and Parole Officer managers and supervisors in leading the case management process, as case managers, clinical intervention professionals and Peace Officers (all of which are responsibilities not required of other employees in the WP-04 and WP-05 classifications) as well as partially rectifying the shifted relativity of wages with employees in the CX classification, the Union respectfully requests that the Public Interest Commission adopt the Union's position.

PSAC PROPOSAL

APPENDIX J

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE TREASURY BOARD OF CANADA SECRETARIAT
AND
THE PUBLIC SERVICE ALLIANCE OF CANADA
IN RESPECT OF THE PROGRAM AND ADMINISTRATIVE SERVICES GROUP
– RETENTION ALLOWANCE FOR EMPLOYEES INVOLVED WITH THE
PERFORMANCE OF COMPENSATION AND BENEFITS DUTIES**

1. In an effort to increase retention of all ~~compensation advisors at the AS-01, AS-02 and AS-03 group and levels~~ **employees involved with the performance of Compensation and Benefits duties**, working at the Public Service Pay Centre (including satellite offices) and within departments, the Employer will provide a “retention allowance” for the performance of compensation duties in the following amount and subject to the following conditions:
- (a) Commencing on the date of signing of this Collective Agreement and ending with the signing of a new agreement, ~~employees falling into the categories listed above~~ **all such employees** shall be eligible to receive an allowance to be paid biweekly;
 - (b) Employees shall be paid the daily amount shown below for each calendar day for which they are paid pursuant to Exhibit A of the collective agreement. This daily amount is equivalent to the annual amount set out below divided by two hundred and sixty decimals eight eight (260.88);

Retention allowance

Annual

Daily

\$3,500 ~~\$2,500~~

\$13.42 ~~\$9.58~~

- (c) The retention allowance specified above forms part of an employee’s salary and as such shall be pensionable
- (d) The retention allowance will be added to the calculation of the weekly rate of pay for the maternity and parental allowances payable under Article 38 and Article 40 of this collective agreement;

- (e) Subject to (f) below, the amount of the retention allowance payable is that amount specified in paragraph 1(b) for the level prescribed in the employee's certificate of appointment. ~~of the employee's AS-01, AS-02 or AS-03 position;~~
 - (f) When an employee as defined in clause 1 above is required by the Employer to perform duties of a classification level that does not have a retention allowance, the retention allowance shall not be payable for the period during which the employee performs the duties.
2. A part-time employee receiving the allowance shall be paid the daily amount shown above divided by seven decimal five (7.5), for each hour paid at their hourly rate of pay.
 3. An employee shall not be entitled to the allowance for periods he/she is on leave without pay or under suspension.
 4. This Memorandum of Understanding expires with the signing of a new collective agreement.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE TREASURY BOARD OF CANADA SECRETARIAT
AND
THE PUBLIC SERVICE ALLIANCE OF CANADA
IN RESPECT OF THE PROGRAM AND ADMINISTRATIVE SERVICES GROUP –
INCENTIVES FOR THE RECRUITMENT AND RETENTION OF
EMPLOYEES INVOLVED IN COMPENSATION AND BENEFITS DUTIES**

A Memorandum of Understanding (MOU) in respect of incentives for the recruitment and retention of Compensation Advisors was **originally** reached between the Treasury Board Secretariat and the Public Service Alliance of Canada on August 25, 2017. **It was subsequently amended and extended on June 1, 2018, for an additional year.** Pursuant to the MOU, Compensation Advisors eligible for the Compensation Advisors Retention Allowance ~~are~~ **under Exhibit J of the Program and Administrative Services (PA) Collective Agreement** were eligible to receive temporary incentive payments until June 1, 2018**2019**.

The purpose of this MOU is to extend the provisions of the MOU **signed on June 1, 2018, reached on August 25, 2017 to June 20, 2020**, due to the ongoing challenges with the recruitment and retention of ~~Compensation Advisors~~ **employees involved with the performance of Compensation and Benefits duties** at the Public Service Pay Centre (including satellite offices) and within departments.

The Employer will provide incentives to new recruits, retirees and incumbents of Compensation Advisor **and other positions involved with the performance of Compensation and Benefits duties**, ~~for the performance of Compensation and Benefit duties~~ in the Program and Administrative Services (PA) Group. The Employer will provide the incentive payment to employees only once during the employee's entire period of employment in the federal public administration.

The Employer recognizes the importance of this MOU and the need to encourage Separate Agencies to consider initiatives for Compensation Advisors in their organizations that take into account their specific circumstances. The Employer will accordingly provide such encouragement to Separate Agencies and will provide the Union with confirmation of the same.

Incentives

~~Commencing~~ **Effective** on June 2, ~~2018~~**2019** and ending June 20, ~~2019~~**2020**, employees eligible for the Compensation Advisors **Employees** Retention Allowance, found in Exhibit J of the Program and Administrative Services Collective Agreement (hereafter referred to as "employees"), shall be eligible to receive the following incentive payments:

1. One-time Incentive Payment

The Employer will provide an incentive payment to employees of \$4,000, only once during the employee's entire period of employment in the federal public service. Employees who are acting in an AS-04 Compensation position will continue to be eligible for the \$4,000 payment, provided they are eligible for the Compensation Advisor Retention Allowance in their substantive position.

Current Employees as of August 25, 2017 (i.e., considered 'current Employees' under the August 25, 2017 MOU) who received a portion of the two \$2,000 lump sum payments will be eligible to receive any remaining amount up to the \$4,000 limit, providing they are employed for twelve months either continuously or discontinuously since on August 25, 2017.

New Recruits hired on or after June 1, ~~2018~~**2019** and prior to June 20, ~~2019~~**2020**, will receive the incentive payment after completing a one-year period of continuous employment.

Retirees who come back to work as Compensation Advisors on or after June 1, ~~2018~~**2019** and prior to June 20, ~~2019~~**2020**, will earn the incentive payment through pro-rated payments over a six-month contiguous or non-contiguous period of employment, starting upon commencement of employment. The full amount of the incentive payment will be pro-rated to the period worked up to a maximum period of six months, and paid in increments on a bi-weekly basis. The qualifying period to receive the award is shorter than the qualifying period for new recruits in recognition of the experience a retiree will contribute to the operations immediately upon hiring.

Part-time employees: Part-time employees who received a pro-rated amount of the \$4,000 incentive payment under the previous MOU, will be eligible to receive up to the difference between what they received under the previous MOU and \$4,000. This amount will be paid on a pro-rata basis up to the \$4,000 threshold, based on actual hours worked.

Employees departing on maternity/parental leave who qualify for the incentive shall be eligible for a prorated amount based on the portion of a year worked on or after Aug 24, 2017 and prior to July 1, ~~2019~~**2020**, upon their departure, less any amounts already received. Employees will remain eligible for the remaining balance of the \$4,000 incentive upon their return to work, to be paid on completion of 12 month's work. The incentive amount is not subject to the 38.02 iii repayment undertaking and shall not be counted as income for the purposes of the maternity/parental leave top-up.]

For greater clarity, nothing in this MOU shall suggest that employees can receive incentive payments that cumulatively exceeds \$4,000, as a result of eligibility under this or ~~the~~ previous MOU.

2. Overtime

Overtime shall be compensated at double (2) time for overtime worked during the period between June 2, ~~2018~~ **2019** and June 20 ~~2019~~**2020**.

3. (a) Carry-Over and/or Liquidation of Vacation Leave

- i. Where, in the vacation year 2018-2019, an employee has not been granted all of the vacation leave credited to the employee, the unused portion of their vacation leave on March 31, 2019 shall be carried over into the following vacation year.
- ii. If on March 31, 2020, an employee has more than two hundred and sixty-two decimal five (262.5) hours of unused vacation leave credits, a minimum of seventy-five (75) hours per year of the excess balance shall be granted or paid in cash, in accordance with the employee's choice, by March 31 of each year commencing March 31, 2020, until all vacation leave credits in excess of two hundred and sixty-two decimal five (262.5) hours have been liquidated. Payment shall be in one instalment per year and shall be at the employee's daily rate of pay, as calculated from the classification prescribed in his or her certificate of appointment of his or her substantive position on March 31, 2019.

(b) Compensation in cash or leave with pay

All compensatory leave earned in the fiscal years 2016-17 and 2017-2018 and outstanding on September 30, 2018, shall not be paid out, in whole or in part, other than at the request of the employee and with the approval of the Employer. Should

the employee request accumulated compensatory leave be paid out on September 30, 2018, it will be paid out at the employee's hourly rate of pay as calculated from the classification prescribed in the certificate of appointment of his or her substantive position on September 30, 2018. All compensatory leave earned in the fiscal year 2018-2019, shall not be paid out, in whole or in part, other than at the request of the employee and with the approval of the Employer. For greater clarity, the provisions of article 28.08(a) of the PA collective agreement remain applicable. Should the employee request accumulated compensatory leave be paid out on September 30, 2019, it will be paid out at the employee's hourly rate of pay as calculated from the classification prescribed in the certificate of appointment of his or her substantive position on September 30, 2019.

Conclusion

The Employer shall make all reasonable efforts to process incentive payments for retirees that are provided under this extension, as well as new overtime payments provided under this extension, within 150 days following the signature of this agreement.

~~The parties agree that the terms of this MOU will not be affected by any notice to bargain served under section 106 of the *Federal Public Sector Labour Relations Act*. As such, the terms and conditions set out in this MOU will cease on the dates indicated in the MOU and will not be continued in force by the operation of s. 107.~~

~~**By April 1, 2020, the parties must provide notice of their intent to renew the agreement. As part of the notice of intent, either party must provide a business case, based on an assessment of working conditions, recruitment and retention issues with Compensation Advisors, operational considerations, or other related issues.**~~

~~Prior to June 1, 2019 the parties may agree, by mutual consent, to further extend the limitation periods set out in this MOU, based on an assessment of working conditions, recruitment and retention issues with Compensation Advisors and the need to continue to provide for increased capacity.~~

The parties recognize that an extension of clauses 1, 2 and 3-2 is made without prejudice or precedent and will in no way bind the parties to any particular position that they may wish to take on overtime, carry-over and/or liquidation of vacation leave or compensation in cash or leave with pay issues during any round of collective bargaining.

RATIONALE

Exhibit J was first negotiated during the 2010 round of collective bargaining to address recruitment and retention issues for Compensation Advisors. It was a time of upheaval for Compensation Advisors, as Treasury Board was in the midst of reducing their numbers

from approximately 1,700 to 500 and relocating the main compensation activities of the Employer to the new Public Service Pay Centre in Miramichi, N.B. While simultaneously radically downsizing its complement of experienced staff and consolidating the bulk of the compensation work to Miramichi, the Employer also purchased a flawed new software system, known as Phoenix. It is fair to say the government did not take into consideration the implications of taking both actions at the same time, and so did not foresee the Phoenix pay system disaster that was to emerge in 2016.

The pay disaster that resulted has been well-documented and publicized. For the last several years, the federal government has been unable to pay its employees accurately and on time. Phoenix has caused pay problems for more than 50 percent of the federal government's 290,000 public service workers through underpayments, over-payments, and non-payments. Some employees have gone for a year or more without being paid, living off advances that will have to be reconciled down the road. The faulty Phoenix pay system has wreaked havoc on the lives of tens of thousands of federal government employees who do not know what to expect when they open their pay advices every two weeks.

This disaster has had an equally debilitating impact on the employees who are charged with processing pay. Trying to do the best job they can with a faulty software system, bearing the brunt of angry and upset fellow federal public service workers, feeling blamed, and the exhausting work of repeatedly trying to correct mistakes, all take a toll. The Pay Centre is anecdotally considered to be a "toxic workplace" across the public service, and compensation duties that are still being performed in departments are similarly impacted. It has been estimated that it could take a decade or more to resolve the pay problems caused by Phoenix. The Standing Senate Committee on National Finance, chaired by Senator Percy Mockler, investigated the Phoenix pay system and submitted its report, "*The Phoenix Pay Problem: Working Towards a Solution*" on July 31, 2018, in which it summarized the implementation of Phoenix by stating: "*By any measure, the Phoenix pay system has been a failure*". Instead of saving \$70 million a year as planned, the report

said that the cost to taxpayers to fix Phoenix's problems could be up to \$2.2 billion by 2023. (Exhibit A26)

In the last round of bargaining, parties renewed Compensation Advisor retention allowance, increasing it to \$2,500 per year. That agreement was finally signed on June 14, 2017, with an expiry date of June 20, 2018. However, in recognition of how serious the Phoenix pay problems were that emerged during the bargaining process, the parties negotiated another MOU outside the Collective Agreement which introduced an additional one-time payment of \$4,000 to Compensation Advisors and a provision that all overtime was to be paid at double time. This MOU expired on June 1, 2019.

The Union's proposals above are three-fold:

- Extend the retention and recruitment allowance to all employees involved in the performance of compensation and benefits duties, regardless of classification title, as the work of all such employees is negatively impacted by the Phoenix disaster.
- Increase the daily allowance to a more meaningful \$13.42 per day from \$9.58.
- Continue the once-in-a-lifetime \$4,000 payment and double overtime to all employees involved in the performance of compensation and benefit duties in recognition of the need to compensate employees for the impact that Phoenix continues to have on both their work lives and personal lives.

Although the Union's proposals are not able to repair Phoenix, they do offer some additional compensation to employees engaged in a Sisyphean task and provide a meaningful retention and recruitment tool to the Employer. The Union therefore respectfully requests that the Commission recommend the adoption of its proposal.

PSAC PROPOSAL

****NEW APPENDIX**

**MEMORANDUM OF UNDERSTANDING IN RESPECT OF EMPLOYEES IN
THE PROGRAM ADMINISTRATION (PM) GROUP WORKING AS FISHERY
OFFICERS**

1. The Employer will provide an annual allowance to incumbents of Program Administration (PM) Group positions at the PM-05 to PM-06 levels for the performance of their duties as Fishery Officers.
2. The parties agree that PM employees shall be eligible to receive the annual allowance in the following amounts and subject to the following conditions:
 - a. Commencing on June 22, 2018, PM employees who perform duties of positions identified above, shall be eligible to receive an annual allowance to be paid biweekly.
 - b. The allowance shall be paid in accordance with the following table:

Annual allowance: Program Administration (PM) Positions

Annual allowance

PM-05
\$3,000
PM-06
\$3,000

- c. The allowance specified above does not form part of an employee's salary.
3. An employee in a position outlined above shall be paid the annual allowance for each calendar month for which the employee receives at least seventy-five (75) hours' pay.
4. Part-time employees shall be entitled to the allowance on a pro-rata basis.

RATIONALE

The Union is requesting the extension of this allowance, negotiated by the TC bargaining unit (Exhibit A27) in the last round of negotiations, to all PM-05 and PM-06 Fishery Officers covered by the PA Collective Agreement.

PM-05 and PM-06 Fishery Officers represented by the PA bargaining unit act as supervisors of the General Technical (GT) Fishery Officers represented by the TC group, are armed enforcement officers, and are assigned all the same tasks and responsibilities related to the allowance.

As part of the 2001 Conciliation Board report for Table 3 – now the TC group – a recommendation was made that Fishery Officers performing enforcement duties for the Department of Fisheries and Oceans (DFO) should receive a lump sum payment, payable June 22nd in 2001 and 2002. This payment was an acknowledgement of the increased exposure to a hazardous environment, something which is not captured in the Fishery Officer job description. This recommendation formed the basis of Exhibit H of the Table 3 Collective Agreement signed in 2001.

Since that time, DFO Fishery Officers saw a reclassification of their positions from GT-03 to GT-05 (and at Table 1 – now the PA group – to PM-05 to PM-06). These changes were all done to address the enhanced enforcement responsibilities of Fishery Officers.

As early as 2002, the Standing Senate Committee on National Security and Defence directed the Government of Canada to improve its surveillance and monitoring of incoming ships through a coordinated use of satellites, patrol planes and vessels. Canada must plug the holes of its coast, the Committee recommended, and the Committee believed that increased co-operation among federal agencies would not lead to higher costs in the short term, because existing infrastructures would be used.⁵⁸

⁵⁸ Standing Senate Committee on National Defence and Security, *Defence of North America; a Canadian Responsibility*, (September, 2002). Recommendation 3 of the Defence of Canada's Territorial Waters reads: "Effective

Fishery Officers play an essential role in protecting Canadian fish stocks, waters and borders through surveillance and armed boarding of vessels. In 1977, Fishery Officers were made Peace Officers under the *Criminal Code*.

The work description for the Fisheries Officer position clearly states that there is a risk to the health and safety of employees. There is daily exposure to the potential of stabbing or the discharge of firearms by clients and poachers, at and in the general direction of the Officer when the Officer is engaged in enforcement duties.

Fishery Officers are responsible for enforcing the Fisheries Act and other related Acts and Regulations. They protect fishery resources and the fish habitat by patrolling land, sea and air. Fishery Officers perform difficult and dangerous tasks. They carry out their enforcement activities to protect and conserve Canada's freshwater and marine fisheries resources and habitat⁵⁹. They ensure safe navigation of Patrol Vessels, protect the environment during emergencies, sustainably manage fisheries and aquaculture, and protect oceans and other aquatic ecosystems⁶⁰. Recent investments to support conservation and enhance enforcement capacity have led to increases in staffing,⁶¹ where up to 200 more Fishery Officer positions need to be filled by the end of 2020.⁶²

Fishery Officers require a high level of training. They take part in a three-year apprenticeship program, which involves classroom and hands-on training. Recruits attend the RCMP academy for firearms and legal training. Officers start their careers on probation for 36 months, during which time they must complete two extensive log books and are tested for a variety of competencies. It is one of the most extensive training

coordination and utilization of the numerous monitoring resources such as: Shipping position reporting system, Canadian Navy assets to include the Maritime Coastal Defence Vessels and Canadian Patrol Frigates, satellite tracking resources, routine Aurora flights, Department of Fisheries and Oceans patrols and intelligence, the Canadian Coast Guard patrols and intelligence and the Royal Canadian Mounted Police patrols and intelligence"

⁵⁹ <http://www.dfo-mpo.gc.ca/fisheries-peches/enf-loi/index-eng.html>

⁶⁰ <https://www.canada.ca/en/fisheries-oceans/news/2019/05/government-of-canada-welcomes-23-new-fishery-officers-at-graduation-ceremony-in-regina.html>

⁶¹ <https://www.dfo-mpo.gc.ca/campaign-campagne/fisheries-act-loi-sur-les-peches/enforcement-application-eng.html>

⁶² <https://www.dfo-mpo.gc.ca/campaign-campagne/fisheries-act-loi-sur-les-peches/enforcement-application-eng.html>

systems for any enforcement group in Canada. This makes good sense since their job requires them to make life-and-death decisions in the moment, with no opportunity to consult upward. Fishery Officers are exposed to dangerous situations in the course of their duties, including surveillance, pursuit, armed boarding, seizure, arrests, and crowd control. These duties are often done in bad weather conditions, rough seas and in stormy weather on land, sea, and air.

As Peace Officers, with exposure to dangerous situations in the course of surveillance, pursuit, armed boarding, seizure, arrests, and crowd control, Fishery Officers place themselves in danger to protect the safety of Canadians. The PSAC seeks compensation for this dangerous exposure for its members who are Fishery Officers equal to that granted to GTs under the TC agreement. The current Treasury Board classification standard does not rate many of the responsibilities of Fishery Officers, especially in their role as Peace Officers. Therefore, the PSAC seeks this additional compensation for Fishery Officers who perform enforcement duties.

When this allowance was finally agreed upon for GT members covered by the TC Collective Agreement in the 2014 round of bargaining, the Employer failed to extend this allowance to the Supervisor Fishery Officers who are members of the PA group because they are classified as PM-05 and PM-06 members. Thus, these PM members who would have qualified for the allowance, did not receive it simply because they were under a different Collective Agreement. The result has been a sharp decrease in the pay difference between Fishery Officers and their PM supervisors and a reduction in the pay incentive for GTs to be promoted to a PM position.

The Union therefore respectfully requests that the PIC recommend the extension of this allowance to PM-05 and PM-06 Fishery Officers by including it in the PA Collective Agreement.

PSAC PROPOSAL

APPENDIX B

MEMORANDUM OF AGREEMENT RESPECTING SESSIONAL LEAVE FOR CERTAIN EMPLOYEES OF THE TRANSLATION BUREAU

This Memorandum is to give effect to the agreement reached between the Employer and the Alliance respecting sessional leave for certain employees of the Translation Bureau.

This Memorandum of Agreement shall apply to employees classified as AS, CR and ST who are assigned in the operational sections serving Parliament (Parliamentary Committees, Parliamentary Debates, Parliamentary Documents and Parliamentary Interpretation Services) and who share the same working conditions as members of the Translation bargaining unit who are eligible to parliamentary leave.

Notwithstanding the provisions of this agreement, the following is agreed:

1. **Sessional leave**

- a. In addition to their vacation leave with pay, employees assigned to operational translation and interpretation sections serving Parliament shall receive special compensation in the form of sessional leave.
- b. The maximum number of days of sessional leave is forty (40) per fiscal year.
- c. An employee is entitled to a number of days of sessional leave equal to the maximum number of days multiplied by a fraction in which the numerator corresponds to the number of the employee's sessional workdays during the fiscal year and the denominator corresponds to the number of days that the House of Commons was in session during that fiscal year.
- d. The granting of sessional leave is subject to operational requirements and such leave must normally be taken during periods of low demand in the fiscal year for which it is granted. If operational requirements do not permit the Employer to grant sessional leave during the fiscal year, such leave must be granted before the end of the following fiscal year.
- e. If an employee is granted sessional leave in advance and, at the end of the fiscal year, has been granted more leave of this type than earned, the maximum number of days referred to in paragraph (b) shall be reduced accordingly.

2. Exclusions

The provisions of Part III of this agreement, except for clauses **27.01, 27.02 and 30.01 to 30.05**, do not apply to employees who receive sessional leave in accordance with this memorandum.

Pay Note amendments

Additional pay notes

NEW

A supplement of four percent (4%) of the employee's pay shall be added to the pay of the administrative employees classified as AS, CR and ST who are assigned in the operational sections serving Parliament (Parliamentary Committees, Parliamentary Debates, Parliamentary Documents and Parliamentary Interpretation Services) and who usually work in the evening or at night, under pressure at all times, or who also work in the evening or at night and can be assigned to the parliamentary debates service at a moment's notice.

RATIONALE

The Union is seeking to extend the same benefits of the Translation bargaining unit (TR) to employees classified as AS, CR and ST who are assigned in the operational sections serving Parliament (Parliamentary Committees, Parliamentary Debates, Parliamentary Documents and Parliamentary Interpretation Services).

The PA Group employees that serve Parliament are subjected to the same demanding working conditions as Translators: they work evenings and weekends and have to process and support the documentation of parliamentary debates, which produce 18,000 to 20,000 words of content a day. Parliamentary sessions often go late into the night and sometimes can proceed until as late as 1:00 AM. Emergency sessions can occur over the weekend and some staff are asked to be on call in the case of any possibility of late sessions or weekend sessions.

These members of the PA Group, just like their TR colleagues, are afforded a pro-rated sessional leave while Parliament is not in session. Under the TR Collective Agreement,

the same leave is referred to as “Parliamentary Leave” and the language of the article is very similar to that of these members under the PA Collective Agreement. (Exhibit A28)

One striking difference is that under the TR Collective Agreement, employees who have access to parliamentary sessional leave also are provided with a shift premium as well as a weekend premium under article 15 of their collective agreement. The PA group staff who work side by side supporting the work of these TR members and are subjected to exactly the same working conditions related to scheduling in Parliament, however, are denied shift and weekend premiums. The Employer has not provided any rationale for the exclusion of these employees from these rights, neither to the members who have enquired about it, nor during collective bargaining. The language in the TR, which applies to TR employees who also receive parliamentary leave states:

15.07 Shift premium

a. An employee who works shifts shall receive a shift premium of two dollars (\$2.00) per hour for all hours worked between 4 pm and 8 am, including overtime. This premium shall not be paid for hours worked between 8 am and 4 pm.

b. An employee who works shifts shall receive an additional premium of two dollars (\$2.00) per hour for hours of work regularly scheduled and worked on Saturdays and/or Sundays. This premium shall not apply to overtime hours.

Similarly, under the pay notes in the TR Collective Agreement, the Employer has provided the following compensation:

A supplement of four percent (4%) of the employee’s pay shall be added to the pay of the employee classified as TR-3 assigned to the parliamentary service and who usually work in the evening or at night, under pressure at all times, or who also works in the evening or at night and can be assigned to the parliamentary debates service at a moment notice.
(Exhibit A28)

The Union believes that employees classified as AS, CR and ST who are assigned in the operational sections serving Parliament and are subject to the same pressures and working conditions as their Translator colleagues should have the same pay provisions as part of their working conditions. We respectfully request that the Commission recommend the adoption of the Union's proposal.

PART 3

OUTSTANDING COMMON ISSUES

EMPLOYER PROPOSAL

ARTICLE 10 INFORMATION

10.02 The Employer agrees to supply each employee with **access to a copy of this Agreement and will endeavour to do so within one (1) month after receipt from the printer. For the purpose of satisfying the Employer's obligation under this clause, employees may be given electronic access to this Agreement. Where electronic access is unavailable, the employee shall be supplied, on request, with a printed copy of this Agreement.**

RATIONALE

The PSAC has not agreed to this change for any of its collective agreements in the core public administration. This includes the settlements reached in the last cycle of bargaining for the PA, SV, TC, EB, and FB groups, as well as the 2016 settlement with CRA.

On September 12, 2017, the PSAC filed a policy grievance stating that the Employer, Treasury Board, had violated Article 10 of the PA Collective Agreement between PSAC and Treasury Board, and in particular Article 10.02 of the Collective Agreement. This grievance was granted.

A few examples of violations included: (1) at Immigration, Refugees and Citizenship Canada where the Director communicated that printing services of collective agreements are no longer offered by Public Service and Procurement Canada (PSPC) and that each department is to figure out how and where to get the booklets printed; (2) Service Canada/ESDC where as part of Greening government operations the onus is put on employees to request printed copies of the collective agreement; (3) at Office of the Privacy Commissioner of Canada where it was communicated by a Director in Human Resources that booklets will no longer be available and that employees can access the Collective Agreement through the intranet.

Notably, and a serious accessibility issue relative to the SV table, the Component President for the Union of Canadian Transportation Employees (UCTE) has had several

calls from Ship's Crew members (Canadian Coast Guard) about the printed copies. Some have no internet connection on the vessels and therefore are not able to access their CA when they have a question or concern. Some members do not have printing capabilities either at home or on the vessels. Some have concerns that they are having difficulties navigating through TB and Union websites when trying to call up specific articles.

Beyond Ship's Crews, countless employees amongst PSAC's 100,000 members in the core public administration do not perform a majority of their job duties in office settings and do not always have access to the internet or even to computers. At the Department of National Defence, for example, a significant number of employees are assigned work either on a permanent basis or from time to time in secure areas which not only do not have internet access, but from which employees are barred from bringing in telephones and laptops.

Employees in quite a number of these workplaces still have not been provided with printed copies of the current Collective Agreement, which expired on June 20, 2018. With the Employer refusing to provide copies of the agreement to employees who have no internet access now, when the agreement provides for printed copies, PSAC has little comfort that these employees will be provided copies if the Employer is not required by the Collective Agreement to print it.

On January 26, 2018, the Senior Director of Compensation and Collective Bargaining Management issued a notice entitled "Responsibility for the Printing and Distribution of Collective Agreements" that informed Heads of Human Resources Directors/Chiefs of Labour Relations relative to article 10.02 of the Employer's obligations related to the printing of collective agreements and providing them to employees (Exhibit B1). Yet, despite the granted policy grievance and direction from the Office of the Chief Human Resources Officer (which was the outcome of the final level grievance), issues persist, such that a FPSLREB hearing into this matter is scheduled for Nov. 15, 2019.

The Union submits that for our members who either spend little or no time in front of a computer, or work in remote locations with limited access to an internet connection (e.g., in the North or at sea), the language proposed by the Employer effectively amounts to a restriction on access to the Collective Agreement, which the Union submits is in neither party's interest. For our extremely large, diverse and complicated bargaining units, the Union believes that the time for this proposal has not yet come. The Union therefore respectfully asks that the Commission not include the Employer's proposal in its award.

EMPLOYER PROPOSAL

ARTICLE 11 CHECK OFF

11.06 The amounts deducted in accordance with clause 11.01 shall be remitted to the Comptroller of the Alliance by electronic payment within a reasonable period of time after deductions are made and shall be accompanied by particulars identifying each employee and the deductions made on the employee's behalf. **In order that the Employer may calculate union dues deductions, the Alliance will disclose to the Employer its union dues' schedule.**

~~11.07 The employer agrees to continue the past practice of making deductions for other purposes on the basis of the production of appropriate documentation.~~

11.087 The Alliance agrees to indemnify and save the Employer harmless against any claim or liability arising out of the application of this article, except for any claim or liability arising out of an error committed by the Employer limited to the amount actually involved in the error.

RATIONALE

The Union sees no concrete need for the changes proposed by the Employer under Article 11. The existing check-off system has been in place for more than 30 years and it is unclear why the Employer is seeking the change now. Under the current system, the Union is responsible for informing the Employer of the authorized monthly deduction to be checked off for each employee.

Since the Phoenix pay system manages dues for multiple employers, any changes to the process of calculating dues would impact all employers using the Phoenix pay system. Hence, any recalculation of dues by the Employer would impact not only the Employer but also Canada Revenue Agency, Auditor General, Library of Parliament, CSE, Senate, Parks, SSHRC, CFIA, OSFI, CSIS, House of Commons, Statistical Survey Operations, CCOHS and National Battlefields.

Furthermore, the Union is deeply concerned that the Employer is seeking to calculate union dues deductions and wishes to underscore that the calculation of dues is exclusively under the Union's purview.

Even if the purview of dues calculation were shared, any attempt on the Employer's part to calculate dues would require significant additional resources on the part of the Employer. A number of common activities will affect how much an individual member needs to remit in union dues. It is not unusual that in any given month, thousands of members experience a change in classification or department or hours of work. Any of these cause union dues to be recalculated for each individual affected by a change in work status. For example, union dues are based on a member's first step salary of a classification therefore a change in classification will necessitate a recalculation. Changing departments may also result in a member changing his/her Component/Local representation, which would require a recalculation of union dues. Each Component and each Local has its own dues rate. The Employer is not in a position to know which Component/Local would represent the member and therefore the dues calculation process, if solely undertaken by the Employer, would be subject to errors.

When the Union changes its rate, at any level of its political structure, dues are recalculated for each member, accounting for both flat and percentage rates applied differently across classifications. There are currently more than 1,000 different percentage and flat rates in effect, and these are applied to more than 2,000 different classifications. In some cases, members belonging to a specific Component will see their Component portion of dues calculated using the stepped salary. The PSAC receives the step information as a result of an FPSLRB decision (PSAC v. Treasury Board, 2010 PSLRB 6) and applies the appropriate formulas to determine the dues accordingly. In all cases, once the PSAC has utilized the job information as provided by the Employer, it determines the correct dues and any adjustments and submits these to the Employer via the automated dues process.

Hence, the Employer's proposed new language in Article 11.06 would require the Employer to calculate the dues owing for each member under each classification (and where necessary accounting for any member working part-time hours to prorate the dues) and applying all the possible rates in effect at any given time, accounting for a different method of calculating a specific portion of Component union dues where applicable. This would amount to manual recalculation of dues for 150,000 members. Given the Union's liability stated in Article 11.08, and the complex process involved in calculating these dues in an accurate and timely manner, we strongly oppose the amendment of this clause.

Finally, the Union requires clarification on the Employer's reason for proposing to strike Article 11.07. This clarification has not been provided at the bargaining table. The Union requires certain documentation in order to make adjustments. For instance, when the Employer makes deductions for insurance premiums, the Union sends this information to the insurer to make subsequent adjustments and load any corrections. The Union is contractually obligated to send this information. Therefore, the appropriate documentation on deductions made for purposes other than union dues is essential to our record-keeping and to ensure accurate calculations of employee pay and deductions.

The Union therefore respectfully requests that the Employer proposals not be included in the Public Interest Commission's recommendations.

PSAC PROPOSAL

ARTICLE 12 USE OF EMPLOYER FACILITIES

12.03 A duly accredited representative of the Alliance may be permitted access to the Employer's premises, which includes vessels, to assist in the resolution of a complaint or grievance and to attend meetings called by management **and/or meetings with Alliance-represented employees**. Permission to enter the premises shall, in each case, be obtained from the Employer. **Such permission shall not be unreasonably withheld**. In the case of access to vessels, the Alliance representative upon boarding any vessel must report to the Master, state his or her business and request permission to conduct such business. It is agreed that these visits will not interfere with the sailing and normal operation of the vessels

RATIONALE

The Union is proposing two modifications to the current Article 12.03 for inter-related reasons:

- First, the language contained in the current Collective Agreement has in the past been interpreted and used by the Employer to infringe upon the Union's rights under the PSLREA, namely via denying Union representatives access to Treasury Board worksites to speak with members of the Union.
- Second, to achieve parity with what Treasury Board has already agreed to for its employees in other bargaining units such as: CBSA (FB Group), CX and OSFI.

Concerning the incidents where the access to the facilities was denied, the Union has responded by filing complaints with the PSLREB. In this regard, the Board issued a subsequent decision in 2016 where a PSAC representative was denied access to Veterans Affairs and Health Canada workplaces:

I declare that the refusal to allow a complainant representative to conduct a walkthrough of the Veterans Affairs Billings Bridge facility on November 5, 2014, to conduct a walkthrough and an on-site meeting

during off-duty hours at Health Canada's Guy Favreau Complex on November 25, 2014, and to conduct a walkthrough and an on-site meeting during off-duty hours at DND facilities on December 11, 2014, and January 6, 2015, all constituted violations of s. 186(1)(a) of the Act by the respondent and by the departments involved. (PSLREB 561-02-739) (Exhibit B2)

In a similar case where a Union representative was denied the access to a CBSA workplace by the Employer, the Board issued a decision in May of 2013, stating that Treasury Board had violated the Act in denying the Union access to its members in CBSA workplaces:

Denying (Union representative) Mr. Gay access to CBSA premises on October 13 and 29, 2009 for the purpose of meeting with employees in the bargaining unit during non-working periods to discuss collective bargaining issues, violated paragraph 186(1) (a) of the Act and were taken without due regard to section 5 and to the purposes of the Act that are expressly stated in its preamble. (PSLRB 561-02-498) (Exhibit B3)

The Board also ordered Treasury Board and the CBSA in that same decision to: "...cease denying such access in the absence of compelling and justifiable business reasons that such access might undermine their legitimate workplace interests." (PSLRB 561-02-498) (Exhibit B3)

In light of the current language contained in Article 12.03 of the parties' Agreement; and in light of the decisions rendered by the Board on this matter, the Union submits that the current language is inconsistent with the rights afforded Union representatives under the PSLREA. It places restrictions on the Union that the Board has found to be incompatible with the Act; hence the Union's proposal to amend the language to ensure that the Union's rights are upheld.

As mentioned, the second reason as to why the Union has proposed to modify Article 12.03 is to achieve parity with what Treasury Board has already agreed to for its employees in CBSA (FB Group), CX and OSFI bargaining units (Exhibits B4). The CBSA (FB Group) contract already has the exact same language that the Union has proposed to Treasury Board for the PA, SV, TC and EB units. The CX Collective Agreement, which covers guards who work in federal prisons and other penal institutions, makes no reference to the need for Union representatives requiring permission from the Employer to enter the worksite. These workers perform their duties in contained, high-security environments where danger is present, and yet the Employer has agreed to language that ensures Union representatives access to the workplace for the purposes of meeting with members. Workers in the CX bargaining unit are enforcement workers who work for the same Employer and under the same Ministry as PSAC members. In general, the three agreements cited above provide Union representatives access to the workplace for meetings with union membership, which is also consistent with what PSAC has proposed for its bargaining units.

Based on the cited examples, the Union submits that there is no reason why employees in the PA, SV, TC and EB groups should be denied rights that have been agreed to by the same Employer for other groups of workers. The Union is also looking for language that would ensure that the Employer cannot interfere with the Union's right to communicate with its membership on non-work time. There have been instances in the past when this problem has arisen. Including this language in the Collective Agreement would ensure that the Union's statutory rights in the workplace would not be interfered with.

Given that the Board has clearly indicated that the law provides Union representatives with rights that extend beyond what is contained in the current Article 12.03, and given that what the Union is proposing is virtually identical to what the Treasury Board has agreed to for other workers in its employ, and given the Union's statutory right to communicate with its membership, the Union therefore respectfully requests that its proposals be incorporated into the Commission's recommendation.

Lastly, the Employer has already expressed in writing its willingness to add the sentence, “Such *permission shall not be unreasonably withheld.*” as per a comprehensive offer presented on May 1st, 2019. However, for no apparent reason the Employer retracted from that expressed will in its PIC application.

PSAC PROPOSAL

ARTICLE 13 EMPLOYEE REPRESENTATIVES

13.04

- a. A representative shall ~~obtain~~ **be granted** the permission of his or her immediate supervisor before leaving his or her work to investigate employee complaints of an urgent nature, to meet with local management for the purpose of dealing with grievances and to attend meetings called by management. Such permission shall not be unreasonably withheld. Where practicable, the representative shall report back to his or her supervisor before resuming his or her normal duties.

RATIONALE

The Union's proposal for Article 13.04 is designed to address the Employer's interference in the statutory right of Union to properly represent its members under PSLREA. The language contained in the current Collective Agreement has in the past been interpreted and used by the Employer to deny, not to respond to, restrict or delay permission for time off requested by stewards to investigate complaints and to resolve problems in the workplace. This current language has been particularly problematic for stewards who represent members in multiple worksites, as many supervisors are either reluctant to or even refuse to grant leave for a steward to attend to meet with affected employees in workplaces other than their own.

The Union maintains that, to the extent that there exist practices within Treasury Board that purport to limit that right of representation, or the participation of employees in the Union's lawful activities, the Union is compelled to seek declaratory contract language. The law is clear that the Employer does not have the prerogative or the right to interfere with the representation of employees by an employee organization. Subsection 5 of the *Act* clearly sets out an employee's rights with respect to Union activities:

5 Every employee is free to join the employee organization of his or her choice and to participate in its lawful activities.

The prohibitions on management in this regard are clear under subsection 186(1) of the *Act* and reflect the right of a bargaining agent to fully represent employees without interference from management:

186. (1) *No employer, and, whether or not they are acting on the employer's behalf, no person who occupies a managerial or confidential position and no person who is an officer as defined in subsection 2(1) of the Royal Canadian Mounted Police Act or who occupies a position held by such an officer, shall*

- **(a)** participate in or interfere with the formation or administration of an employee organization or the representation of employees by an employee organization; or
- **(b)** discriminate against an employee organization.

The language, currently found in the parties' Collective Agreement, is inconsistent with protections afforded the Union under the law, and consequently the Union asks that it be modified. The Union's proposal not only reaffirms the important principle of participation in the lawful activities of their Union, it signals to all employees in the bargaining unit - in a meaningful and concrete way - that the Employer will respect that participation. Accordingly, the Union is proposing the modifications to ensure that all parties have a clear understanding as to legal protections afforded the Union with respect to communication and representation of its membership.

Employees at the House of Commons already benefit from provisions that do not require Union representatives to obtain permission to leave their work in order investigate employees' complaints or meeting with local management for the purpose of dealing with grievances. Rather than representatives seeking permission, the language awarded to PSAC by arbitral decision (PSAC vs. House of Commons, 2016 PSLRB 120) states that "*the Employer shall grant time off*" (Exhibit B5).

Article 18.07 of the parties' agreement recognizes that informal discussion geared towards the resolving of issues – without resorting to the formal grievance procedure – is both valuable and encouraged. It is commonly recognized that the purpose of any

grievance procedure is to not only provide recourse for employees, but also to provide a mechanism within which problems might be resolved via dialogue. Moreover, Article 1.02 speaks to a commitment on the part of both parties to establish an effective working relationship.

For Union representatives in the workplace to properly work towards successful resolution of problems either via informal discussion or via formal grievance procedure, time is required to meet with affected employees and managers. There have been occasions where employees in the bargaining unit have been forced to take other paid leave, or leave without pay, to undertake activities associated with Article 18.07 and preparation for grievance meetings. The Union submits that this is inconsistent with the commitments made by the parties in both Articles 1.02 and 18.07. Again, the Union is proposing contract language that would ensure that the Employer will not interfere with a Union representative's ability to carry out his or her duties in the workplace. Therefore, the Union respectfully requests that the Commission recommend this proposal.

PSAC PROPOSAL

ARTICLE 14 LEAVE WITH OR WITHOUT PAY FOR ALLIANCE BUSINESS

Leave without pay for election to an Alliance office

14.14 The Employer will grant leave without pay to an employee who is elected as a full-time official of the Alliance within one (1) month after notice is given to the Employer of such election. The duration of such leave shall be for the period the employee holds such office.

14.15 Leave without pay, recoverable by the Employer, shall be granted for any other union business validated by the Alliance with an event letter.

14.1416

~~Effective January 1, 2018, I~~ Leave **without pay** granted to an employee under **this** Article, **with the exception of article 14.14 above, 14.02, 14.09, 14.10, 14.12 and 14.13** will be with pay; the PSAC will reimburse the Employer for the salary and benefit costs of the employee during the period of approved leave with pay according to the terms established by the joint agreement.

RATIONALE

With the language proposed in Article 14.14, the Union is seeking the right of employees elected as a full-time officer of the Alliance to leave without pay for period in which they hold such office, and the right to return to their substantive position in the bargaining unit after leaving such office. This is a basic and important provision that ensures Union democracy as it removes financial and job security impediments for employees wishing to run for Union office. This is the same language that is found in the SV (14.14), TC (14.14) and FB (14.15) Collective Agreements for which Treasury Board is also the employer. Members of the PA group should be allowed the same opportunity to take leave without pay when they are elected to full-time office within the Union as other PSAC members in other bargaining units. The Union sees no reason to not include this language in the agreement. (Exhibit A29).

Concerning the new language proposed in Article 14.15, in the last round of bargaining between the parties, leave without pay for union business was amended such that union members would continue to receive pay from the Employer, and the PSAC would be invoiced by the Employer with the cost of the period of leave. The intent was to change the mechanism of payment and not the substance or scope of leave for the PSAC business.

However, since that change, some departments have been inappropriately denying union leave to employees in circumstances in which it was formerly allowed, due to a misinterpretation of the new language on the part of management. Denying members the ability to participate in the life of their Union for legitimate activities is straining labour relations and resulting in grievances based. Adding the language suggested by the Union will allow members to continue to take union leave validated by a letter and for which the PSAC will reimburse the Employer.

The proposed changes in Article 14.16 are simply to recognize that, with the exception of Article 14.14, there is one system for all forms of union leave, whereby the leave for employees is with pay and the PSAC will be invoiced by the Employer for the cost of the leave.

EMPLOYER PROPOSAL

14.44**15** Effective January 1, 2018, Leave granted to an employee under ~~articles-clauses~~ 14.02, **14.07, 14.08**, 14.09, 14.10, 14.12, 14.13 will be with pay **for a total of cumulative maximum period of three (3) months per fiscal year**; the PSAC will reimburse the Employer for the salary and benefit costs of the employee during the period of approved leave with pay according to the terms established by the joint agreement.

RATIONALE

The Union sees no need for the changes proposed by the Employer under Article 14. Throughout bargaining, the Employer has not provided a rationale for the change, nor has it presented any precedent set by other bargaining units.

There is currently an established cost recovery system for Alliance Business in the Memorandum of Understanding (MOU) signed on October 30, 2017. The MOU provides that leave granted to an employee under clauses 14.02, 14.09, 14.10, 14.12 and 14.13 of the Collective Agreement shall be leave with pay, with wages and benefits subsequently reimbursed to the Employer by the Union. (Exhibit B6) It outlines a procedure and timeline for repayment of gross salary and benefits to the Employer. This provision was agreed to only in the last round of bargaining, and no issues with respect to this reimbursement have been raised by the Employer since the agreement was reached.

Since there is a cost recovery process in place that has been agreed to by the parties, the leave taken by employees is cost-neutral. The Employer cannot therefore cite costs as a motivating factor in limiting the number of cumulative days for which an employee can take Union leave under this provision. Furthermore, given the well-publicized myriad problems with the Phoenix pay system, changes to the existing procedure, rather than simplifying pay administration, will introduce further complications that are likely to negatively impact the pay of members accessing these leave provisions. The current cost recovery model was in fact put into place during the last round of negotiations in order to prevent disruptions in pay which could occur with Phoenix. Moreover, the Employer identified reducing the pay administration burden as one of its key objectives in this round of bargaining. (Exhibit B7)

The Union sees no need to place an arbitrary cap on participation in Union activities by employees, nor does it see any need introduce changes to the Union leave provisions

that have been working well since the last round of bargaining. We therefore respectfully request that the PIC dismiss this demand.

EMPLOYER PROPOSAL

ARTICLE 17 DISCIPLINE

17.05 Any document or written statement related to disciplinary action which may have been placed on the personnel file of an employee shall be destroyed after two (2) years have elapsed since the disciplinary action was taken provided that no further disciplinary action has been recorded during this period. **This period will automatically be extended by the length of any single period of leave without pay in excess of six (6) months.**

RATIONALE

The Union is not in agreement with this proposal. The purpose of having a period of time during which a record of discipline is on file is to allow the employee the opportunity to correct the behavior that led to the discipline. If the employee has not incurred further discipline during that period, the record is removed, a recognition of the correction. Two years is a reasonable period of time for this. It allows the relationship between Employer and employee to be “reset” and does not penalize an employee with disciplinary records sitting in their file for unreasonable periods of time. What matters most is the passage of enough time to allow the employee to demonstrate correction and “clean the slate”.

The proposal to exclude periods of leave without pay (LWOP) greater than six months is also worrisome to the Union for other reasons.

Employees may take long periods of LWOP for many different reasons, most of them personal and some which may be beyond the employee’s complete control, such as:

- medical reasons;
- maternity and/or parental leave;
- long term care of family members; and
- education or career development leave.

Unpaid leaves such as these are often greater than six months, and employees taking such leaves would have records of discipline in their personnel files much longer than other employees. At the same time, employees who are absent from the workplace on extended leaves with pay (such as sick leave with pay) would not be treated in the same manner. Given that the reasons for taking some longer-term leaves without pay may be based on grounds that are protected against discrimination under the Canadian Human Rights Act (e.g. disabilities, sex, family status), there is great concern that such a provision as proposed by the Employer could in fact be discriminatory. The PSAC views this proposal as unduly harsh, unnecessary and contrary to human rights considerations. We therefore respectfully request that the Public Interest Commission not include this Employer proposal in its recommendations.

PSAC PROPOSAL

ARTICLE 20 SEXUAL HARASSMENT

Change title to: HARASSMENT AND ABUSE OF AUTHORITY

20.01 The Alliance and the Employer recognize the right of employees to work in an environment free from sexual harassment **and abuse of authority** and agree that sexual harassment **and abuse of authority** will not be tolerated in the workplace.

20.02 Definitions:

- a) **Harassment, violence or bullying includes any action, conduct or comment, including of a sexual nature, that can reasonably be expected to cause offence, humiliation, or other physical or psychological injury, or illness to an employee, including any prescribed action, conduct or comment.**
- b) **Abuse of authority occurs when an individual uses the power and authority inherent in his/her position to endanger an employee's job, undermines the employee's ability to perform that job, threatens the economic livelihood of that employee or in any way interferes with or influences the career of the employee. It may include intimidation, threats, blackmail or coercion.**

~~20.02~~ **20.03**

- (a) Any level in the grievance procedure shall be waived if a person hearing the grievance is the subject of the complaint.
- (b) If, by reason of paragraph (a), a level in the grievance procedure is waived, no other level shall be waived except by mutual agreement.

~~20.03~~ **20.04**

By mutual agreement, the parties may use a mediator in an attempt to settle a grievance dealing with sexual harassment. The selection of the mediator will be by mutual agreement **and such selection shall be made within thirty (30) calendar days of each party providing the other with a list of up to three (3) proposed mediators.**

20.04 20.05

Upon request by the complainant(s) and/or respondent(s), an official copy of the investigation report shall be provided to them by the Employer, subject to the *Access to Information Act* and *Privacy Act*.

20.06

- a) **No Employee against whom an allegation of discrimination or harassment has been made shall be subject to any disciplinary measure before the completion of any investigation into the matter, but may be subject to other interim measures where necessary.**
- b) **If at the conclusion of any investigation, an allegation of misconduct under this Article is found to be unwarranted, all records related to the allegation and investigation shall be removed from the employee's file.**

RATIONALE

The concept of harassment as solely a sexual issue has been outdated for many years. With the passage of Bill C-65, *An Act to amend the Canada Labour Code (harassment and violence) the Parliamentary Employment and Staff Relations Act and the Budget Implementation Bill 2017*, it is now time to update the language in the Collective Agreement to reflect the new legislation.

Bill C-65 has three main pillars. It requires the Employer to prevent incidents of harassment and violence; to respond effectively to those incidents when they do occur; and to support affected employees.

The amendments to Part II of the Canada Labour Code apply to all employers and workers in the federally regulated private sector as well as in the public service and Parliament.

The amended Act defines harassment and violence to mean “*any action, conduct or comment, including of a sexual nature, that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee, including any prescribed action, conduct or comment*” (amended section 122(1)).

It sets out specific duties of employers, including Treasury Board, requiring them to take prescribed measures to prevent and protect, not only against workplace violence but also against workplace harassment. Employers are now also required to respond to occurrences of workplace harassment and violence, and to offer support to affected employees (amended section 125(1) (z.16)).⁴².

In addition, the Employer must investigate, record and report, not only all accidents, occupational illnesses and other hazardous occurrences known to them, but now also occurrences of harassment and violence, in accordance with the regulations (amended section 125(1)(c)).

These duties also apply in relation to former employees, if the occurrence of workplace harassment and violence becomes known to the Employer within three months of the employee ceasing employment. This timeline, however, may be extended by the Minister in the prescribed circumstances (new sections 125(4) and 125(5)).

Employers are additionally required to ensure that all employees are trained in the prevention of workplace harassment and violence and to inform them of their rights and obligations in this regard (new section 125(1) (z.161)). Employers themselves must also undergo training in the prevention of workplace harassment and violence (new section 125(1) (z.162)).

Finally, the Employer must also ensure that the person designated to receive complaints related to workplace harassment and violence has the requisite knowledge, training and experience (new section 125(1) (z.163)).

The Collective Agreement is the guide to which employees turn to understand their rights in the workplace and their terms and conditions of work. It is also the guide that managers use to understand their responsibilities toward employees in the workplace. The Union submits that an obvious way to comply with the new requirement to inform employees of their rights and obligations with respect to harassment and violence is to plainly lay out

these obligations in the Collective Agreement so that they are clear, unequivocal, and accessible to everyone in the workplace. Moreover, the Union believes that to not amend Article 20 of the Collective Agreement to reflect these changes to the Canada Labour Code, which considerably broaden the definition of harassment beyond what currently exists in the Article, could result in confusion with respect to behaviours that are not acceptable in the workplace.

The Union therefore respectfully requests that the Commission add the proposed amendments to this Article to its recommendations.

PSAC PROPOSAL

ARTICLE 24 TECHNOLOGICAL CHANGE

24.01 The parties have agreed that, in cases where, as a result of technological change, the services of an employee are no longer required beyond a specified date because of lack of work or the discontinuance of a function, **the relocation of a work unit or work formerly performed by a work unit**, Exhibit D, Work Force Adjustment, will apply. In all other cases, the following clauses will apply.

24.02 In this article, “technological change” means:

a. the introduction by the Employer of equipment, or material, **systems or software** of a different nature than that previously utilized;
and

b. a change in the Employer’s operation directly related to the introduction of that equipment, or material, **systems or software**.

24.03 ~~Both parties recognize the overall advantages of technological change and will, therefore, encourage and promote technological change in the Employer’s operations.~~ Where technological change is to be implemented, the Employer will seek ways and means of minimizing adverse effects on employees which might result from such changes.

24.04 The Employer agrees to provide as much advance notice as is practicable but, except in cases of emergency, not less than one hundred and eighty (180) **three hundred and sixty (360)** days’ written notice to the Alliance of the introduction or implementation of technological change when it will result in significant changes in the employment status or working conditions of the employees.

24.05 The written notice provided for in clause 24.04 will provide the following information:

- a. the nature and degree of the technological change;
- b. the date or dates on which the Employer proposes to effect the technological change;
- c. the location or locations involved;
- d. the approximate number and type of employees likely to be affected by the technological change;

- e. the effect that the technological change is likely to have on the terms and conditions of employment of the employees affected.
- f. **the business case and all other documentation that demonstrates the need for the technological change and the complete formal and documented risk assessment that was undertaken as the change pertains to the employees directly impacted, all employees who may be impacted and to the citizens of Canada if applicable, and any mitigation options that have been considered.**

24.06 As soon as reasonably practicable after notice is given under clause 24.04, the Employer shall consult meaningfully with the Alliance, **at a mutually agree upon time**, concerning the rationale for the change and the topics referred to in clause 24.05 on each group of employees, including training.

24.07 When, as a result of technological change, the Employer determines that an employee requires new skills or knowledge in order to perform the duties of the employee's substantive position, the Employer will ~~make every reasonable effort to~~ provide the necessary training during the employee's working hours without loss of pay and at no cost to the employee.

RATIONALE

Meaningful and substantive consultation with the bargaining agent is essential in instances of technological change. Too often, discussion is offered by the Employer after all the decisions have been made, and when it is too late to effect meaningful change or mitigation measures. The Spring 2018 Independent Auditor's Report on Building and Implementing the Phoenix Pay System succinctly states: "The building and implementation of Phoenix was an incomprehensible failure of project management and oversight" (Exhibit B8). The Union's proposal, particularly Article 24.05 (f), requires that the Employer provide all business case-related documentation and risk assessment (and mitigation options) of how the change pertains to the employees directly impacted; all employees who may be impacted; and how the change pertains to the citizens of Canada, if applicable. Such information provided 360 days in advance of the introduction or implementation of such technological change (see proposed amendments to Article 24.04) could mitigate the impact on directly affected workers.

The Union’s proposed expansion and clarification of applicability of Exhibit D, Work Force Adjustment, relative to technological change, is predicated on the importance of the protection of workers relative to their place of work. Further definition of “technological change” in Article 24.02 aims to modernize the terms of the article. The terms “equipment and material” are reflective of a time when computers were replacing typewriters. For this article to be meaningful in the current information technology, artificial intelligence and automated machine learning and decision-making environment, the scope of the definition of “technological change” must be expanded. “Systems” and “software” more accurately reflect the kind of technological change that is likely to impact the job security of today’s workers. Notably, changes to the Phoenix pay system—and the workers impacted by that change—were largely related to software and systems, not equipment or material.

The Union proposal at Article 24.04 adjusts the written notice timeframe to better reflect the time it takes to plan for, implement and adapt the workplace environment, and adapt workers to the changed work environment. The current 180 days is insufficient to respond to significant changes in the employment status or working conditions of affected employees.

Additionally, the Union proposes to delete the first sentence of Article 23.04. This deletion was agreed to by Treasury Board in last round of bargaining with the FB group. (Exhibit B9).

Finally, the Union proposes additional disclosure in Article 24.05 (f) that would provide it with the business case for the technological change and all documented risk assessments. PSAC sought this kind of documentation early in the process which created the then new and ultimately disastrous Phoenix pay system, but the information was denied. When the business case was finally released publicly two years after Phoenix went live, it became clear that the business case failed to account for real risks to pay specialists or their clients, public service workers and members. None of the risks identified in the formative documents identified the overwork and stress that has been

experienced by pay specialists because of system failures and lack of capacity. The idea that employees might not get paid accurately, or get paid at all, was not contemplated. The Union is seeking to expand the language in Article 24.05 so that it may effectively and fulsomely advocate on behalf of its members and meet its legal duties. An open and honest disclosure of the plans and an opportunity for the Union to help assess risks and problems could have led to much different decisions that may have alleviated or even avoided the Phoenix pay disaster.

PSAC PROPOSAL

ARTICLE 30 DESIGNATED PAID HOLIDAYS

30.02 Subject to clause 30.03, the following days shall be designated paid holidays for employees:

- (a) New Year's Day;
- (b) Good Friday;
- (c) Easter Monday;
- (d) the day fixed by proclamation of the Governor in Council for celebration of the Sovereign's birthday;
- (e) National Indigenous Peoples Day**
- (f)** ~~(e)~~ Canada Day;
- (g)** ~~(f)~~ Labour Day;
- (h)** ~~(g)~~ the day fixed by proclamation of the Governor in Council as a general day of thanksgiving;
- (i)** ~~(h)~~ Remembrance Day;
- (j)** ~~(i)~~ Christmas Day;
- (k)** ~~(j)~~ Boxing Day;
- (l)** ~~(k)~~ **two (2)** ~~one~~ additional days in each year that, in the opinion of the Employer, **is are** recognized to be a provincial or civic holiday in the area in which the employee is employed or, in any area where, in the opinion of the Employer, no such additional day ~~is~~ **days are** recognized as a provincial or civic holiday, the **third Monday in February and the** first (1st) Monday in August;
- (m)** ~~(l)~~ one additional day when proclaimed by an Act of Parliament as a national holiday.

30.08

- (a) When an employee works on a holiday, he or she shall be paid **double (2) time** ~~and time and one-half (1 1/2)~~ for all hours worked ~~up to seven decimal five (7.5) hours and double (2) time thereafter~~, in addition to the pay that the employee would have been granted had he or she not worked on the holiday; or
- (b) upon request and with the approval of the Employer, the employee may be granted:
 - (i) a day of leave with pay (straight-time rate of pay) at a later date in lieu of the holiday;
and
 - (ii) pay at **double (two (2))** ~~one and one-half (1 1/2)~~ times the straight-time rate of pay for all hours worked ~~up to seven decimal five (7.5) hours~~;
and
 - (iii) ~~pay at two (2) times the straight-time rate of pay for all hours worked by him or her on the holiday in excess of seven decimal five (7.5) hours.~~

RATIONALE

The Union is proposing two modifications to the current Article 30:02 to (a) include two additional days as designated holidays: Family Day and National Indigenous Peoples Day; and (b) to increase the rate at which statutory holidays are paid. The Union's proposals are intended to bring designated paid holidays in line with what is found in other collective agreements; and, consistent with the Union proposal in the Article 28 – Overtime to simplify pay administration to a single rate of pay when an employee works on a designated paid holiday, and to contribute to a better work-life balance.

The rationale behind the Union's proposal for Family Day is that the vast majority of employees in the bargaining unit work in provinces where a designated paid Family Day holiday exists, but to which they are not currently entitled. Family Day, celebrated on the 3rd Monday of February, is a statutory holiday in five provinces: Alberta, British Columbia, New Brunswick, Ontario and Saskatchewan. The third Monday in February is also a designated paid holiday in three other provinces: Prince Edward Island (Islander Day), Manitoba (Louis Riel Day) and Nova Scotia (Heritage Day); and in one territory, Yukon (Heritage Day).

Family Day was created for employees to have a mid-winter long weekend to spend time with their families, contributing to a better work-life balance. The practical impact on members of the bargaining unit is that schools, daycare facilities and other services are not open that day, forcing employees to scramble to make other childcare arrangements, or requiring them to take another day of leave. The Union's proposal would not only ensure that employees in the bargaining unit have access to a holiday that is already provided to millions of other Canadian workers, but at the same time not require employees to take a day out of their annual leave on that same day due to their family responsibilities.

Additionally, the Union proposes to include an additional statutory holiday on June 21 of each year, National Indigenous Peoples Day. June 21 is culturally significant as the

summer solstice, and it is the day on which many Indigenous peoples and communities traditionally celebrate their heritage. Additionally, recognizing a National Indigenous Peoples Day would fulfill recommendation #80 of the Truth and Reconciliation Commission's Call to Action report:

80. We call upon the federal government, in collaboration with Aboriginal peoples, to establish, as a statutory holiday, a National Day for Truth and Reconciliation to honour Survivors, their families, and communities, and ensure that public commemoration of the history and legacy of residential schools remains a vital component of the reconciliation process. (Exhibit B10)

Based on this report, a private member's bill, C-369, was introduced and has already passed the first reading in the Senate. As recognized in the bill, the purpose of the Act is: *"to fulfill the Truth and Reconciliation Commission's Call to Action #80 by creating a federal holiday called the National Day for Truth and Reconciliation which seeks to honour Survivors, their families, and communities, and ensure that public commemoration of the history and legacy of residential schools, and other atrocities committed against First Nations, Inuit and Metis people, remains a vital component of the reconciliation process."* (Exhibit B11)

The Union considers the recognition of this day as a designated paid holiday in the Collective Agreement not only as an opportunity for the Employer to actively embrace the reconciliation process, but also to allow employees, institutions and communities to celebrate and honor the indigenous population and commemorate their shared history and culture.

Lastly, the Union proposes that all designated paid holidays be compensated at the rate of double time in order to have consistency with the Union's proposal on overtime pay. Working on a designated paid holiday is a disruption of an employee's work-life balance. Sunday, or an employee's second day of rest, is currently paid at double time; any additional holidays or days of rest worked are equally important to employees.

Currently, work on a statutory holiday is paid at 1.5 times an employee's base rate of pay up to 7.5 hours worked; and double time thereafter. The Union's proposal streamlines pay for work on a designated paid holiday to a single rate, consistent with the Employer's stated goal in this round of bargaining to simplify pay administration. (Exhibit B7)

In light of the aforementioned facts, the Union respectfully requests that these proposals be included in the Commission's recommendations.

EMPLOYER PROPOSAL

For greater certainty, employees who do not work on a Designated Paid Holiday are entitled to seven decimal five (7.5) hours pay at the straight-time rate.

RATIONALE

The Employer is proposing to clarify that employees who do not work on a Designated Paid Holiday are entitled to seven and a half (7.5) hours pay at the straight time rate. This clause already exists in the PA Collective Agreement in Article 25.27 e. i. under the sub-head *Specific application of this agreement*:

e. Designated paid holidays (clause 30.08)

- i. A designated paid holiday shall account for seven decimal five (7.5) hours.
- ii. When an employee works on a designated paid holiday, the employee shall be compensated, in addition to the pay for the hours specified in subparagraph (i), at time and one-half (1 1/2) up to his or her regular scheduled hours worked and at double (2) time for all hours worked in excess of his or her regular scheduled hours.

The Employer has provided no rationale at the bargaining table for adding the proposed "for greater certainty" language to Article 30.03 when it already exists in the Collective Agreement.

The Union therefore respectfully requests that the Employer's proposal not be considered in the Commission's recommendations.

PSAC PROPOSAL

ARTICLE 34 VACATION LEAVE

Accumulation of vacation leave credits

34.02 For each calendar month in which an employee has earned at least seventy-five (75) hours' pay, the employee shall earn vacation leave credits at the rate of:

- a) nine decimal three seven five (9.375) hours until the month in which the anniversary of the employee's ~~eighth (8th)~~ **fifth (5th)** year of service occurs;
- b) twelve decimal five (12.5) hours commencing with the month in which the employee's ~~eighth (8th)~~ **fifth (5th)** anniversary of service occurs;
- ~~c) thirteen decimal seven five (13.75) hours commencing with the month in which the employee's sixteenth (16th) anniversary of service occurs;~~
- ~~d) fourteen decimal four (14.4) hours commencing with the month in which the employee's seventeenth (17th) anniversary of service occurs;~~
- c)** fifteen decimal six two five (15.625) hours commencing with the month in which the employee's ~~eighteenth (18th)~~ **tenth (10)** anniversary of service occurs;
- ~~e) sixteen decimal eight seven five (16.875) hours commencing with the month in which the employee's twenty-seventh (27th) anniversary of service occurs;~~
- d)** eighteen decimal seven five (18.75) hours commencing with the month in which the employee's ~~twenty-eighth (28th)~~ **twenty-third (23th)** anniversary of service occurs.;

34.11 Carry-over and/or liquidation of vacation leave

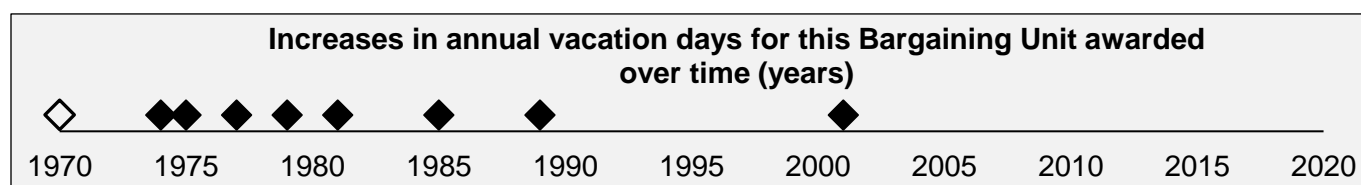
- a) Where, in any vacation year, an employee has not **used** ~~been granted~~ all of the vacation leave credited to him or her, the unused portion of his or her vacation leave up to a maximum of two hundred and sixty-two decimal five (262.5) hours credits shall be carried over into the following vacation year. All vacation leave credits in excess of two hundred and sixty-two decimal five (262.5) hours shall be automatically paid in cash at his or her rate of pay as calculated from the classification prescribed in his or her certificate of appointment of his or her substantive position on the last day of the vacation year.

RATIONALE

For Article 34, the Union proposes to

- i. increase annual leave entitlements and bring them in line with those that are currently afforded Civilian Members at the Royal Canadian Mounted Police (RCMP), which have been deemed into the public service; and to
- ii. amend language pertaining to vacation carry-over entitlements.

Updating annual vacation entitlements



Vacation entitlements for this bargaining unit have not been updated in 20 years and consequently fall behind those of many other bargaining units in the broader federal sector.

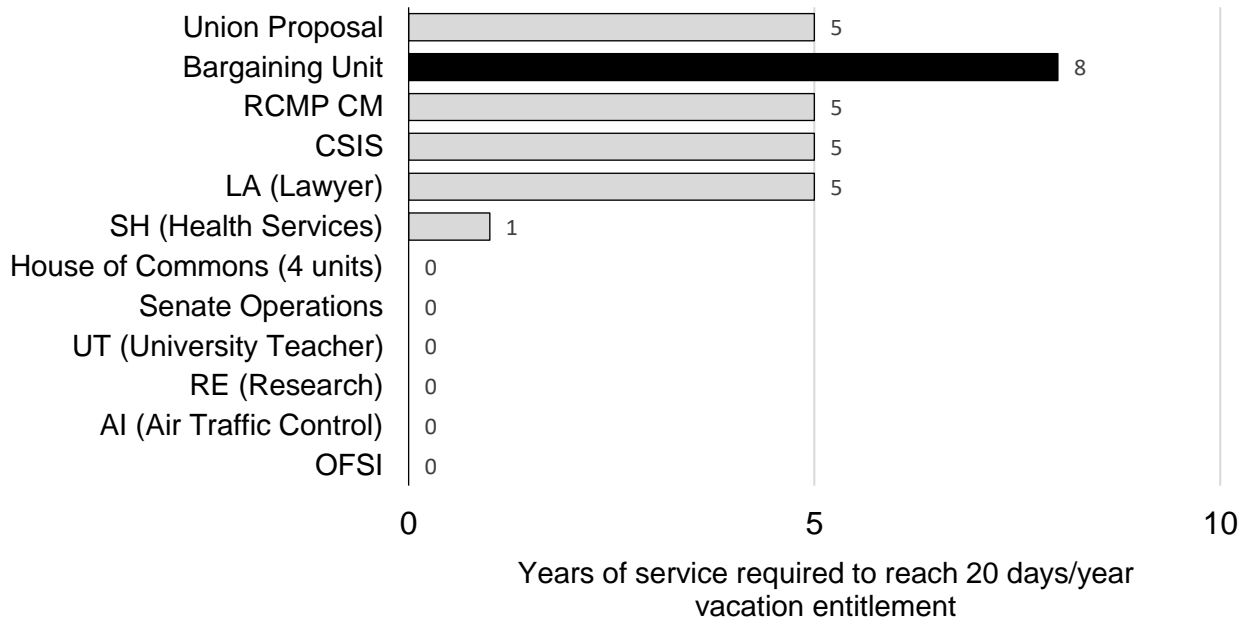
Over a 30-year career, Bargaining Unit members in the TB core public administration can expect 5 percent (CSIS) to 10 percent (RCMP Civilian Members) fewer vacation days compared to other groups in the federal public sector (see below).

	Percent difference in vacation days over 30 years (TB core units versus other)
RCMP CM	-10%
CSIS	-5%
LA (Lawyers)	-6%
SH (Health Services)	-7%
House of Commons (4 units)	-9%
Senate Operations	-9%
UT (University Teachers)	-6%
RE (Research)	-6%
AI (Air Traffic Control)	-8%

OFSI (Office of the Superintendent of Financial Institutions) -8%

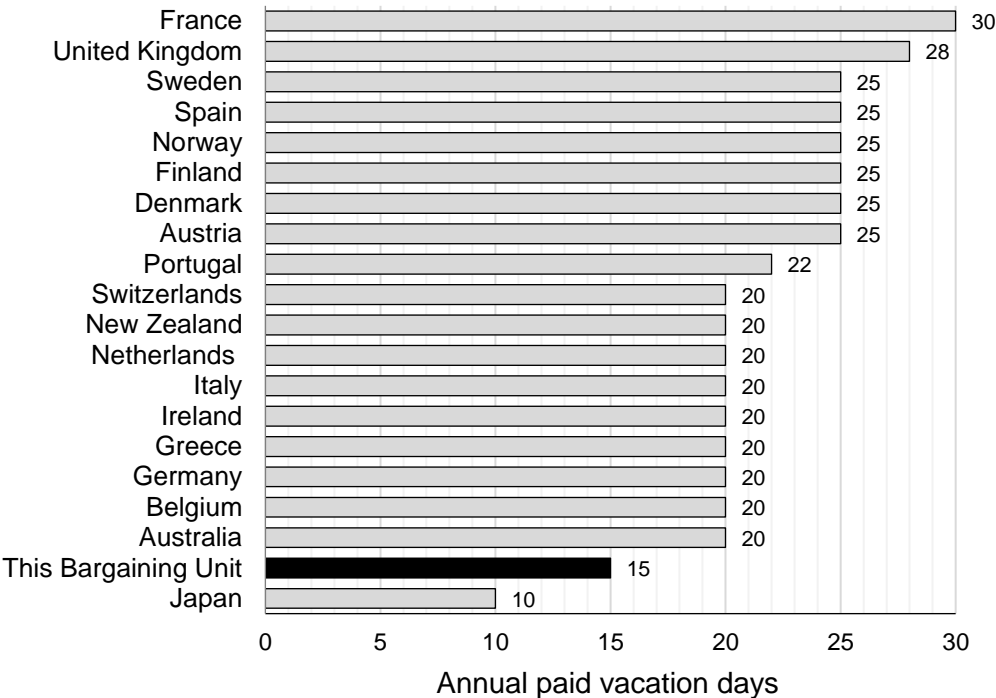
The Union’s proposal is to provide this bargaining unit the same vacation entitlements and accrual patterns already available to RCMP Civilian Members (CMs). Following the RCMP pattern, our bargaining unit members would be entitled to 20 days of annual paid vacation leave three years earlier: after five years of service, instead of eight. This is very reasonable and already found in other groups in the public sector as well as the Civilian Members of the RCMP. Many groups in the federal public service have a starting entitlement (in year 0) of 20 vacation days per year (please see graph below).

Other groups in the Public Service reach 20 days/year vacation entitlement sooner than this Bargaining Group



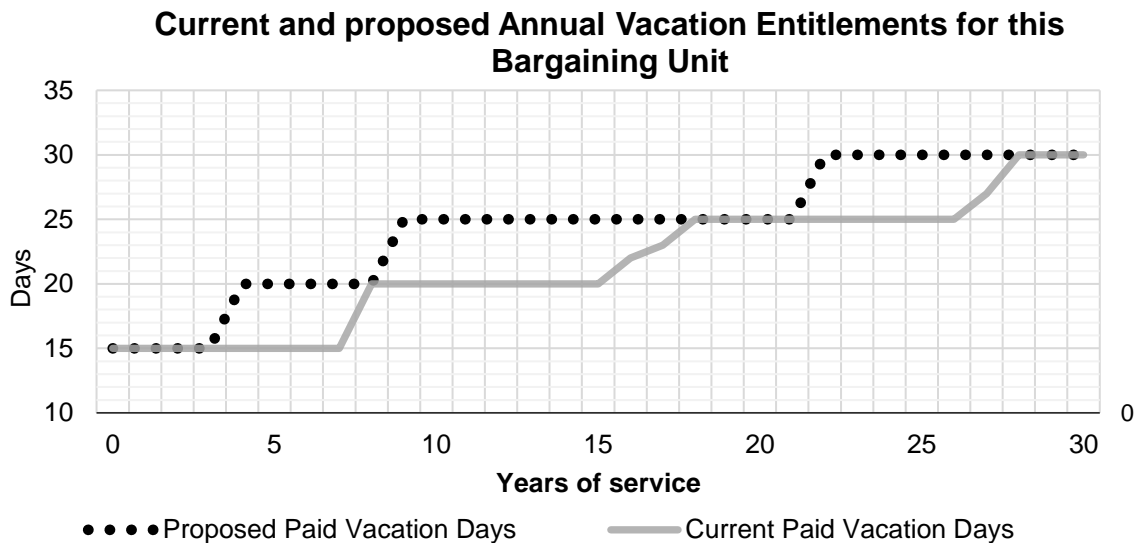
The Union’s proposal to increase vacation days to 20 per year is below that of countries in the European Union and the vast majority of OCED countries. The European Union has established a floor of at least 20 working days of paid vacation for all workers. Similarly, other OECD countries, except for Japan, have a starting rate of 20 vacation days per year or more⁶³ (please see graph below). Increasing vacation days to 20 per year after five years is therefore very reasonable.

**Mandated annual paid vacation days in OECD Nations
(in working days) 2019**



⁶³ *The United States remains devoid of paid vacation (and paid holidays) and were not included.* No-Vacation Nation, Revised; Center for Economic and Policy Research; Adewale Maye, May 2019 (accessed August 25, 2019) <http://cepr.net/images/stories/reports/no-vacation-nation-2019-05.pdf>

With this proposal, employees would also earn 25 vacation days sooner, after 10 years of service. Matching vacation entitlements to the RCMP Civilian Member (CM) pattern would also increase the total number of vacation days over 30 years. In the graph below, the solid grey line refers to the current pattern of this Bargaining Unit. The black dotted line pertains to the proposed changes, based on the RCMP CM pattern. RCMP CMs will join the federal public service and work side by side with current Bargaining Unit members. Current Bargaining Unit members should have the same vacation entitlements as the new employees joining from the RCMP.



Demographics in Canada's Federal Public Service have shifted over the last five years, where, prior to 2015 baby boomers (born between 1946 and 1966) made up the largest group core of federal public servants. As of 2018, more Generation Xers (born between 1967 and 1979) represent the largest proportion of public service workers (40.6%).⁶⁴Offering attractive benefits including more paid vacation days sooner, will help

⁶⁴ **Demographic Snapshot of Canada's Public Service 2018** (accessed August 25, 2019)
<https://www.canada.ca/en/treasury-board-secretariat/services/innovation/human-resources-statistics/demographic-snapshot-federal-public-service-2018.html>

Aperçu démographique de la fonction publique du Canada, 2018
<https://www.canada.ca/fr/secretariat-conseil-tresor/services/innovation/statistiques-ressources-humaines/apercu-demographique-fonction-publique-federale-2018.html>

to continue attracting and retaining talented Millennials and Generation Xers to the federal public service.

Vacations are a win-win for both employees and organizations alike. Recent research showed that 64 percent of people are refreshed and excited to return to their jobs following vacations. Employees cite *avoiding burnout* as their most important reason to take vacation days (Exhibit B12). Research supports this – stress is directly linked to health conditions ranging from headaches to cardiovascular diseases, cancer, and many types of infections as a result of an immune system weakened by stress. Taking vacations reduces the incidence of burnout (Exhibit B13). Research also shows that *productivity* improves when employees take time off and recharge. According to a 2013 Society for Human Resource Management (SHRM) study, employees who take more vacation time outperform those who do not⁶⁵. CEOs rate *creativity* as a key trait for employees, however, especially younger generations, face a dramatic “creativity crisis”. Taking a vacation leads to a change of pace and a 50 percent spike in creativity, which, again benefits both employees and employers.⁶⁶

Taking “time off” has a host of benefits for employers and employees. Bargaining Unit members have not received increases in vacation allotments in 20 years and current vacation entitlements are significantly below that of other groups in the public service and the RCMP. Considering these reasons, the Union respectfully asks the Commission to include this proposal in their recommendation.

Amendment of Article 34.12: carry-over language

The Union proposes to amend the wording in Article 34.12 to provide clarification to the interpretation of leave carry-over provision:

⁶⁵Vacation’s impact on the workplace <https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/Documents/SHRM-USTravel-Vacation-Benefits-Workplace-Impact.pptx>

⁶⁶Three Science-Based Reasons Vacations Boost Productivity <https://www.psychologytoday.com/ca/blog/feeling-it/201708/three-science-based-reasons-vacations-boost-productivity>

34.12 Carry-over and/or liquidation of vacation leave

Where, in any vacation year, an employee has not ~~used been granted~~ all of the vacation leave credited to him or her, the unused portion of his or her vacation leave up to a maximum of two hundred and sixty-two decimal five (262.5) hours credits shall be carried over into the following vacation year.

The language in this article specifies that members shall carry forward unused portions of vacation leave up to a maximum of 262.5 hours into the following year. Amending the wording clarifies that carried forward vacation credits pertains to the proportion of granted hours that was *not used*. Frequent misinterpretation has resulted in management denying the carry-over of any days, even if they fall within the acceptable limit of 262.5 hours, perhaps to limit excessive carry-over credits. Members have reported that in some departments, management only allows carry-over in instances when leave has been requested and denied.

Several unions raised concerns about management's interpretation of carry-over at the Union of National Defence Employees' National Union-Management Consultation Committee this past summer (Exhibit B14). Following the UMC consultation, the Employer advised management that, in the spirit and intent of the provisions, bargaining Unit members should be allowed to carry over their unused credits into the next year if they were unable to use them in the current year. Life happens and it is not acceptable to punish our members either by allowing management to assign vacation times or to force members to give up their unused vacation time altogether. This proposal will ensure that management in all departments allows bargaining unit members to carry forward the vacation days they are entitled to. Considering these factors, the Union respectfully requests that the Commission include its proposals for Article 34 in its recommendation.

EMPLOYER PROPOSAL

Entitlement to Vacation Leave with Pay

34.03 An employee is entitled to vacation leave with pay to the extent of the employee's earned credits but an employee who has completed six (6) months of continuous **service** employment may receive an advance of credits equivalent to the anticipated credits for the current vacation year.

The Employer has not demonstrated a need to change continuous *employment* to continuous *service* in the context of vacation leave entitlement within the first six months of employment. The Union rejects this concessionary proposal.

None of the Treasury Board collective agreements have similar language. This proposal would introduce new language and concessionary provisions to the federal public service collective agreements.

The purpose of the clause is not to limit vacation entitlements or make it more difficult to earn them. As it currently stands, the clause ensures that employees, after six months of employment, can access an advance of credits equivalent to the credits they will earn in the current vacation year.

The Employer wants to replace continuous employment with continuous service as it pertains to vacation entitlements. This would have negative consequences for our members. Continuous *service* is used to determine rates of pay and increment dates based on services rendered. It is "*an unbroken period of employment in the public service in the context of determining the rate of pay on appointment. Continuous service is broken when employment ceases between two periods of public service employment for at least one compensation day (Directive on Terms and Conditions).*"⁶⁷ Continuous *employment* is "*one or more periods of service in the public service, as defined in the Public Service Superannuation Act, with allowable breaks only as provided for in the terms and*

⁶⁷ Directive on Terms and Conditions of Employment http://publications.gc.ca/collections/collection_2017/sct-tbs/BT43-125-2017-eng.pdf
Directive sur les conditions d'emploi <https://www.tbs-sct.gc.ca/pol/doc-fra.aspx?id=15772>

conditions of employment applicable to the person." (Directive on Terms and Conditions)."
In the current collective agreement, *Accumulation of vacation leave credits* includes continuous and discontinuous service, therefore breaks in service would be allowed.

PA 34.03

a. i. For the purpose of clause 34.02 only, all service within the public service, whether continuous or discontinuous, shall count toward vacation leave.

In other words, if an employee has any break in *service* within the first six months of employment, they would not earn vacation entitlements during that break. If the six months are based on continuous service, in effect, employees would be punished for breaks in employment that may be entirely out of their control. The Employer's proposal would result in different working conditions for members of the same bargaining unit, in similar positions, doing the same work. This is not fair or reasonable and not in the spirit of the clause.

It is for these reasons that the Union respectfully asks the Board not to include this proposal by the Employer in its recommendations.

PSAC PROPOSAL

ARTICLE 35 SICK LEAVE WITH PAY

Medical Certificate

35.XX In all cases, a medical certificate provided by a legally qualified medical practitioner shall be considered as meeting the requirements of paragraph 35.02(a).

35.XX When an employee is asked to provide a medical certificate by the Employer, the employee shall be reimbursed by the Employer for all costs associated with obtaining the certificate. Employees required to provide a medical certificate shall also be granted leave with pay for all time associated with the obtaining of said certificate.

RATIONALE

The Union is proposing that a medical certificate provided by a legally qualified medical practitioner shall be considered as meeting the requirements of paragraph 35.02(a). Recognizing that health practitioners and professionals are regulated, legislated and defined differently in every province, any attempt to define “health practitioner” must not be structured in a way that puts undue hardship on workers. Not all workers have access to the same range of health practitioners, and not all situations require the same care, diagnosis or treatment. If a qualified medical practitioner provides a note that is appropriate and reasonable to the worker’s situation the leave or accommodation should not be denied.

Treasury Board has agreed to language that would protect against Employer abuses in this regard. As part of the new Employee Wellness Support Program (EWSP) currently being negotiated, between a number of federal public sector unions (PIPSC, IBEW, ACFO, CAPE) and Treasury Board, both sides have agreed on a common definition for a medical practitioner. This new definition reads as follows:

A physician, psychiatrist, dentist, or a nurse practitioner, in accordance with provincial or territorial laws and regulations, who is qualified to diagnose an illness or injury, and

determine and/or provide medically necessary procedures or treatment to an employee for an illness or injury, and who is currently registered with a college or governing body to practice in their field.

The language contained in Article 35 of the parties' current collective agreement provides the Employer with excessive and unnecessary flexibility. As a result of the language in the current 35.02 (a), certain managers have taken the position that a medical certificate from a legally qualified medical practitioner is insufficient proof of employee illness, and that instead employees must visit an occupational health professional from Health Canada to get a second opinion.

Furthermore, the Union is proposing that employees shall be reimbursed for the cost of any medical certificate required by the Employer. When the Collective Agreement was first negotiated, employees were seldom if ever charged for doctors' notes verifying illness. Times have changed, however, and the cost of obtaining a medical report or certificate varies widely and can be significant. While doctors' notes can be important when there is a major medical condition requiring workplace accommodation, a significant number of notes are written to excuse absences for minor illnesses. This is widely acknowledged to be an employee management strategy, a way to reduce absenteeism by forcing the worker to "prove" his or her illness. However, those who cannot afford a medical note may then attempt to work while ill or unfit to work, risking their own and others' health and safety. This is a growing issue that needs to be addressed.

Similar language is contained in the three PSAC collective agreements with the House of Commons, stemming from a 2010 FPSLRB arbitral award (485-HC-45). Similar language was also awarded by the Board in interest arbitration for PSAC members at the Senate of Canada (FPSLRB 485-SC-51) and PSAC members at the Library of Canada in 2017 (Exhibit B15). Furthermore, after having presented its case to a Public Interest Commission with CFIA in 2013, the PIC agreed with the Union that the employers should reimburse employees for any medical certificate required by the Employer with the following rationale:

Given that it is at the employer's discretion to request a medical certificate, the PIC recommends that the collective agreement be amended to provide for reimbursement for any medical certificate required by the employer to a maximum of \$35. (Exhibit B16)

Hence the Union is simply proposing that the standards that currently exist for other federal workers and that have been deemed reasonable by arbitrators be put in place for workers in the core public administration. Thus, the Union respectfully requests that its proposals be included in the Board's award.

PSAC PROPOSAL

ARTICLE 40 PARENTAL LEAVE WITHOUT PAY

40.01 Parental leave without pay

- a. Where an employee has or will have the actual care and custody of a new-born child (including the new-born child of a common-law partner), the employee shall, upon request, be granted parental leave without pay for **either**:
- i. a single period of up to thirty-seven (37) consecutive weeks in the fifty-two (52) week period (**standard period**),
or
 - ii. **a single period of up to sixty-three (63) consecutive weeks in the seventy-eight (78) week period (extended period, in relation to the Employment Insurance parental benefits),**
beginning on the day on which the child is born or the day on which the child comes into the employee's care.
- b. **Notwithstanding 40.01(a)(i) or (ii) where an employee has or will have the actual care and custody of a new-born child (including the new-born child of a common-law partner), the employee shall, upon request, be granted shared parental leave without pay or paternity leave without pay for either:**
- i. **a single period of up to five (5) consecutive weeks in the fifty-seven (57) week period (standard period),**
or
 - ii. **a single period of up to eight (8) consecutive weeks in the eighty-six (86) week period (extended period, in relation to the Employment Insurance parental benefits),**
beginning on the day on which the child is born or the day on which the child comes into the employee's care.
- c. Where an employee commences legal proceedings under the laws of a province to adopt a child or obtains an order under the laws of a province for the adoption of a child, the employee shall, upon request, be granted parental leave without pay for **either**:
- i. a single period of up to thirty- seven (37) consecutive weeks in the fifty-two (52) week period (**standard period**),
or
 - ii. **a single period of up to sixty-three (63) consecutive weeks in the seventy-eight (78) week period (extended period, in relation to the Employment Insurance parental benefits),**

beginning on the day on which the child comes into the employee's care.

- d. Notwithstanding 40.01(c)(i) or (ii) Where an employee commences legal proceedings under the laws of a province to adopt a child or obtains an order under the laws of a province for the adoption of a child, the employee shall, upon request, be granted shared parental leave without pay for either:**
- i. a single period of up to five (5) consecutive weeks in the fifty-seven (57) week period (standard period),**
or
 - ii. a single period of up to eight (8) consecutive weeks in the eighty-six (86) week period (extended period, in relation to the Employment Insurance parental benefits),**
- e. Notwithstanding paragraphs (a) and (bc) above, at the request of an employee and at the discretion of the Employer, the leave referred to in the paragraphs (a) and (bc) above may be taken in two periods.
- f. Notwithstanding paragraphs (a), **(b)**, **(c)** and **(bd)**:
- i. where the employee's child is hospitalized within the period defined in the above paragraphs, and the employee has not yet proceeded on parental leave without pay,
 - or
 - ii. where the employee has proceeded on parental leave without pay and then returns to work for all or part of the period while his or her child is hospitalized,
- the period of parental leave without pay specified in the original leave request may be extended by a period equal to that portion of the period of the child's hospitalization while the employee was not on parental leave. However, the extension shall end not later than one hundred and four (104) weeks after the day on which the child comes into the employee's care.
- g. An employee who intends to request parental leave without pay shall notify the Employer at least four (4) weeks before the commencement date of such leave.
- h. The Employer may:
- i. defer the commencement of parental leave without pay at the request of the employee;
 - ii. grant the employee parental leave without pay with less than four (4) weeks' notice;
 - iii. require an employee to submit a birth certificate or proof of adoption of the child.

- i. Leave granted under this clause shall count for the calculation of “continuous employment” for the purpose of calculating severance pay and “service” for the purpose of calculating vacation leave. Time spent on such leave shall count for pay increment purposes.

40.02 Parental Allowance

The parental allowance is payable under two options either 1) over a standard period in relation to the Employment Insurance parental benefits or Quebec Parental Insurance Plan or 2) over an extended period, in relation to the Employment Insurance parental benefits.

Once an employee opts for standard or extended parental leave, the decision is irrevocable. Once the standard or extended parental leave weekly top up allowance is set, it shall not be changed should the employee opt to return to work at an earlier date than that originally scheduled.

- a. An employee who has been granted parental leave without pay, shall be paid a parental allowance in accordance with the terms of the Supplemental Unemployment Benefit (SUB) Plan described in paragraphs (c) to (ij), **or (m) to (t)** providing he or she:
 - i. has completed six (6) months of continuous employment before the commencement of parental leave without pay,
 - ii. provides the Employer with proof that he or she has applied for and is in receipt of parental, **shared parental**, paternity or adoption benefits under the Employment Insurance or the Québec Parental Insurance Plan in respect of insurable employment with the Employer, and
 - iii. has signed an agreement with the Employer stating that:
 - A. the employee will return to work on the expiry date of his or her parental leave without pay, unless the return to work date is modified by the approval of another form of leave;
 - B. Following his or her return to work, as described in section (A), the employee will work for a period equal to the period the employee was in receipt of the parental allowance, in addition to the period of time referred to in section 38.02(a)(iii)(B), if applicable;
 - C. should he or she fail to return to work for the Employer, Parks Canada, the Canada Revenue Agency or the Canadian Food Inspection Agency in accordance with section (A) or should he or she return to work but fail to work the total period specified in section (B), for reasons other than death, lay-off, early termination due to lack of work or discontinuance of a function of a specified period of employment that would have been sufficient to meet the obligations specified in section (B), or having become disabled as defined in the

Public Service Superannuation Act, he or she will be indebted to the Employer for an amount determined as follows:

$$\text{(allowance received)} \quad \times \quad \frac{\text{(remaining period to be worked following his or her return to work)}}{\text{[total period to be worked as specified in (B)]}}$$

however, an employee whose specified period of employment expired and who is rehired in any portion of the core public administration as specified in the ~~Public Service Labour Relations Act~~ **Federal Public Sector Labour Relations Act** or Parks Canada, the Canada Revenue Agency or the Canadian Food Inspection Agency within a period of ninety (90) days or less is not indebted for the amount if his or her new period of employment is sufficient to meet the obligations specified in section (B).

- b. For the purpose of sections (a)(iii)(B), and (C), periods of leave with pay shall count as time worked. Periods of leave without pay during the employee's return to work will not be counted as time worked but shall interrupt the period referred to in section (a)(iii)(B), without activating the recovery provisions described in section (a)(iii)(C).

(Option 1)

Standard Parental Allowance:

- c. Parental Allowance payments made in accordance with the SUB Plan will consist of the following:
 - i. where an employee **on parental leave without pay as described in 40.01(a)(i) and (b)(i), has chosen to receive Standard Employment Insurance parental benefits and** is subject to a waiting period before receiving Employment Insurance parental benefits, ninety-three percent (93%) of his or her weekly rate of pay for ~~each week of~~ the waiting period, less any other monies earned during this period;
 - ii. for each week the employee receives parental, ~~or adoption or paternity benefits~~ under the Employment Insurance or the Québec Parental Insurance Plan, he or she is eligible to receive the difference between ninety-three percent (93%) of his or her weekly rate and the parental, ~~or adoption or paternity benefits~~, less any other monies earned during this period which may result in a decrease in his or her parental, adoption ~~or paternity benefit~~ to which he or she would have been eligible if no extra monies had been earned during this period;
 - iii. where an employee has received the full eighteen (18) weeks of maternity benefit and the full thirty-two (32) weeks of parental benefit under the Québec Parental Insurance Plan and thereafter remains on parental leave

without pay, she is eligible to receive a further parental allowance for a period of two (2) weeks, ninety-three percent (93%) of her weekly rate of pay for each week, less any other monies earned during this period;

- iv. where an employee has received the full thirty-five (35) weeks of parental benefit under the Employment Insurance and thereafter remains on parental leave without pay, he or she is eligible to receive a further parental allowance for a period of one (1) week, ninety-three percent (93%) of his or her weekly rate of pay for each week, less any other monies earned during this period, unless said employee has already received the one (1) week of allowance contained in 38.02(c)(iii) for the same child.

d. Standard Shared Parental Benefit payments or Standard Paternity Benefits made in accordance with the SUB Plan will consist of the following:

- i. **for each week the employee receives shared parental benefits under the Employment Insurance or paternity benefits under the Québec Parental Insurance Plan, he or she is eligible to receive the difference between ninety-three percent (93%) of his or her weekly rate and the shared parental benefits or paternity benefits, less any other monies earned during this period which may result in a decrease in his or her shared parental benefits or paternity benefits to which he or she would have been eligible if no extra monies had been earned during this period;**
- e. At the employee's request, the payment referred to in subparagraph 40.02(c)(i) will be estimated and advanced to the employee. Adjustments will be made once the employee provides proof of receipt of Employment Insurance ~~or Québec Parental Insurance Plan~~ parental benefits.
 - f. The parental allowance to which an employee is entitled is limited to that provided in paragraphs (c) **and (d)** and an employee will not be reimbursed for any amount that he or she is required to repay pursuant to the Employment Insurance Act or the Parental Insurance Act in Quebec.
 - g. The weekly rate of pay referred to in paragraphs (c) **and (d)** shall be:
 - i. for a full-time employee, the employee's weekly rate of pay on the day immediately preceding the commencement of parental **or shared parental** or paternity leave without pay;
 - ii. for an employee who has been employed on a part-time or on a combined full-time and part-time basis during the six (6) month period preceding the commencement of parental **or shared parental or paternity** leave without pay, the rate obtained by multiplying the weekly rate of pay in subparagraph (i) by the fraction obtained by dividing the employee's straight time earnings by the straight time earnings the employee would have earned working full-time during such period.

- h. The weekly rate of pay referred to in paragraph ~~(f)~~ **(g)** shall be the rate to which the employee is entitled for the substantive level to which he or she is appointed.
- i. Notwithstanding paragraph ~~(g)~~ **(h)**, and subject to subparagraph ~~(fg)~~ **(ii)**, if on the day immediately preceding the commencement of parental **or shared parental or paternity** leave without pay an employee is performing an acting assignment for at least four (4) months, the weekly rate shall be the rate the employee was being paid on that day.
- j. Where an employee becomes eligible for a pay increment or pay revision that would increase the parental **shared parental or paternity** allowance while in receipt of parental **shared parental or paternity** allowance, the allowance shall be adjusted accordingly.
- k. Parental, **shared parental or paternity** allowance payments made under the SUB Plan will neither reduce nor increase an employee's deferred remuneration or severance pay.
- l. **Under option 1**, the maximum combined shared, maternity, and parental, **shared parental and paternity** allowances payable under this collective agreement shall not exceed fifty-seven ~~two (52)~~ **(57)** weeks for each combined maternity, and parental, **shared parental and paternity** leave without pay.

(New)

(Option 2)

Extended Parental Allowance:

- m. Parental Allowance payments made in accordance with the SUB Plan will consist of the following:
 - i. where an employee on parental leave without pay as described in 40.01(a)(ii) and (b)(ii), has chosen to receive Extended Employment Insurance parental benefits and is subject to a waiting period before receiving Employment Insurance parental benefits, ninety-three percent (93%) of his or her weekly rate of pay for the waiting period, less any other monies earned during this period;
 - ii. for each week the employee receives parental or adoption benefits under the Employment Insurance, he or she is eligible to receive the difference between ninety-three percent (93%) of his or her weekly rate and the parental, adoption benefit, less any other monies earned during this period which may result in a decrease in his or her parental, adoption benefit to which he or she would have been eligible if no extra monies had been earned during this period;

- n. Extended Shared Parental Benefit payments made in accordance with the SUB Plan will consist of the following:**
 - i. for each week the employee receives shared parental benefits under the Employment Insurance Plan, he or she is eligible to receive the difference between ninety-three percent (93%) of his or her weekly rate and the shared parental benefits, less any other monies earned during this period which may result in a decrease in his or her shared parental benefits to which he or she would have been eligible if no extra monies had been earned during this period;**
 - o. At the employee's request, the payment referred to in subparagraph 40.02(m)(i) and 40.02 (n)(i) will be estimated and advanced to the employee. Adjustments will be made once the employee provides proof of receipt of Employment Insurance.**
 - p. The parental allowance to which an employee is entitled is limited to that provided in paragraph (m) and (n) and an employee will not be reimbursed for any amount that he or she is required to repay pursuant to the Employment Insurance Act.**
 - q. The weekly rate of pay referred to in paragraphs (m) and (n) shall be:**
 - i. for a full-time employee, the employee's weekly rate of pay on the day immediately preceding the commencement of parental or shared parental leave without pay;**
 - ii. for an employee who has been employed on a part-time or on a combined full-time and part-time basis during the six (6) month period preceding the commencement of parental or shared parental leave without pay, the rate obtained by multiplying the weekly rate of pay in subparagraph (i) by the fraction obtained by dividing the employee's straight time earnings by the straight time earnings the employee would have earned working full-time during such period.**
 - r. The weekly rate of pay referred to in paragraphs (m) and (n) shall be the rate to which the employee is entitled for the substantive level to which he or she is appointed.**
 - s. Notwithstanding paragraph (r), and subject to subparagraph (q)(ii), if on the day immediately preceding the commencement of parental or shared parental leave without pay an employee is performing an acting assignment for at least four (4) months, the weekly rate shall be the rate the employee was being paid on that day.**

- t. **Where an employee becomes eligible for a pay increment or pay revision while in receipt of the parental or shared parental allowance, the parental or shared parental allowance shall be adjusted accordingly.**
- u. **Parental or shared parental allowance payments made under the SUB Plan will neither reduce nor increase an employee's deferred remuneration or severance pay.**

Under option 2, the maximum combined, maternity, parental and shared parental allowances payable under this collective agreement shall not exceed eighty-six (86) weeks for each combined maternity, parental and shared parental leave without pay.

RATIONALE

The new language mostly reflects changes to the EI parental benefits brought in the 2017 and 2018 federal budgets. With respect to Article 40.01 the Union has mostly deferred to the Employer's proposed language and we believe the parties are in agreement. The disagreement between the parties mostly pertains to the Union's proposal that the ninety-three percent (93%) supplementary parental allowance shall apply for the entirety of the new extended parental leave without pay. To better understand the Union rationale for the suggested changes in Article 40.02, some additional context is useful. The 2017 and 2018 improvements to EI parental benefits affected the supplementary allowances included in the Collective Agreement. Under the new EI rules there are additional options for the parental leave:

- parents can choose to receive EI benefits over the current 35 weeks at the existing 55 percent of their insurable earnings or;
- parents can opt to receive EI benefits over a 61-week period at 33 percent of their insurable earnings.

In addition, parents are eligible to receive extra weeks of parental benefits when the leave is shared.

Parents need to select their option for EI parental benefits (standard or extended) at the time of applying for EI benefits. Under the current Collective Agreement, the maximum shared maternity and parental allowances payable is 52 weeks, which includes 35 weeks of parental allowance. However, the parental leave top-up provision continues to apply, and if employees elect to receive the lower replacement benefits over a 63-week period, they remain entitled to the difference between EI parental benefits and 93 percent of their weekly rate of pay for the first 35 weeks. (Exhibit B17) Moreover, under the current language, when an employee is on extended leave, the parental top-up allowance ceases at the end of the 35 weeks but employees are still entitled to receive 33 percent EI parental benefits for the remainder of the extended parental leave without pay period.

During bargaining, the Employer tabled new language including a supplementary parental allowance that would allow for a top-up equal to 55.8 percent of the employee's rate of pay for the duration of the extended parental leave (Exhibit 1 - History of Negotiations). The Union rejected the Employer proposal for two specific reasons.

First, most parents cannot afford to live with only 55.8 percent of their income. This would be even more difficult for families where income comes from precarious work, as well as for single parents and single-earner families. Under the Employer proposal, only families where at least one parent earning a high income might be able to take advantage of the extended parental leave options. Otherwise, without access to a proper supplementary allowance, most members of this bargaining unit would be facing a false option where they are expected to choose between the standard period or an extended period that is simply unaffordable. In summary, the payment of parental benefits over a longer period at a lower benefit rate disincentivizes use and is less likely to be found as a viable option to low-income or single-parent families.

Second, the Union is looking to negotiate improvements for our members, not concessions. As it currently stands, the Employer proposal would result in a net loss of salary for our members on extended parental leave. The Employer calculations are supposedly based upon a cost-neutral approach where the 93 percent over 35 weeks is

converted in 55.8 percent over 61 weeks. However, our members are currently entitled to 33 percent for the remaining 26 weeks of leave in addition to 93 percent for the first 35 weeks. Ultimately, the Employer proposal would be to the detriment of our membership when simply comparing it to status quo as demonstrated by the calculations below.

**PARENTAL ALLOWANCE UNDER THE CURRENT COLLECTIVE AGREEMENT
FOR AN EMPLOYEE CLASSIFIED AS A CR-04.**

	Weekly Rate of Pay (maximum)	Weekly Rate of Pay (93%)	Weekly EI Benefit (33%)	Weekly ER SUB Cost	EE Weekly Total Remuneration
First 35 weeks	\$987.39	\$918.27	\$325.84	\$592.43	\$918.27
Next 26 weeks	\$987.39		\$325.84		\$325.84

	Salary	Weeks	EI Overall Payments to EE	ER Overall SUB Cost	EE Total Remuneration
First 35 weeks	93%	35	\$11,404.40	\$20,735.14	\$32,139.54
Next 26 weeks	33%	26	\$8,471.84	\$0.00	\$8,471.84
Total		61	\$19,876.24	\$20,735.14	\$40,611.38

61 weeks of full pay for an employee classified as a CR-04 would equal \$60,230.79, therefore, as illustrated by the table above, the existing arrangement is worth 67.4 percent of a CR-04's salary over the same period. A supplementary allowance below 67.4 percent would result in cost saving for the Employer but conversely in a significant monetary concession for our members. If the Union were to agree to the Employer proposal of a 55.8 percent allowance, by using the above example, an employee classified as a CR-04 would see overall compensation reduced by \$7000 over a 61-week period.

**EXTENDED PARENTAL ALLOWANCE UNDER THE EMPLOYER PROPOSAL FOR
AN EMPLOYEE CLASSIFIED AS A CR-04.**

	Weekly Rate of Pay (maximum)	Weekly EI Benefit (33%)	ER SUB	Weekly ER SUB Cost	EE Weekly Total Remuneration
61 weeks	\$987.39	\$325.84	22.8%	\$225.12	\$550.96

	Salary	Weeks	ER Overall SUB Cost	EE Overall Remuneration	EE Overall Remuneration Loss
61 weeks	55.8%	61	\$13,732.62	\$33,608.86	-\$7,002.52

Contrary to the Employer proposal, the PSAC is looking to negotiate improvements to the parental leave provision for our members. During bargaining, the Employer response was that the Treasury Board is inclined to mirror the changes in the legislation but is not willing to set a new precedent. However, the changes implemented by the government fell short and did not increase the actual value of employment insurance benefits for employees who take the extended parental leave. Instead, the government is spreading 12 months' worth of benefits over 18 months. Nevertheless, the federal public service is in a unique position to bring about positive changes. With close to 288,000 employees in 2019,⁶⁸ the Federal Government is by far the biggest employer in the country and as such, its ramifications on the Canadian economy, the middle class and the evolution of labour standards and social benefits cannot be denied.

A recent study of the federal public service's influence on the Canadian economy found that federal public service jobs have a meaningful impact on our society. One of the key conclusions of the study was on the contribution of the federal public service to eliminating gender inequality and helping close the employment gap between men and

⁶⁸ Population of the Federal Public Service, Statistics Canada, <https://www.canada.ca/en/treasury-board-secretariat/services/innovation/human-resources-statistics/population-federal-public-service.html>

women.⁶⁹ In a statement, former Status of Women Minister Maryam Monsef highlighted the main objectives of the changes to the EI parental benefits: “*Encouraging all parents to be engaged in full-time caregiving for their infants will help to create greater financial security for women and stronger bonds between parents and their babies.*”⁷⁰ Then again, there is still room for improvement as, in comparison to other OECD countries, Canada’s paid parental leave places us in the middle in terms of paid time parents have away from work.⁷¹

The extended leave at 55.8 percent of income for parents is also not an adequate substitute for a high quality, accessible child care system. In its 2016 reform proposal on maternity and parental EI benefits, the Child Care Association of Canada (CCAC) explained that the extended parental leave coverage would be attractive for parents because affordable child care for children under 18 months is very limited. The Canadian Centre for Policy Alternatives’ (CCPA) 2014 study of Child Care fees in Canada’s large cities also echoed a similar conclusion. Their findings report that “*infant spaces (under 1.5 years) are the hardest to find and the most expensive. The number licensed spaces for infants is the lowest of the three age categories.*”.

Most parents who choose an extended leave do so because they cannot find openings nor afford to put their infant in child care if they were to return to work after 12 months. CCPA’s report finds that “the high cost of providing infant care means that many centres are unable to sustain it while many families cannot afford full-infant fees” and that parents working in large cities such as Toronto are faced with a median full-day infant child care fees of \$1,676 a month.

⁶⁹ The Public Services: an important driver of Canada’s Economy, Institut de Recherche d’Informations Socioéconomiques (IRIS), September 2019,

https://cdn.irisrecherche.qc.ca/uploads/publication/file/Public_Service_WEB.pdf

⁷⁰ ‘Use-it-or-lose-it’ extended parental leave coming in 2019, CTV News, September 26, 2018

<https://www.ctvnews.ca/canada/use-it-or-lose-it-extended-parental-leave-coming-in-2019-1.4110069>

⁷¹ Length of maternity leave, parental leave, and paid father-specific leave, OECD, <https://stats.oecd.org/index.aspx?queryid=54760>

Once again, our objective is to extend the current 12 months of maternity and parental leave top up to the full 18-month period. A 93 percent income replacement rate of combined EI benefits and top-up payments is assumed to equal the usual full salary, due to tax and other advantages. Employers are meant to gain from this program since employees are enticed to return to the same employer, which helps retain experienced employees and reduce retraining or new hiring. Indeed, the Union would submit that our proposal for a supplementary allowance is not only beneficial to our members but would also help the Employer with the retention of employees. Statistics Canada's study of employer "top-ups" concluded that, in the case of maternity and parental leaves, "*almost all women with top-ups return to work and to the same employer.*"⁷²The Union submits that parental leave income replacement should be seen as a competitive factor which helps them attract and retain employees.

For all the reasons above, the Union respectfully requests that the Commission include the Union's proposals for Article 40 in its recommendations.

⁷² Statistics Canada, Employer top-ups, by Katherine Marshall, <https://www150.statcan.gc.ca/n1/pub/75-001-x/2010102/article/11120-eng.htm#a2>
Statistiques Canada, Prestations complémentaires versées par l'employeur, par Katherine Marshall, https://www150.statcan.gc.ca/t1/tb11/fr/tv.action?pid=1110002801&request_locale=

PSAC PROPOSAL

ARTICLE 42 COMPASSIONATE CARE AND CAREGIVING LEAVE

42.01 ~~Notwithstanding the definition of “family” found in clause 2.01 and notwithstanding paragraphs 41.02(b) and (d) above, an~~ **An** employee who provides the Employer with proof that he or she is in receipt of or awaiting Employment Insurance (EI) benefits for Compassionate Care Benefits, **Family Caregiver Benefits for Children and/or Family Caregiver Benefits for Adults** may be granted leave for periods of less than three ~~(3)~~ weeks **without pay while** in receipt of or awaiting these benefits.

42.02 The leave without pay described in 42.01 shall not exceed twenty-six (26) weeks for Compassionate Care Benefits, thirty-five (35) weeks for Family Caregiver Benefits for Children and fifteen (15) weeks for Family Caregiver Benefits for Adults, in addition to any applicable waiting period.

~~**42.02** Leave granted under this clause may exceed the five (5) year maximum provided in paragraph 41.02(c) above only for the periods where the employee provides the Employer with proof that he or she is in receipt of or awaiting Employment Insurance (EI) Compassionate Care Benefits.~~

42.03 When notified, an employee who was awaiting benefits must provide the Employer with proof that the request for Employment Insurance (EI) Compassionate Care Benefits, **Family Caregiver Benefits for Children and/or Family Caregiver Benefits for Adults** has been accepted.

42.04 When an employee is notified that their request for Employment Insurance (EI) Compassionate Care Benefits, **Family Caregiver Benefits for Children and/or Family Caregiver Benefits for Adults** has been denied, clauses 42.01 and ~~42.02~~ above ceases to apply.

42.05 Leave granted under this clause shall count for the calculation of “continuous employment” for the purpose of calculating severance pay and “service” for the purpose of calculating vacation leave. Time spent on such leave shall count for pay increment purposes.

42.06 Where an employee is subject to a waiting period before receiving Compassionate Care benefits or Family Caregiver benefits for children or adults, he or she shall receive an allowance of ninety-three percent (93%) of her weekly rate of pay.

42.07 Where an employee receives Compassionate Care benefits or Family Caregiver benefits for children or adults under the *Employment Insurance Plan*, he or she shall receive the difference between ninety-three percent (93%) of his or her

weekly rate and the Employment Insurance benefits for a maximum period of (7) seven weeks.

RATIONALE

Concerning changes made in Articles 42.01 to 42.05, the Union believes that both parties are mostly in agreement. These amendments consist of housekeeping changes brought about by the 2016 Review of the EI system.⁷³

Where the Union and the Employer are not in agreement is on the need for a supplementary allowance for workers in receipt of or awaiting Employment Insurance (EI) benefits for Compassionate Care Benefits or Family Caregiver Benefits. In Articles 42.06 and 42.07, the Union proposes an allowance for the difference between EI benefits and 93 percent of the employee's weekly rate of pay. This supplementary allowance would cover a maximum period of eight weeks when including the waiting period.

Providing care or support to a loved one who is experiencing a terminal illness, life-threatening injury or approaching end of life can be a very difficult experience. Having the proper support from your employer can make a tremendous difference in easing those difficulties. Even if a worker is eligible to receive EI benefits, caring for a gravely ill family member can jeopardize an individual's or a family's financial stability. Having to choose between a living wage and caring for their family member may act as a deterrent to the employee accessing such leave, especially for a family or household consisting of a single-income earner. According to the latest data available, there are more than three million families in Canada which identify as a single-income earner or lone-parent earner and the number of these families has grown by more than 64,000 between 2015 and 2017⁷⁴. Moreover, remaining at work for financial reasons instead of taking care of a loved

⁷³ Employment Insurance –Recent Improvements & Overview, Employment & Social Development Canada, <https://www.canada.ca/en/employment-social-development/programs/results/employment-insurance.html>
Programme de l'assurance-emploi –Récentes améliorations et aperçu. Emploi et Développement social Canada, <https://www.canada.ca/fr/emploi-developpement-social/programmes/resultats/assurance-emploi.html>

⁷⁴ Statistics Canada, Table: 11-10-0028-01 (formerly CANSIM 111-0020), Single-earner and dual-earner census families by number of children, <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1110002801>

one is a difficult decision that could have a serious impact on an employee's mental health. This proposal is about support for the workers when they need it most.

The federal Supplemental Unemployment Benefit (SUB) Program was introduced in 1956 with the goal of subsidizing employees with Employment Insurance (EI) benefits while they are temporarily on a leave without pay. With EI replacing only 55 percent of previous earnings, a SUB payment helps to further reduce the net loss of earnings. A 93 percent income replacement rate of combined EI benefits and top-up payments is assumed to equal the usual full salary, due to tax and other advantages. Employers are meant to gain from this program since employees are enticed to return to the same employer, which helps retain experienced employees and reduces the need for retraining or new hiring. Indeed, the Union would submit that our proposal for a supplementary allowance is not only beneficial to our members but would also help the Employer with the retention of employees. Statistics Canada's study of employer "top-ups" concluded that, in the case of maternity and parental leaves, "*almost all women with top-ups return to work and to the same employer.*"⁷⁵ The Union submits that an employer supplementary allowance for compassionate care and caregiver leave acts as a strong incentive for all employees, to not only return to the workforce after a difficult period, but also stay with the same employer.

The Union's proposal for a supplementary allowance is also predicated upon what has already been established elsewhere within the federal public administration. In a recent settlement, the PSAC and the National Battlefields Commission, a federal agency under the *Financial Administration Act*, have agreed on an even more extensive supplementary allowance of 26 weeks for employees who are granted a leave without pay for compassionate care and caregiver leave (Exhibit B18).

Statistique Canada, Tableau: 11-10-0028-01 (anciennement connu sous CANSIM 111-0020), Familles de recensement avec un ou deux soutiens selon le nombre d'enfants,

https://www150.statcan.gc.ca/t1/tbl1/fr/tv.action?pid=1110002801&request_locale=fr

⁷⁵ Statistics Canada, Employer top-ups, by Katherine Marshall, <https://www150.statcan.gc.ca/n1/pub/75-001-x/2010102/article/11120-eng.htm#a2>

Statistiques Canada, Prestations complémentaires versées par l'employeur, par Katherine Marshall, https://www150.statcan.gc.ca/t1/tbl1/fr/tv.action?pid=1110002801&request_locale=fr

For all the reasons above, the Union respectfully requests that the Commission include the Union's proposals for Article 42 in its recommendation.

PSAC PROPOSAL

ARTICLE 57 EMPLOYEE PERFORMANCE REVIEW AND EMPLOYEE FILES

57.04 At no time may electronic monitoring systems be used as a means to evaluate the performance of employees, or to gather evidence in support of disciplinary measures unless such disciplinary measures result from the commission of a criminal act.

RATIONALE

A significant number of employees in the PA bargaining unit work in an environment where surveillance cameras and other forms of equipment are common. This includes members who work in correctional facilities, as well as on National Defense bases and installations. While there are some legitimate health and safety reasons to engage in some forms of surveillance, the rights and dignity of employees need to be protected. It is the Union's position that the use of this surveillance for evaluation or disciplinary purposes is inappropriate and excessive.

Furthermore, arbitrators have been generally of the view that video surveillance collected for one purpose ought to be restricted in its use to that purpose and an employer will ordinarily not be entitled to use surveillance evidence obtained for non-disciplinary purposes to discipline employees for misconduct. This is consistent with the rulings of Privacy Commissioners.⁷⁶

⁷⁶ See, for example, Investigation Report P2005-IR-004 (R.J. Hoffman Holdings Ltd.), [2005] A.I.P.C.D. No. 49 (QL) (Denham), Lancaster's Human Rights and Workplace Privacy, August 17, 2005, alert No. 47, in which the Alberta Information and Privacy Commissioner ruled that video footage from cameras which were justifiable for the purpose of monitoring security, but were subsequently used to record (albeit inadvertently) an incident on which the employer sought to base the dismissal of an employee, violated employees' privacy rights insofar as the video footage exceeded the original purpose for which the cameras had been installed.

As a result, the Union is proposing that the language contained in the Canada Post collective agreement covering workers in Canada Post postal plants be included in the collective agreement (Exhibit B19), and respectfully requests that the Commission include this language in its recommendations.

PSAC PROPOSAL

ARTICLE 65 PAY ADMINISTRATION

65.02 An employee is entitled to be paid **bi-weekly period or bi-monthly, where applicable**, for services rendered at:

- a. the pay specified in Exhibit A-1 for the classification of the position to which the employee is appointed, if the classification coincides with that prescribed in the employee's certificate of appointment; or
- b. the pay specified in Exhibit A-1 for the classification prescribed in the employee's certificate of appointment, if that classification and the classification of the position to which the employee is appointed do not coincide.

Should the Employer fail to pay the employee as prescribed in (a) or (b) above on the specified pay date, the employer shall, in addition to the pay, award the employee the Bank of Canada daily compounded interest rate until the entirety of the employee pay issues have been resolved.

The Employer shall also reimburse the employee for all interest charges or any other financial penalties or losses or administrative fees accrued as a result of improper pay calculations or deductions, or any contravention of a pay obligation defined in this collective agreement.

65.07

- a. When an employee is required by the Employer to substantially perform the duties of a higher classification level in an acting capacity and performs those duties for at least ~~three (3)~~ **one (1) consecutive working** days or shifts, the employee shall be paid acting pay calculated from the date on which he or she commenced to act as if he or she had been appointed to that higher classification level for the period in which he or she acts.
- b. When a day designated as a paid holiday occurs during the qualifying period, the holiday shall be considered as a day worked for purposes of the qualifying period.

65.X1

- a. **An employee who is required to act at a higher level shall receive an increment at the higher level after having reached fifty-two (52) weeks of cumulative service at the same level.**

- b. For the purpose of defining when employee will be entitled to go to the next salary increment of the acting position, “cumulative” means all periods of acting at the same level.

65.X2

Any NJC allowances an employee is in receipt of when the employee commences to act in a higher classification shall be maintained without interruption during the period the employee is acting.

NEW – Deduction Rules for Overpayments

Where an employee, through no fault of his or her own, has been overpaid in excess of fifty dollars (\$50), the Employer is prohibited from making any unilateral or unauthorized deductions from an employee’s pay and:

- a) no repayment shall begin until all the employee pay issues have been resolved;
- b) repayment shall be calculated using the net amount of overpayment;
- c) the repayment schedule shall not exceed ten percent (10%) of the employee’s net pay each pay period until the entire amount is recovered. An employee may opt into a repayment schedule above ten percent (10%);
- d) in determining the repayment schedule, the employer shall take into consideration any admission of hardship created by the repayment schedule on the employee.

NEW – Emergency Salary or Benefit Advances

On request, an employee shall be entitled to receive emergency salary, benefit advance and/or priority payment from the Employer when, due to no fault of the employee, the employee has been under paid as a result of improper pay calculations or deductions, or as a result of any contravention of any pay obligation defined in this agreement by the Employer. The emergency advance and/or priority payment shall be equivalent to the amount owed to the employee at the time of request and shall be distributed to the employee within two (2) days of the request. The receipt of an advance shall not place the employee in an overpayment situation. The employee shall be entitled to receive emergency advances as required until the entirety of the pay issue has been resolved.

No repayment shall begin until the all the employee pay issues have been resolved and:

- a) repayment schedule shall not exceed ten percent (10%) of the employee’s net pay each pay period until the entire amount is recovered. An employee may opt into a repayment schedule above ten percent (10%);

- b) in determining the repayment schedule, the employer shall take into consideration any admission of hardship created by the repayment schedule on the employee.

NEW – Accountant and Financial Management Counselling

The Employer shall reimburse an employee all fees associated with the use of accounting and/or financial management services by an employee if the use of these services is required as a result of improper pay calculations and disbursements made by the Employer.

EMPLOYER PROPOSAL

65.03

- ~~a. The rates of pay set forth in Appendix A-1 shall become effective on the dates specified.~~
- ~~b. Where the rates of pay set forth in Appendix A-1 have an effective date before the date of signing of this agreement, the following shall apply: i. “retroactive period” for the purpose of subparagraphs (ii) to (v) means the period from the effective date of the revision up to and including the day before the collective agreement is signed or when an arbitral award is rendered therefor;~~
- ~~ii. a retroactive upward revision in rates of pay shall apply to employees, former employees or, in the case of death, the estates of former employees who were employees in the groups identified in Article 9 of this agreement during the retroactive period;~~
- ~~iii. for initial appointments made during the retroactive period, the rate of pay selected in the revised rates of pay is the rate which is shown immediately below the rate of pay being received prior to the revision;~~
- ~~iv. for promotions, demotions, deployments, transfers or acting situations effective during the retroactive period, the rate of pay shall be recalculated, in accordance with the Public Service Terms and Conditions of Employment Regulations using the revised rates of pay. If the recalculated rate of pay is less than the rate of pay the employee was previously receiving, the revised rate of pay shall be the rate, which is nearest to, but not less than the rate of pay being received prior to the revision. However, where the recalculated rate is at a lower step in the range, the new rate shall be the rate of pay shown immediately below the rate of pay being received prior to the revision;~~
- ~~v. no payment or notification shall be made pursuant to paragraph 65.03(b) for one dollar (\$1) or less.~~

RATIONALE

Under Article 65.02 the Union proposes to include new language which would pay interest at the Bank of Canada overnight rate to an employee for the entirety of the time that their pay issues have not been resolved. As many as one in three PSAC members affected by

Phoenix has incurred out-of-pocket expenses as a result of the debacle resulting from a faulty pay system introduced by the Employer. Several employees have experienced severe personal or financial hardship due to Phoenix. As per the 2018 Public Service Employee Survey Results, 70 percent of public service workers have been affected to some extent by issues with the Phoenix pay system⁷⁷.

As with many other overdue payments, the Union suggests that a daily compounded interest rate is a sensible outcome for employees being without pay. Employees may have missed opportunities to earn interest either in their savings accounts or other on investments and should not be further penalized. It is worth mentioning that following the signature of the last collective agreement on June 14, 2017, the Employer required more than two years to accurately pay retroactivity and fully implement the new rates of pay (Exhibit B20).

Additionally, the Union proposes to protect employees against accruing financial penalties or losses as a result of improper pay calculations. When the Phoenix fiasco began, one of the Union's first actions was to secure from the Employer a claims process for expenses incurred because of inaccurate pay. Treasury Board has since provided a list of expenses that are eligible to claim.⁷⁸ These include:

- Non-sufficient funds (NSF) and other financial penalty charges resulting from missed or late payments on mortgage payments, condo fees, rent, personal loan payments (car, student, other), household utilities, groceries, or other household expenses;
- Interest charges from credit cards, lines of credit, and/or personal loans used by employees to temporarily pay mortgage payments, condo fees, rent, personal loan

⁷⁷ Treasury Board of Canada Secretariat, 2018 Public Service Employee Survey: <https://www.tbs-sct.gc.ca/pses-saff/2018/results-resultats/bq-pq/00/org-eng.aspx>

⁷⁸ Treasury Board of Canada Secretariat, Claims for expenses and financial losses due Phoenix: claim out-of-pocket expenses: <https://www.canada.ca/en/treasury-board-secretariat/services/pay/submit-claim-pocket-expenses-phoenix.html>

payments (car, student, other), household utilities, groceries, or other household expenses;

- Interest and related fees on loans or lines of credit required for the repayment of source deductions on an overpayment (that is, the difference between the gross and net payment);
- Reimbursement of increased income taxes that will not be reversed or offset from amendments to the employee's current, previous or future income tax returns;
- Fees for early withdrawal of investments and withdrawals from savings accounts;
- Fees and related charges from tax advisory providers to amend a previously filed income tax return following the issuance of amended tax slips.

As demonstrated by the list above, the Employer is willing to ensure that employees do not suffer financial losses because of Phoenix. However, the Union believes that this should not only apply to Phoenix-related issues, but also to any future payment delays. It is still unclear what will happen with the pay system in the future but regardless of the circumstances, the Union submits that penalties for late payments should be enshrined in the Collective Agreement. No employee should suffer financial penalties or losses because of the Employer issuing improper pay.

Furthermore, the Union is proposing new language on deduction rules for overpayments as well as language on emergency salary or benefit advances. Following the Phoenix debacle, the Union staunchly advocated for more flexibility in the recovery system and on March 9, 2018, Treasury Board released an information bulletin explaining that changes have been made to the directives concerning recoveries, including emergency salary advances and priority pay. Following these new directives, when overpayments are discovered, recovery shall not begin until the following criteria have been met (Exhibit B21):

- All monies owed to the employee has been paid out.
- The employee experiences three stable pay periods.
- A reasonable repayment plan has been agreed to by the employee.

Under the Employer's former policy, employees were responsible for repaying the gross amount for any overpayment that was not reconciled in the same calendar year. However, this created huge problems since the employee obviously only received the net amount on the paycheque. The Employer's position was that an employee was expected to receive the difference between the net amount and gross amount in her tax return. The Employer's former policy created a substantial financial burden that has resulted in years of tax return problems for thousands of workers. Moreover, as per the Employer's existing directives at the time, most departments instructed the Pay Centre to recover emergency salary advances or priority pay from the employee's next pay cheque. This resulted in many employees being caught in a cycle of needing to access emergency pay time and time again because pay problems were often not resolved by their next pay cheque. Including the Union's proposal in the Collective Agreement would simply protect the reasonable process that is currently in place for repayment procedures. It would ensure that the burden of calculating an overpayment and repaying it immediately would not be foisted on employees anymore.

Finally, the Union proposes language to help alleviate some of the tax-related financial losses caused by Phoenix pay problems. Currently public service workers impacted by Phoenix can reach out to tax experts to help determine if there are errors on their T4s and determine whether there are tax implications for those errors. Members can be reimbursed for this tax advice up to \$200 per year.⁷⁹ The Union proposes that if these services are required as a result of improper pay calculations, all fees associated with the use of accounting and/or financial management services shall be reimbursed by the Employer.

The Employer may argue there is no need for any these new provisions because they are already in place. If so, the Union would suggest that Treasury Board should not have any objections about including these new provisions in the Collective Agreement. Having

⁷⁹ Treasury Board of Canada Secretariat, Claims for expenses and financial losses due to Phoenix: reimbursement for tax advice: <https://www.canada.ca/en/treasury-board-secretariat/services/pay/submit-claim-fees-tax-advisory-services.html>

tangible language in the Collective Agreement is essential because provisions in the agreement are enforceable and can be shielded from changes in government. If both parties are committed to solving the Employer pay administration issues, then we would suggest that there is no better way than making that commitment as part of the collective bargaining process. Moreover, the Collective Agreement is an information tool for our members, and it provides guidance to employees in obtaining information on their rights. Obligations from the Employer that are reflected in the Collective Agreement are usually accessed at a greater rate than those ensconced in the Employer policies or directives.

Acting Pay

Concerning the Union proposals in Articles 65.X1 and 65.X2, time spent by employees in acting assignments currently do not count towards an increment in that position. There are many cases of employees deployed to acting positions for considerable periods of time. An employee acting continually will progress up their pay scale. However as soon as there is a break in that acting period, they must restart the acting assignment at a lower step on the pay grid, The Union is proposing language that would make sure that all time spent in an acting position counts towards an increment in that position. In theory, increments are meant to reward an employee as he learns the job and is better able to perform the work in that position. If an employee is acting in a higher position for a prolonged period of time, this should be recognized by providing a mechanism for the employee to move up the pay grid in that position. Additionally, this proposal is virtually identical to what the PSAC negotiated with the Canada Revenue Agency (Exhibit B22). The Union sees no reason as to why this arrangement should be in place for PSAC members working at CRA and not for those working in the core public administration

With respect to Article 65.07, the current language states that an employee only receives acting pay after working in an acting assignment for three or more days or shifts. What this has meant in practice is that an employee may work for two days in an acting assignment, taking on the responsibilities associated with the position, and not receive

any additional compensation for it. Indeed, the employee would not receive compensation commensurate with the job being undertaken on behalf of the Employer.

Article 65.02 of the parties' current agreement states that:

An employee is entitled to be paid for services rendered at:

(a) *the pay specified in Exhibit A for the classification of the position to which the employee is appointed, if the classification coincides with that prescribed in the employee's certificate of appointment;*

or

(b) *the pay specified in Exhibit A for the classification prescribed in the employee's certificate of appointment, if that classification and the classification of the position to which the employee is appointed do not coincide.*

The Union submits that the three-day threshold contained in the current Article 65.07 is inconsistent with the current Article 65.02, in that an employee working in an acting assignment under the current language for two days is not being "paid for services rendered". The Union's proposal would rectify this inconsistency and ensure that employees asked to perform duties in a higher classification are paid accordingly.

What the Union is proposing for the Phoenix-related portions of Article 65 is mostly consistent with measures that have been agreed by Treasury Board. The additional portions on acting pay are modest and reasonable changes to how employees are paid for acting at a higher level. As such, the Union respectfully requests that its proposals for Article 65 be included in the Commission's recommendations.

PSAC PROPOSAL

ARTICLE 67 DURATION

67.01 The duration of this Collective Agreement shall be from the date it is signed to June 21, ~~2018~~**2021**.

EMPLOYER PROPOSAL

67.01 The duration of this Collective Agreement shall be from the date it is signed to June 21, ~~2018~~**2022**.

RATIONALE

The Union proposes a three-year agreement while the Employer is proposing one that lasts for four years. The length of collective agreements negotiated between the parties has tended to be either three or four years. Due to the significant number of issues that arise for groups as large and diverse as the PSAC bargaining units, there is value in negotiating on a more frequent basis to deal with the workplace issues that arise throughout the life of the agreement.

PSAC PROPOSAL

NEW ARTICLE DOMESTIC VIOLENCE LEAVE

- XX:01** The parties recognize that employees may sometimes be subject to domestic violence which may be physical, emotional or psychological, in their personal lives, that may affect their attendance and performance at work.
- XX:02** Upon request, an employee who is subject to domestic violence or who is the parent of a child who is subject to domestic violence shall be granted domestic violence leave in order to enable the employee to seek care and support for themselves or their children in respect of a physical or psychological injury, to attend at legal proceedings and to undertake any other necessary activities.
- XX:03** The total leave with pay which may be granted under this article shall not exceed 75 hours in a fiscal year.
- XX:04** The Employer agrees that no adverse action will be taken against an employee if their attendance or performance at work suffers as a result of experiencing domestic violence.
- XX:05** The Employer will approve any reasonable request from an employee experiencing domestic violence for the following:
- Changes to their working hours or shift patterns;
 - Job redesign, changes to duties or reduced workload;
 - Job transfer to another location or department or business line;
 - A change to their telephone number, email address, or call screening to avoid harassing contact; and
 - Any other appropriate measure including those available under existing provisions for family-friendly and flexible working arrangements.
- XX:06** All personal information concerning domestic violence will be kept confidential in accordance with relevant legislation, and shall not be disclosed to any other party without the employee's express written agreement. No information on domestic violence will be kept on an employee's personnel file without their express written agreement.

Workplace Policy

XX.07 The Employer will develop a workplace policy on preventing and addressing domestic violence at the workplace. The policy will be made accessible to all employees and will be reviewed annually. Such policy shall explain the appropriate action to be taken in the event that an employee reports domestic violence or is perpetrating domestic violence, identify the process for reporting, risk assessments and safety planning, indicate available supports and protect employees' confidentiality and privacy while ensuring workplace safety for all.

Workplace supports and training

XX.08 The Employer will provide awareness training on domestic violence and its impacts on the workplace to all employees.

XX.09 The Employer will identify a contact in [Human Resources/Management] who will be trained in domestic violence and privacy issues for example: training in domestic violence risk assessment and risk management. The Employer will advertise the name of the designated domestic violence contact to all employees.

RATIONALE

Domestic violence is a workplace issue: Research and Statistics

One-third (33.6%) of Canadian workers have experienced or are experiencing domestic violence (Exhibit B23)⁸⁰. These experiences affect our members' lives, health, job security and financial resources, and have a negative impact on workplaces. Based on the 2014 Pan-Canadian Survey on Domestic Violence and the Workplace, 6.5 percent of workers in Canada are currently experiencing domestic violence (Exhibit B23). This means out of the approximately 90,900 members (from PA, SV, TC and EB groups), 5,909 of PSAC members from these groups are likely currently experiencing domestic violence, with approximately 32,724 members experiencing domestic violence at some point in their life. Domestic violence has a clear impact on workers and workplaces, with nearly 54 percent of cases of domestic violence continuing at or near the workplace (Exhibit B23). With an estimated 5,909 members currently experiencing domestic violence, this means that

⁸⁰ It is important to note that these figures do not capture domestic abuse on children, meaning the impact of domestic violence on our members is likely more alarming, since figures from the 2014 Pan-Canadian Survey on Domestic Violence deal only with intimate partner violence.

there are possibly 3,191 cases of domestic violence continuing at or near PA, TC, SV and EB workplaces. Based on the 2017 Canadian study investigating the impact of Domestic Violence Perpetration on Workers and Workplaces, where perpetrators were interviewed, 71 percent of perpetrators reported contacting their partner or ex-partner during work hours for the purpose of continuing the conflict, emotional abuse and/or monitoring (Exhibit B24). One third (34%) of perpetrators specifically report emotionally abusing and/or monitoring their partner or ex-partner during work hours. Of those who reported emotionally abusing their partner or ex-partner during work hours most used messages (calls, emails, texts; 92%) (Exhibit B24). Of those that reported they checked on and/or found out about the activities or whereabouts of their partner or ex-partner, over one-quarter reported that they went by their partners' or ex-partners workplace (27%) and/or their home or another place (29%) to monitor them (Exhibit B24).

Domestic violence is a complex problem with no simple, single solution. However, the union submits that enshrining robust measures in the Collective Agreement is an important step in supporting workers impacted by domestic violence, and functions to dismantle some of the stigma associated with domestic abuse that often leaves survivors dealing with abuse alone, in silence and without support (Exhibit B25). Anticipated stigma, the fear of not knowing whether stigmatization will occur if others knew about one's experiences of abuse, is a serious barrier that prevents survivors from seeking help (Exhibit B26). Strong collective agreement language sends a powerful message of support and understanding to survivors that their Union and Employer are working together to address domestic violence as not only a prevalent social problem but a significant workplace issue that will be compassionately dealt with via fair rules and trained individuals.

Domestic violence is an equity issue

Paid domestic violence leave days, protections and accommodations are provisions that all workers may need to use in their lives. However, it is important to note that domestic violence disproportionately impacts female workers, and in particular Indigenous workers, workers with disabilities and workers of the LGBTQ+ community. The Pan-Canadian

survey results reveal that 38 percent of women and 65 percent of transgendered people have experienced domestic violence (Exhibit B23). Negotiating domestic violence provisions into the Collective Agreement is not simply the right thing to do but it also ensures equity and fairness for vulnerable workers.

The cost of doing nothing

Evidence demonstrates that the cost of doing nothing outpaces the cost of domestic violence leave on employers, society and the economy at large. Domestic violence in Canada is estimated to cost \$7.4 billion a year (Exhibit B27). According to the Department of Justice, spousal violence in Canada costs employers nearly \$78-million due to direct and indirect impacts of domestic violence.⁸¹ When costing this proposal, it is essential to estimate how much inaction will continue to cost Canadians and employers.

According to a 2013 World Bank study, there is a clear link between domestic violence and economic growth (Exhibit B28). They found that domestic violence is a significant drain on an economy's resources, and in their cross-country comparison they revealed how countries they examined lost between 1.27 percent and 1.6 percent of their GDP due to intimate partner violence. It is also important to recognize that the take-up rate for domestic violence leave remains low in countries that have implemented paid leave. In Australia, for example, the take-up rate is only 0.3 percent and 1.5 percent for men and women respectively (Exhibit B28). While costs to employers are "likely to be largely or completely offset by the benefits to employers", data from Australia shows that incremental wage payouts were equivalent to only 0.02 percent of payroll (Exhibit B29). The Union submits that the costs of doing nothing needs to be considered when costing this proposal.

⁸¹ This figure is broken down into three main categories; lost productivity due to tardiness and distraction (\$68M), lost output from victims' absences (\$7.9M) and administration costs for victims' absences (\$1.4M) (Exhibit XX.). According to the Justice Department of Canada, "in the event of the victim resigning or being dismissed, employers face recruitment and retraining costs, but such data for spousal violence cases do not exist and so these costs are not included in the [\$78M] estimate".

Impact on Performance: XX.01 and XX.04

Survivors of domestic violence report that the violence had an impact on their ability to concentrate at work, had a negative impact on their work performance and on absenteeism. Of those who reported experience with domestic violence, 82 percent said that domestic violence negatively affected their work performance, most often due to being distracted, or feeling tired and/or unwell, as a result of trauma and stress (Exhibit B23). Therefore, out of the estimated 5,909 members currently experiencing domestic violence, it is probable 4,904 PSAC members (from the PA, SV, TC and EB groups) feel that domestic violence is negatively affecting their work performance. This reality needs to be an acknowledged and protective provisions outlined in the union's proposals at XX.01 and XX.04 are both reasonable and needed.

Treasury Board reached a settlement with CAPE's EC group in the most recent round of negotiations to include in the collective agreement an acknowledgement that experiencing domestic violence could impact productivity and agreed to language at 21.18 (e) that specifically outlines that there will be no reprisals against survivors. The collective agreement provision reads as follows:

"The Employer will protect the employees from adverse effects on the basis of their disclosure, experience, or perceived experience of domestic violence" (Exhibit B30).

Nav Canada is another example of a large federal employer that has agreed to add this type of protective provision in their collective agreement, outlining how no adverse action will be taken against an employee if their performance at work suffers as a result of domestic violence (Exhibit B31).

28.17 Family Violence Leave

The Employer recognizes that employees may face situations of violence or abuse, which may be physical, emotional, or psychological in their personal life that could affect their attendance and performance at work....

- f) *The employer agrees that no adverse action will be taken against an employee if their attendance or performance at work suffers as a result of experiencing family violence in their personal life that could affect their attendance and performance at work.*

The Government of Northwest Territories also has collective agreement language acknowledging that domestic violence may affect employees' performance (Exhibit B32).

21.09 (1) The Employer recognizes that employees or their dependent child as defined in article 2.01(i) may face situations of violence or abuse in their personal life that may affect their attendance and performance at work.

PSAC has also signed several Letters of Understanding for its members at Canadian Forces bases at Suffield, Trenton, Gagetown, Goose Bay and Petawawa acknowledging that domestic violence may affect performance and that employee's will be protected should their performance be impacted as a result of domestic violence. LOUs between the Parties read as follows:

"The Employer agrees to recognize that employees sometimes face situations of violence or abuse in their personal lives that may affect their attendance or performance at work. For that reason, the Employer and the bargaining agent agree that an employee's culpability in relation to performance issues or potential misconduct may be mitigated if the employee is dealing with an abusive or violent situation and the misconduct or performance issue can be linked to that abusive or violent situation." (Exhibit 33)

It is worth mentioning that during bargaining, the Employer tabled a counterproposal on Domestic Violence and the same proposition was included in the Employer's comprehensive offer (Exhibit – History of Negotiations). The Union rejected the Employer proposal for a number of specific reasons that will be further discussed throughout this section. At the onset, Treasury Board's proposal at Article 53.03 (a) is missing an acknowledgement of the reality that domestic violence impacts job performance and the Union's proposal at XX.01 is seeking that this reality be acknowledged. As the parties are in agreement that domestic violence impacts attendance at work, the Union submits that an acknowledgement about performance would be a fair and reasonable provision.

Being employed is a key pathway to leaving a violent relationship. When those experiencing domestic violence know their jobs and incomes are secure and accommodations are available, significant structural barriers for survivors are removed making the dangerous tasks of leaving an abuser, avoiding an abuser, and seeking help easier.

Scope: XX.02

The Collective Agreement should be clear that perpetrators of domestic violence are not necessarily in an intimate relationship with their victims. A restrictive definition is not appropriate and functions to limit the scope of what is included as domestic violence.

The most recent ACFO collective agreement with Treasury Board for the Financial Management (FI) group does not include the requirement that the perpetrator be an “intimate partner” (Exhibit 34).

Provincial employment standards from across the country also do not limit domestic violence leave to intimate partner violence and the Union submits that its language at XX.02 is more appropriate as it is broad enough to include domestic violence perpetrated by more than just intimate or former intimate partners.

The Collective Agreement should also be clear that employers should not deny domestic violence leave that is necessary for the health, safety and security of the worker. The Union’s proposal at the end of XX.02 is clear that workers shall be granted leave for “any necessary activities”. There are a broad range of health, safety and security activities that a survivor may need paid leave time in order to address. A restrictive scope provisions would have unintended and potentially detrimental impacts on members who need access to paid leave to escape, avoid and deal with domestic violence.

The Government of the Northwest Territories recently agreed to domestic violence leave language that does not conflate domestic violence with intimate partner violence and

appropriately outlines that employees can take paid leave for “any other necessary activities to support their health, safety and security” (Exhibit 32). These scope provisions are similar to other provincial employment standards on domestic violence.

Provincial employment standards that provide for domestic violence leave have broader and more realistic scope provisions than those being proposed by the Employer, and they align with the provisions submitted by the Union at XX.02. Provincial domestic violence provisions do not define domestic violence as requiring an element of current or past intimacy, and consistently allow workers to take domestic violence leave for any other necessary purpose (Exhibit 35).

The Employer’s proposal at Article 53.03 (b) fails to provide sufficient flexibility for survivors of domestic violence and their families who may need to use paid leave time during scary and exhausting episodes of violence (Exhibit – History of Negotiations). Workers should be able to rely on broad collective agreement provisions that make it obvious they can make use of paid leave time and not worry whether their situation fits within a list of five specific and formal reasons outlined in the Employer’s proposal in Article 53.03 (b). Testimonial evidence collected in the 2014 Pan-Canadian survey reveal that survivors have a range of needs that require leave time and federal provisions ought to acknowledge this reality.

Quantum: XX.03

The Parties are in agreement.

Accommodation: XX.05

The Union’s proposal at XX.05 is based on the reality that domestic violence doesn’t just stop when survivors get to work, and that leave is only one part of the solution. More than half of those who have experienced domestic violence say that at least one type of abusive act has occurred at or near the workplace. Of these, the most common were abusive phone calls or text messages (41%) and stalking or harassment near the

workplace (21%) (Exhibit 23). Providing employees with robust accommodation options such as changing their contact information, hours of work or shift pattern and work location are all ways in which workers can be more protected from violence in the workplace. Job transfer options and call screening options would also help survivors be safer at work. Job redesign or workload reduction are also measures that can help provide survivors with the support they need to continue to work while dealing with stressful, exhausting and violent situations beyond their control.

Domestic violence is an occupational health and safety issue. People reporting domestic violence have poorer general health, mental health and quality of life. This is especially the case for survivors who experience domestic violence near the workplace and those whose ability to get to work has been impeded by domestic violence. The more ways in which domestic violence occurred at or near the workplace, the poorer the respondent's health. Work may have protective effects for survivors of domestic violence so it's important that workplace accommodations be available to help support survivors.

Confidentiality XX.06

The Union submits that enshrining confidentiality language in the Collective Agreement is reasonable, is outlined in other collective agreements, and is already a minimum standard in some provincial jurisdictions (Exhibit B35).

The Government of Northwest Territories recently agreed to collective agreement language with the PSAC making it clear that personal information regarding domestic violence will be kept confidential and not shared without consent;

“All personal information concerning domestic violence will be kept confidential in accordance with relevant legislation and shall not be disclosed to any other party without the employee’s written agreement”. (Exhibit B32)

Nav Canada recently agreed to confidentiality language in its collective agreement with the PSAC that outlines clear confidentiality rules that the Employer shall adhere to and

makes clear that “no information shall be kept on an employee’s personnel file without their express written agreement”. These provisions read as follows:

28.17 Family Violence Leave

(d) The Employer shall:

- (i) ensure confidentiality and privacy in respect of all matters that come to the Employer's knowledge in relation to a leave taken by an Employee under the provisions of the "Family Violence Leave" in this Collective Agreement; and*
 - (ii) identify a contact in Human Resources who will be trained in Family Violence and privacy issues. The Employer will advertise the name of the designated violence contact to all employees;*
 - (iii) not disclose information in relation to any person except
 - 1) to an employee as identified in d) ii) or agents who require the information to carry out their duties;*
 - 2) as required by law; or*
 - 3) with the consent of the Employee to whom the leave relates;**
 - (iv) take action to reduce or eliminate the risk of family workplace violence incidents;*
 - (v) promote a safe and supportive work environment;*
 - (vi) ensure employees receive required training including both awareness and confidentiality aspects; and*
 - (vii) follow the confidential reporting procedures.*
- (b) No information shall be kept on an employee’s personnel file without their express written agreement. (Exhibit B31)*

Canada Post and CUPW signed a letter of agreement in 2018 outlining that a policy would be drafted by the Parties that would “protect employees’ confidentiality and privacy while ensuring workplace safety for all” (Exhibit B36). Canada Post’s 2019 booklet for employees and team leaders specifically outlines that it is “essential to protect confidentiality” and “there is no requirement for the affected employee to provide documentation of any kind.” (Exhibit B37)

Workplace Policy, Training and Supports: XX.07, XX.08 and XX.09

Most employers (71%) report having a situation where they needed to protect a domestic violence survivor, yet there remains an unfortunate gap in training for employees (Exhibit B38). Employers and employees require basic training to be able to recognize the warning signs of domestic violence victimization and perpetration and respond safely and appropriately. If domestic violence occurs at work the employer is liable, and both parties have an interest in ensuring the creation of appropriate domestic violence policies and training. The Union would like to ensure appropriate training, supports and policies are developed.

Canada Post and CUPW reached an agreement in 2018 that is nearly identical to PSAC's proposals at XX.07 regarding a workplace policy. As discussed above, the letter of agreement outlines that the parties shall draft a policy on preventing and addressing domestic violence in the workplace or affecting the workplace that shall be reviewed annually. The policy "shall explain appropriate actions to be taken in the event that an employee reports domestic violence. It shall also identify the process for reporting domestic violence, risk assessments and safety planning. The policy shall indicate available supports and protect employees' confidentiality and privacy while ensuring workplace safety for all." (Exhibit B36).

The Government of Northwest Territories recently agreed to collective agreement language that reads:

The Employer will develop a workplace policy on preventing and addressing domestic violence at the workplace. The policy will be made accessible to all employees. Such policy shall explain the appropriate action to be taken in the event that an employee reports domestic violence or is perpetrating domestic violence, identify the process for reporting, risk assessments and safety planning, indicate available supports and protect employees' confidentiality and privacy while ensuring workplace safety for all. The policy shall also address the issue of workplace accommodation for employees who have experienced domestic

violence and include provisions for developing awareness through the training and education of employees”.

This collective agreement language is in line with PSAC’s proposals regarding developing a policy and training outlined in XX.07, XX.08 and XX.09.

Nav Canada language at 28.17 (d) (ii) is also similar to the Union’s proposal at XX.09 that outlines a commitment to identify a human resources contact person who is trained in domestic violence and privacy issues. Nav Canada collective agreement language at 28.17 (d) (vi) also outlines a commitment to train employees on domestic violence that is consistent with the PSAC’s proposal.

Evidence: Employer proposal 53.03 (d)

The Union believes that the Employer’s language at 53.03 (d) does not belong in the Collective Agreement:

“The Employer may, in writing, and no later than fifteen (15) days after an employee’s return to work, request the employee to provide documentation to support the reasons for the leave. The employee shall provide that documentation only if it is reasonably practicable for them to obtain and provide it”.

We fear that if employees are required to provide proof of domestic violence to the Employer, they will at best be reluctant to access the leave, and at worst, will not seek to access it at all, leaving them and perhaps their children in a dangerous and possibly life-threatening situation.

Being a survivor of domestic violence is a traumatizing and stigmatizing experience. According to a Government of Canada report, family violence is under-reported with only 19 percent of persons who had been abused by a spouse reporting the situation to police (Exhibit B39). Almost two-thirds of spousal violence victims (63%) said that they had been victimized more than once before they contacted the police. Nearly three in 10 (28%) stated that they had been victimized more than 10 times before they contacted the police (Exhibit B40). Among the many reasons people don’t report family violence are stigma,

shame, and fear that they won't be believed. Moreover, employees experiencing violence at home may fear the reaction of their co-workers or fear that widespread knowledge of their situation may threaten their jobs or their upward mobility. Written documentation threatens confidentiality. The Union submits that the Employer's proposal introduces barriers that ignore the lived reality and context of domestic violence.

Moreover, the Employer's proposal itself is unclear on what could be considered "reasonably practicable" in terms of providing documentation that support the reasons for the leave; and unclear on who makes that decision. The Union recognizes that the Employer's proposal is derived from the Canada Labour Code but we believe this language creates a disincentive for employees to access the leave provided in this article. Moreover, other federal employers have recognized this as well. Explaining changes in the federal legislation recently, Canada Post advised its managers that "there is no requirement for the affected employee to provide documentation of any kind." (Exhibit 37)

Domestic violence charges: Employer proposal 53.03 (e)

The Union has serious concerns about the Employer's proposal at Article 53.03 (e) that workers will not be entitled to domestic violence leave if the worker has also been charged with an offence related to an act of domestic violence.

"Notwithstanding clauses 53.03 (b) and 53.03(c), an employee is not entitled to domestic/family violence leave if the employee is charged with an offence related to that act or if it is probable, considering the circumstances, that the employee committed that act."

Research by the Department of Justice has confirmed that dual charging – charging both parties even if one party's violence was self-defensive – occurs with significant frequency as a result of pro-charging policies that require police to lay such dual charges (Exhibit B41). The Justice Department concludes that while

"pro-charging policies adopted in Canada during the 1980's have significantly contributed to the criminal justice system's response to spousal abuse....it is also true that the pro-charging policies have resulted in some unintended negative consequences....The pro-charging policy seeks to ensure that the policy treat spousal abuse as a criminal matter and to lay charges where there are reasonable ground to believe that an offence has been committed..."

The Justice Department report recommends that:

“Where the facts of a particular case initially suggest dual charges against both parties, police should apply a “primary aggressor” screening model, [or] seek Crown review and approval of proposed dual charges for spousal violence, or do both” (Exhibit B41).

Because of pro-charging policies that require police to lay dual charges without sufficient regard to self-defense, PSAC is extremely concerned that this clause could have the unintended consequence of denying leave to an employee who is experiencing domestic violence.

Furthermore, it is highly problematic to include a provision saying that employees aren't entitled to the leave “if it is probable, considering the circumstances, that the employee committed that act”. This means that an employee who is not charged with domestic violence could be refused leave by the Employer based on “circumstances”. The Union submits that it is inappropriate for an Employer to be determining the probability of whether an employee committed domestic violence.

PSAC PROPOSAL

NEW ARTICLE PROTECTIONS AGAINST CONTRACTING OUT

XX.01 The Employer shall use existing employees or hire and train new employees before contracting out work described in the Bargaining Certificate and in the Group Definition.

XX.02 The Employer shall consult with the Alliance and share all information that demonstrates why a contracting out option is preferable. This consultation shall occur before a decision is made so that decisions are made on the best information available from all stakeholders.

XX.03 Shared information shall include but is not limited to expected working conditions, complexity of tasks, information on contractors in the workplace, future resource and service requirements, skills inventories, knowledge transfer, position vacancies, workload, and potential risks and benefits to impacted employees, all employees affected by the initiative, and the public.

XX.04 The Employer shall consult with the Alliance before:

- i) any steps are taken to contract out work currently performed by bargaining unit members;**
- ii) any steps are taken to contract out future work which could be performed by bargaining unit members; and**
- iii) prior to issuing any Request for Interest proposals.**

XX.05 The Employer shall review its use of temporary staffing agency personnel on an annual basis and provide the Alliance with a comprehensive report on the uses of temporary staffing, no later than three (3) months after the review is completed. Such notification will include comparable Public Service classification level, tenure, location of employment and reason for employment, and the reasons why indeterminate, term or casual employment was not considered, or employees were not hired from an existing internal or external pool.

RATIONALE

The language proposed by the Union supports the protection of the integrity of the public service. The Employer makes yearly statements of congratulation to and

acknowledgement of public service workers, including this one from June 2019, when the Honourable Joyce Murray, President of the Treasury Board, communicated:

“For more than 150 years, our public servants have been serving Canadians with dedication, making huge differences within and outside our country’s borders. That’s why Canada’s public service has been ranked the best in the world. Congratulations!”

(Exhibit B42)

This was further echoed by the Prime Minister’s statement during the same week:

“This week, we celebrate our dedicated public servants across Canada, who worked hard to deliver real results for Canadians. If we look at what Canada’s public service has accomplished this past year, it’s easy to see why it is one of the most effective in the world.” *(Exhibit B43).*

Therefore, it should not surprise the Employer that the Union has proposed language that supports the ongoing success of the public service, for generations to come. The proposed language introduces a ‘pause button’ on any ongoing and new contracting out initiatives that the Employer may be contemplating. This was echoed in the Union’s submission to 2019 Pre-Budget Consultations in the recommendations around Precarious Work and on Public-Private Partnerships (P3s) *(Exhibit B44)*. Securing protections and a framework for discussion within the Collective Agreement respects the continued valuable contributions of public service workers. Similar collective agreement language currently exists elsewhere in the core public service; Article 30: Contracting Out, in the CS agreement between PIPSC and the Treasury Board Secretariat, contains language that our proposal builds upon. *(Exhibit B45)*

A comprehensive, trained and secure public service is crucial to the ability of any government to continually provide the programs and services mandated by Parliament. Relying on contracted-out services rather than the professionalism, expertise and dedication of bargaining unit members does a disservice to the workers, the public service

as a whole, the public and to the economy, as was touched on by *The Honourable Scott Brison* when he was President of the Treasury Board in May 2016.⁸²

“By restoring fair and balanced labour laws, the Government is recognizing that labour unions play an important role protecting workers’ rights and strengthening the middle class.”

Inclusion of such contract language also supports a public service created via a legislative framework, one that ensures appointment by merit and that the composition of the public service is an accurate reflection of the diversity of the people that it serves, throughout the various geographic regions. It also fosters meaningful consultation between the Employer and the Union, and values investments made in training and upgrades necessary for workers to succeed within the changing nature of their work environment.

For too long, successive governments have relied heavily upon contracting out the duties performed by past and now current public service workers. In March 2011, a CCPA published a paper, *The Shadow Public Service: the swelling ranks of federal government outsourced workers*, in which it observed;

“A handful of outsourcing firms have become parallel HR departments for particular federal government departments. Once a department picks its outsourcing firm, a very exclusive relationship develops. These private companies now receive so much in contracts every year that they have become de-facto wings of government departments. These new “black-box” wings are insulated from government hiring rules. They are also immune from government information requests through processes like Access to Information and Privacy (ATIP).

⁸² Government of Canada to Repeal Changes to Federal Public Service Labour Relations Measures, May 25, 2016 <https://www.canada.ca/en/treasury-board-secretariat/news/2016/05/government-of-canada-to-repeal-changes-to-federal-public-service-labour-relations-measures.html>

In essence, they have become a shadow public service without having to meet the same transparency standards of the actual public service. Evidence suggests the federal government is turning to personnel outsourcing, circumventing hiring rules by relying on pre-existing “standing offers” with outsourcing companies. As a result, outsourced contractors are no longer short-term or specialized — they are increasingly employed for years on a single contract.

In short, the growing and concentrated nature of outsourcing has created a shadow public service that works alongside the real public service — but without the same hiring practices or pay requirements”⁸³

And leading up to that CCPA report, the Public Service Commission of Canada conducted a study⁸⁴ on the use of temporary services in the federal public service organizations and concluded that the use of temporary services a source of recruitment limits access and that uses of temporary help services that circumvent the Public Service Employment Act.

“The study findings indicate that, in practice, temporary help services provide a source of recruitment into the public service. The use of temporary help services as a source of recruitment places the PSEA value of access at risk, and limits the use of the national area of selection to promote Canada’s geographical diversity within the public service.”

Yet despite numerous concerns being raised, the practice has not abated under successive governments. Alarming, this includes the privatization of the operation of new federal heating plants in the National Capital Region, wrapped up in a P3 label.⁸⁵

⁸³ The Shadow Public Service: the swelling of the ranks of federal government outsourced workers, David Macdonald, Canadian Centre for Policy Alternative (CCPA), March 2011
<https://www.policyalternatives.ca/publications/reports/shadow-public-service>

⁸⁴ Use of Temporary Help Services in Public Service Organization: A study by the Public Service Commission of Canada, October 2010 http://publications.gc.ca/collections/collection_2010/cfp-psc/SC3-152-2010-eng.pdf

⁸⁵ <http://psacunion.ca/unions-turn-heat-against-cooling-and-heating-plant>

Throughout that process, the PSAC has raised concerns around the lack of transparency of the project and the safety of both the public and of workers, and challenged the government's statements around recruitment of qualified workers to the public service.

A strong public service also helps strengthen the economy. A new study suggests that hiring more federal public sector workers would benefit the Canadian economy and support a strong, diverse middle class.⁸⁶ The Union values that and asserts that the contract language being sought supports such goals.

Public service workers are dedicated to their workplace and to the work that they do in support of the public. They are equipped with intimate institutional knowledge of the work environment; valuable to both the smooth operation of existing programs and to the successful cultivation of new ideas. Securing contract agreement language that recognizes and respects that is next in nurturing our continued ranking as the best public service in the world.

Considering these facts, the Union respectfully requests that its proposal for the inclusion of a new article on Contracting Out be included in the Commission's award.

⁸⁶ IRIS, The Public Services: an important driver of Canada's Economy, Sept 2019 https://cdn.iris-recherche.gc.ca/uploads/publication/file/Public_Service_WEB.pdf

PSAC PROPOSAL

APPENDIX D WORKFORCE ADJUSTMENT

Changes proposed in this Exhibit shall take effect on June 21, 2018

Definitions

Amend the definition of affected employee

Affected employee (employé-e touché)

Is an indeterminate employee who has been informed in writing that his or her services may no longer be required because of a workforce adjustment situation **or an employee affected by a relocation.**

Amend the definition of alternation (housekeeping)

Alternation (échange de postes)

Occurs when an opting employee (~~not a surplus employee~~) **or an employee with a twelve-month surplus priority period** who wishes to remain in the core public administration exchanges positions with a non-affected employee (the alternate) willing to leave the core public administration with a transition support measure or with an education allowance.

Amend the definition of Education allowance

Education allowance (indemnité d'études)

Is one of the options provided to an indeterminate employee affected by normal workforce adjustment for whom the deputy head cannot guarantee a reasonable job offer. The education allowance is a cash payment equivalent to the transition support measure (see Annex B), plus a reimbursement of tuition from a recognized learning institution and book and mandatory equipment costs, up to a maximum of ~~fifteen thousand dollars (\$15,000)~~ **seventeen thousand dollars (\$17,000).**

Amend definition of GRJO (language redundant given 6.1.1)

Guarantee of a reasonable job offer (garantie d'une offre d'emploi raisonnable)

Is a guarantee of an offer of indeterminate employment within the core public administration provided by the deputy head to an indeterminate employee who is

affected by workforce adjustment. Deputy heads will be expected to provide a guarantee of a reasonable job offer to those affected employees for whom they know or can predict that employment will be available in the core public administration. ~~Surplus employees in receipt of this guarantee will not have access to the options available in Part VI of this Exhibit.~~

Amend definition of reasonable job offer (redundant given new 1.1.19)

Reasonable job offer (offre d'emploi raisonnable)

Is an offer of indeterminate employment within the core public administration, normally at an equivalent level, but which could include lower levels. Surplus employees must be both trainable and mobile. ~~Where practicable, a reasonable job offer shall be within the employee's headquarters as defined in the Travel directive.~~ In alternative delivery situations, a reasonable offer is one that meets the criteria set out under type 1 and type 2 in Part VII of this Exhibit. A reasonable job offer is also an offer from a FAA Schedule V employer, providing that:

- a) The appointment is at a rate of pay and an attainable salary maximum not less than the employee's current salary and attainable maximum that would be in effect on the date of offer.
- b) It is a seamless transfer of all employee benefits including a recognition of years of service for the definition of continuous employment and accrual of benefits, including the transfer of sick leave credits, severance pay and accumulated vacation leave credits.

Part 1: Roles and responsibilities

1.1 Departments or organizations

NEW 1.1.7 (renumber current 1.1.7 ongoing)

1.1.7 When a deputy head determines that the indeterminate appointment of a term employee would result in a workforce adjustment situation, the deputy head shall communicate this to the employee within thirty (30) days of having made the decision, and to the union in accordance with the notification provisions in 2.1.5.

Deputy heads shall review the impact of workforce adjustment on no less than an annual basis to determine whether the conversion of term employees will no longer result in a workforce adjustment situation for indeterminate employees. If it will not, the suspension of the roll-over provisions shall be ended.

If an employee is still employed with the department more than three (3) years after the calculation of the cumulative working period for the purposes of converting an employee to indeterminate status is suspended the employee shall be made indeterminate or be subject to the obligations of the Workforce Adjustment Exhibit as if they were.

NEW 1.1.19 (renumber current 1.1.19 ongoing)

1.1.19

- a) The employer shall make every reasonable effort to provide an employee with a reasonable job offer within a forty (40) kilometre radius of his or her work location.
- b) In the event that reasonable job offers can be made within a forty (40) kilometre radius to some but not all surplus employees in a given work location, such reasonable job offers shall be made in order of seniority.
- c) In the event that a reasonable job offer cannot be made within forty (40) kilometres, every reasonable effort shall be made to provide the employee with a reasonable job offer in the province or territory of his or her work location, prior to making an effort to provide the employee with a reasonable job offer in the public service.
- d) In the event that reasonable job offers can be provided to some but not all surplus employees in a given province or territory, such reasonable job offers shall be made in order of seniority.
- e) An employee who chooses not to accept a reasonable job offer which requires relocation to a work location which is more than sixteen (16) kilometres from his or her work location shall have access to the options contained in section 6.4 of this Exhibit.

Part II: Official notification

2.1 Department or organization

NEW 2.1.5 (renumber current 2.1.5 ongoing)

2.1.5 When a deputy head determines that specified term employment in the calculation of the cumulative working period for the purposes of converting an employee to indeterminate status shall be suspended to protect indeterminate employees in a workforce adjustment situation, the deputy head shall:

- (a) **inform the PSAC or its designated representative, in writing, at least 30 days in advance of its decision to implement the suspension and the names, classification and locations of those employees and the date on which their term began, for whom the suspension applies. Such notification shall include the reasons why the suspension is still in place for each employee and what indeterminate positions that shall be subject to work force adjustment if it were not in place.**
- (b) **inform the PSAC or its designated representative, in writing, once every 12 months, but no longer than three (3) years after the suspension is enacted, of the names, classification, and locations of those employees and the date on which their term began, who are still employed and for which the suspension still applies. Such notification shall include the reasons why the suspension is still in place for each employee and what indeterminate positions that shall be subject to work force adjustment if it were not in place.**
- (c) **inform the PSAC no later than 30 days after the term suspension has been in place for 36 months, and the term employee's employment has not been ended for a period of more than 30 days to protect indeterminate employees in a workforce adjustment situation, the names, classification, and locations of those employees and the date on which their term began and the date that they will be made indeterminate. Term employees shall be made indeterminate within 60 days of the end of the three-year suspension.**

Part IV: Retraining

4.1 General

- 4.1.2 It is the responsibility of the employee, home department or organization and appointing department or organization to identify retraining opportunities, including language training opportunities, pursuant to subsection 4.1.1.**
- 4.1.3 When a retraining opportunity has been identified, the deputy head of the home department or organization shall approve up to two (2) years of retraining. Opportunities for retraining, including language training, shall not be unreasonably denied.**

Part VI: Options for employees

6.1 General

- 6.1.1 Deputy heads will be expected to provide a guarantee of a reasonable job offer for those affected employees for whom they know or can predict that employment will be available. A deputy head who cannot provide such a guarantee shall provide**

his or her reasons in writing, if so requested by the employee. **Except as specified in 1.1.19 (e), employees** Employees in receipt of this guarantee will not have access to the choice of options in 6.4 below.

6.4 Options

6.4.1 c)

Education allowance is a transition support measure (see Option (b) above) plus an amount of not more than ~~fifteen thousand dollars (\$15,000)~~ **seventeen thousand dollars (\$17,000)** for reimbursement of receipted expenses of an opting employee for tuition from a learning institution and costs of books and relevant equipment. Employees choosing Option (c) could either:

Part VII: Special provisions regarding alternative delivery initiatives

7.2 General

7.2.1 The provisions of this part apply only in the case of alternative delivery initiatives and are in exception to other provisions of this Exhibit. Employees who are affected by alternative delivery initiatives and who receive job offers from the new employer shall be treated in accordance with the provisions of this part, and only where specifically indicated will other provisions of this Exhibit apply to them. **Employees who are affected by alternative delivery initiatives and who do not receive job offers from the new employer shall be treated in accordance with the provisions of Parts I-VI of this Exhibit.**

RATIONALE

Since the current agreement was signed, some changes undertaken by the federal government have served to highlight several deficiencies in the parties' Workforce Adjustment Exhibit.

First, the current definition of a guarantee of reasonable job offer (GRJO) does not provide an explicitly defined geographic radius within which the employee might avail themselves of certain rights afforded under the Workforce Adjustment Exhibit (WFA). Second, there is a need for the recognition of years of service in the context of Exhibit D. Years of service would serve as a fair and objective standard for the treatment of a reasonable job offer. Third, there is a lack of clear accountability with respect to term employees under the WFA. Finally, the education allowance should keep up with the rapidly increasing cost of

education in Canada. The Union's proposals for Exhibit D would address each of these deficiencies.

Currently, the provisions contained in Exhibit D put the onus on departments and deputy heads to provide a reasonable job offer in the event of possible layoffs. But there are no clear geographic criteria applied with respect to where the Employer may offer a reasonable job offer. This can create significant problems for employees. For example, in a recent situation, in 2017, the government decided to close the Vegreville Immigration Centre and move it to Edmonton along with its 250 employees. PSAC members were left with very difficult choices: uproot their families and move to Edmonton, accept a three-hour daily commute, or leave the job they value. This situation materialized due to the Employer's interpretation of the existing language that offering a job anywhere else in the country met the criteria under the Exhibit D as being 'reasonable'.

The Vegreville circumstances highlight a contradiction within the WFA. Under clause 3.1.1 of the WFA, the Employer had to give the employees the opportunity to choose whether they wished to move with the position or be treated as if they were subject to a workforce adjustment situation. Under clause 3.1.2 the employees had a period of six months to indicate their intention to move or not. If an employee decides not to move with the relocated position, the deputy head may provide the employee with either a guarantee of a reasonable job offer or access to the options set out in section 6.4 of the WFA⁸⁷.

However, if an employee is in receipt of a reasonable job offer, even if it is at the same location that they have already indicated that they do not wish to move to, they are no longer able to access the options contained in the WFA. The whole purpose of Part III of the WFA is specifically for situations where people cannot or do not wish to move, whether this is due to valid personal reasons or accommodation issues or any other reason.

⁸⁷ Options include being on a surplus priority list for 12 months to find another job, receiving a Transition Support Measure (i.e. enhanced severance) or and Education Allowance and a Transition Support Measure.

In the Vegreville instance, the Union position was that the Employer's use of the WFA was punitive in cases where the employees had no other choice but to voluntarily leave their jobs. PSAC took a grievance to arbitration on this issue and it was partially upheld. Because of the lack of clarity in the current WFA language, the decision sided with the Employer's interpretation that since the employee was in receipt of a GRJO, they did not have access to all of the options under the WFA if they refused to move. However, the arbitrator also ruled that employees in such a circumstance would have access to the transition support measure and/or the education allowance under the Voluntary Programs section of the WFA (Exhibit B46). At the hearing, the Employer testified that it knew its interpretation of Part III of the WFA Exhibit would cause hardship but went ahead with it anyway.

The Union submits that this proposal is necessary due to the Employer's interpretation of Part III. Fundamentally, when a workplace is relocated, it means that if employees turn down a GRJO they are penalized. It implies that the Employer can force workers to move anywhere in the country or get laid off while limiting the WFA options to which they have access. The Union is proposing instead that people who cannot or do not wish to relocate to a certain location ought not to lose their rights under the WFA Exhibit. As we will discuss further below, the changes proposed by the Employer to the WFA are in direct contradiction to the Union position and we believe that the language should be further clarified to entrench the rights of employees.

Our proposal is that in the event that a reasonable job offer cannot be made within a 40-kilometre radius, the employee may elect to be an 'opting' employee and therefore avail themselves of the rights associated with 'opting' status. This would provide employees will all options under the WFA. The Union is proposing a 40-kilometre radius as it is consistent with the practice currently in effect for the NJC Relocation Directive. Indeed, a 2013 NJC Executive Committee decision indicated agreement with this principle. It was noted that in accordance with subsection 248(1) of the *Income Tax Act*, "relocation shall only be authorized when the employee's new principal residence is at least 40 km (by the shortest usual public route) closer to the new place of work than his/her previous

residence" (Exhibit B47). Furthermore, the 40-kilometre radius is currently the standard for more than 50,000 unionized workers at Canada Post. (Exhibit B48)

In order to be consistent with our proposed new language, the obligation for the employees to be mobile must also be removed. In a labour market in which both partners in a relationship usually work, and where prices for housing, child care and elder care are unaffordable, a blanket obligation to be mobile is not realistic or fair. Despite Treasury Board's position that the WFA Exhibit is above all about employment continuity, the Union would submit that it is also about a proper employment transition when that is the most accommodating course of action.

The Union is proposing that reasonable job offers shall be made in order of seniority. Recognition of years of service is a central tenet of labour relations in Canada. Its application is found in collective agreements in every industry, every jurisdiction, and every sector of the Canadian economy. For example, the collective agreements covering employees working for both the House of Commons and the Senate of Canada contain seniority recognition for the purposes of layoffs (Exhibit B48). It is also commonplace within the broader federal public sector, from Via Rail to Canada Post to the Royal Canadian Mint to the National Arts Centre to the Canadian Museum of Science and Technology Corporation (Exhibit B48). Additionally, it is already recognized under the parties' current collective agreement in the context of vacation leave scheduling and in the WFA itself as the tie-breaking procedure to choose which employee may avail themselves of the voluntary program.

Recognition of years of service is a concept that is firmly entrenched within labour relations jurisprudence, including jurisprudence produced by the FPSLRB. In a 2009 decision the Board stated that:

(...) through his or her years of service, an employee attains a breadth of knowledge and expertise as a result of his or her tenure with the organization. Through time, an employee becomes a more valuable asset, with more capabilities, and should be treated accordingly. (PLSRB 485-HC-40).

Thus, the Union's proposal for recognition of years of service in the context of Exhibit D would introduce a fair and objective standard in the treatment of a reasonable job offer. This standard has been sanctioned via Board jurisprudence.

Under Article 6.1.4, the Union proposes to increase the education allowance by \$2,000. The education allowance currently offers an opting employee a maximum of \$15,000 for reimbursement of receipted expenses for tuition and costs of books and relevant equipment over a two-year period. The Union proposal is simply trying to keep up with the rapid increase of tuition fees in Canada. According to Statistics Canada, tuition fees for undergraduate programs for Canadian full-time students was, on average, \$6,838 in 2018-2019, up 3.3 percent from the previous academic year.⁸⁸ In addition, the National Joint Council Directive on Work Force Adjustment was recently renegotiated between the participating bargaining agents and Treasury Board. On this occasion an increase to the education allowance to a maximum of \$17,000 was agreed upon between the parties (Exhibit B49). Hence, the Union's proposals concerning the education allowance is already the standard for workers employed elsewhere in the federal public service.

The Union's proposed language under articles 1.1.7 and 2.1.5 is meant to ensure that the Employer takes some accountability towards term employees. The Union would like to enshrine the responsibilities from the Employer concerning term employees in the appropriate sections of the WFA. The Union submits that there needs to be better notification in the WFA around the ability of departments to suspend the policy of term employees becoming indeterminate after three years of service, including an explanation on the need for a suspension and when the suspension will be ended. The status quo is unacceptable as suspension of the provisions that roll term employees into indeterminate jobs is a license for department heads to encourage precarious working conditions for large groups of employees.

⁸⁸ Statistics Canada, September 5, 2018, Tuition fees for degree programs - 2018/2019: <https://www150.statcan.gc.ca/n1/daily-quotidien/180905/dq180905b-eng.htm>

In summary, the Union's proposals concerning Exhibit D are predicated upon what has already been established elsewhere within the federal public sector. Moreover, applying geographic criteria to the process in terms of opportunities for employees exists already for tens of thousands of federal workers at Canada Post. In light of these factors, the Union respectfully requests that the Commission include the Union's proposals for Exhibit D in its recommendations.

EMPLOYER PROPOSAL

Definitions:

Alternation (échange de postes)

Occurs when an opting employee (~~not a surplus employee~~) **or a surplus employee who is surplus as a result of having chosen option 6.4.1(a)** who wishes to remain in the core public administration exchanges positions with a non-affected employee (the alternate) willing to leave the core public administration with a transition support measure or with an education allowance.

Relocation of work unit (réinstallation d'une unité de travail)

Is the authorized move of a work unit of any size ~~to a place of duty located beyond what, according to local custom, is normal commuting distance from the former work location and from the employee's current residence.~~ **which exceeds a 40 km commute between the old and new workplaces, and excludes relocations of a work unit within the same Census Metropolitan Area.**

Part III: relocation of a work unit

When considering moving a unit of any size to another location, departments will review the distance between the old and new work place based on the most practicable route to ensure that it qualifies as a relocation of a work unit. **After consultation with the Treasury Board Secretariat, Deputy Heads may authorize, in writing, a relocation of a work unit when the conditions are not met if, in their view, there are other factors that should be taken to consideration, which affect all employees of the work unit.**

Should a relocation of a work unit not be **authorized**, departments will review each case to determine if relocation assistance should be authorized based on the individual circumstances of an employee in accordance with the NJC Relocation Directive.

Part IV: retraining

4.1.1 To facilitate the redeployment of ~~affected employees~~, surplus employees and laid-off persons, departments or organizations shall make every reasonable effort to retrain such persons for:

- a. existing vacancies; or
- b. anticipated vacancies identified by management

4.1.3 When a retraining opportunity has been identified, the deputy head of the home department or organization shall approve up to two (2) years of retraining. **Retraining can apply when an employee is considered for appointment to a reasonable job offer, which is for a position at an equivalent group and level or one (1) group and level lower than the surplus position. For affected employees, retraining is applicable for positions which would be deemed a reasonable job offer, had the employee been in surplus status.**

Part V: salary protection

5.1 Lower-level position

5.1.1 Surplus employees and laid-off persons appointed **or deployed** to a ~~lower-level position under this Exhibit~~ **reasonable job offer position, which is one (1) group and level lower than the surplus position**, shall have their salary and pay equity equalization payments, if any, protected in accordance with the salary protection provisions of this Agreement or, in the absence of such provisions, the appropriate provisions of **the Directive on Terms and Conditions of Employment governing reclassification or classification conversion** ~~the Regulations Respecting Pay on Reclassification or Conversion.~~

5.1.2 Employees whose salary is protected pursuant to 5.1.1 will continue to benefit from salary protection until ~~such time as they are appointed or deployed into a position with a maximum rate of pay that is equal to or higher than the maximum rate of pay of the position from which they were declared surplus or laid-off.~~ **while they occupy their reasonable job offer position on an indeterminate basis or until such time as the maximum rate of pay of the reasonable job offer position, as revised periodically, is equal to or is higher than the surplus position.**

(New)

5.1.3. In the event that a salary protected employee declines without good and sufficient reason

- i. an appointment or deployment to a position at an equivalent group and level to the surplus position that is in the same geographic area; or**

- ii. an appointment to a position, which is at a group and level higher than that of the surplus position that is in the same geographic area

is to be immediately paid at the applicable rate of pay of the reasonable job offer position.

Part VI: options for employees

6.2 Voluntary programs

The Voluntary Departure Program supports employees in leaving the public service when placed in affected status prior to entering a Selection of Employees for Retention or Layoff (SERLO) process, and does not apply if the deputy head ~~intends to~~ can provide a guarantee of a reasonable job offer (GRJO) to affected employees in the work unit.

Departments and organizations shall establish voluntary departure programs for all workforce adjustments situations **in which the workforce will be reduced and that involves** ~~involving~~ five (5) or more affected employees working at the same group and level and in the same work unit **and where the deputy head ~~does not intend to~~ cannot provide a guarantee of a reasonable job offer.**

Such programs shall:

- A. Be the subject of meaningful consultation through joint union-management WFA committees;
- B. Volunteer programs shall not be used to exceed reduction targets. Where reasonably possible, departments and organizations will identify the number of positions for reduction in advance of the voluntary programs commencing;
- C. Take place after affected letters have been delivered to employees;
- D. Take place before the department or organization engages in the SERLO process;
- E. Provide for a minimum of 30 calendar days for employees to decide whether they wish to participate;
- F. Allow employees to select options B, or C, ~~or Cii;~~

7.2 General

- **7.2.1** The provisions of this part apply only in the case of alternative delivery initiatives and are in exception to other provisions of this Exhibit. Employees who are affected by alternative delivery initiatives and who receive job offers from the new employer shall be treated in accordance with the provisions of this part, and only where specifically indicated will other provisions of this Exhibit apply to them. **When the new employer can only provide job offers to some but not all**

employees who are affected by an alternative delivery initiative, the Deputy Head may provide a guarantee of a reasonable job offer or declare the employees opting subject to paragraph 6.4.1 a) of section VI of the present Exhibit for the employees who do not receive an offer of employment from the new employer.

RATIONALE

The Union has made a comprehensive proposal on the WFA Exhibit. Our proposed language would clarify the current definition of a guaranteed reasonable job offer (GRJO) where a relocation is involved, recognize years of service in the context of a WFA, augment the Employer's accountability with respect to term employees and increase the education allowance.

On the other hand, the Employer's proposal purports to clarify relocation but essentially leaves decisions up to deputy heads. A key difference between the parties' proposals relates to the geographic radius within which the employee might avail themselves of certain rights. The Employer's proposal amends the definition of a relocation in a fundamental way. The Union acknowledges the existing language which features the term "local custom" is unclear and can be interpreted in different ways. But the Employer's proposal to clarify this term would put all of the power in the hands of the Employer to define a relocation as they wish in almost every circumstance. This is not a viable or reasonable solution. The Union submits that a concrete measurement of distance makes more sense than the Employer's proposal to exclude any move of a work unit within a given Census Metropolitan Areas (CMA). The Employer's proposal would make it possible to move work site beyond what is currently defined as "local custom", potentially causing long commutes for employees.

A Census Metropolitan Area (CMA) can vary greatly in size and is generally proportional to population, not geography. For instance, using the Employer definition, a worker employed in Burlington, ON could be moved to just outside Barrie, ON - about 140 kilometres away. or an hour and a half drive on a good day. Similarly, the CMA for Halifax

is about 208 kilometres end to end. A member could be forced to drive two and a half hours each way to work without being deemed to have been relocated. An NJC grievance already exposed this issue in 2013 and the Executive Committee decision was that the Census Metropolitan Area is an inappropriate measurement. (Exhibit B46)

The Employer's position on this issue suggests that they believe it is acceptable from a work-life balance perspective for employees to spend several hours a day commuting to work.

In addition, the Employer doesn't address a key issue identified by the Union where an employee can choose not to relocate for a job offer but can have that choice immediately invalidated by a GRJO for the same job that was previously declined. The Employer proposal would result in deputy heads being able to force any employees and their families to relocate in order to keep their job. Again, as stated in the rationale on the Union's proposal, for some employees, relocation is not an option for valid health, psychological and family reasons. The alternative presented by the Employer is to be laid off with certain important rights being stripped away.

Moreover, given the lack of clarity in the language proposed by the Employer, it is unclear if deputy heads would even have the authority to offer a GRJO for distances outside of the CMA. The second sentence of the Employer proposal for Part III gives discretion to deputy heads to make exceptions but provides no guidelines or criteria to ensure that those exceptions would be exercised fairly. Under the Employer proposal, deputy heads would be given an inordinate amount of power which would undermine the whole notion of the relocation of a work unit under the WFA. Deputy heads and departments should not to be able to pick and choose between criteria and authorize special deals for individual circumstances without any guidelines in the Collective Agreement.

In 4.1.3, the Employer proposal would add new conditions on retraining that were not previously there. Those conditions would apply for employees who are appointed to a new position or deployed, and only at the same group or level or one level lower. It would

not include affected employees and it would not include training for other vacancies or expected vacancies that do not meet the criteria. This new language would effectively exclude affected people who are never actually in surplus status but are thrust into reorganized workplaces because of other workforce adjustment situations. This scenario happens often and should be taken into consideration. It is unclear why the Employer would want to limit retraining for expected vacancies or other situations which would ease employees' transition in the case of a workforce adjustment. To our knowledge retraining has not been an issue in the past and there is no demonstrated need for this change.

The Employer makes other proposed amendments which would undermine salary protection in the WFA Exhibit. The Employer proposes to replace the current language in 5.1.1 that says, "to a lower level position" by "one group and level lower". In 2015, the PSAC won a grievance on this exact issue that confirmed our interpretation that employees should be salary protected if, through the Employer's actions, they are placed in positions more than one level lower than they currently are. (Exhibit B 50)

The Employer argued during negotiation that clause 1.1.16 was the reason for their proposed change. Clause 1.1.16 stipulates that "*Appointment of surplus employees to alternative positions with or without retraining shall normally be at a level equivalent to that previously held by the employee, but this does not preclude appointment to a lower level. Departments or organizations shall avoid appointment to a lower level except where all other avenues have been exhausted.*" The Union believes the Employer's reasoning is faulty. While the Employer has an incentive to reorganize workers in an approach that would minimize salary protection, the Union would suggest that if the Employer is unable to factor the potential costs of salary protection into their reorganization plans, the impacted workers should not have to bear the costs. The Employer shouldn't reorganize the workplace without attending to the obligations that it has to its employees. These changes would simply reinforce bad management practices.

Concerning the Employer proposal on the voluntary programs the Treasury Board rationale is that clause 6.2 should not be used to circumvent the GRJO process. However,

as discussed in the section on the Union's proposals, PSAC won a grievance on this very issue in the Vegreville decision (Exhibit 46). This question is closely related to the language the Union has put forward in our WFA proposal to eliminate the possibility of misusing reasonable job offers as a strategy to strip members of their WFA rights.

The Employer's proposed new language in clause 7.2 tries to address a problem already identified by the Union in our WFA proposal. However, contrary to the Union proposal, it is unclear as to why the Treasury Board believes that the only option that should be provided is option a., especially when Part VII is silent on what happens when only some workers receive a Type 1 or Type 2 job offer. Under the Employer's proposal, the language suggests that if the deputy head cannot provide a GRJO to all employees, then it is acceptable that employees are only left with the option of a one-year surplus period within which to get a job. This proposal is even more difficult to understand when taking into consideration that in part VII, employees who receive inferior job offer from a new employer (i.e. a Type 3 job offer) immediately have access to all of the options in Part I to VII.

In summary, the Employer's proposal would open the door wide to relocating workers in the event of a workforce adjustment by effectively increasing the upward boundaries of the relocation to well over 100 kilometres in some instances. It would create situations where workers either have to move or lose their jobs with minimal opportunities for other income. Additionally, the Employer proposal would add unnecessary conditions on retraining and undermine salary protection for affected employees. For those reasons, the Union respectfully requests that the Commission exclude the Employer's proposals for Exhibit D in its recommendation.

EMPLOYER PROPOSAL

APPENDIX F

MEMORANDUM OF UNDERSTANDING BETWEEN THE TREASURY BOARD OF CANADA AND THE PUBLIC SERVICE ALLIANCE OF CANADA WITH RESPECT TO IMPLEMENTATION OF THE COLLECTIVE AGREEMENT

Replace current MOU with:

~~This Memorandum is to give effect to the understanding reached between the Employer and the Public Service Alliance of Canada in respect of the implementation period of the collective agreement.~~

~~The provisions of this collective agreement shall be implemented by the parties within a period of one hundred and fifty (150) days from the date of signing.~~

This memorandum is to give effect to the understanding reached between the Employer and the Public Service Alliance of Canada regarding a modified approach to the calculation and administration of retroactive payments for the current round of negotiations.

1. Calculation of retroactive payments

- a. Retroactive calculations that determine amounts payable to employees for a retroactive period shall be made based on all transactions that have been entered into the pay system up to the date on which the historical salary records for the retroactive period are retrieved for the calculation of the retroactive payment. These historical salary records shall provide a record of an employee's full pay history for the retroactive period of the agreement.**
- b. Elements of salary traditionally included in the calculation of retroactivity will continue to be included in the retroactive payment calculation and administration, and will maintain their pensionable status as applicable. The elements of salary included in the calculation of retroactivity include:**
 - Substantive salary**
 - Promotions**
 - Deployments**
 - Acting pay**
 - Extra duty pay**
 - Additional hours worked**
 - Maternity leave allowance**
 - Parental leave allowance**
 - Vacation leave and extra duty pay cash-out**
 - Severance pay**
 - Eligible allowances depending on collective agreement**

- c. **Retroactive amounts will be calculated by applying the relevant percentage increases indicated in the collective agreement. The value of the retroactive payment will differ from that calculated using the traditional approach, as no rounding will be applied. The payment of the retroactive amount will not affect pension entitlements or contributions relative to previous methods.**
- d. **The payment of retroactive amounts related to transactions that have not been entered in the pay system as of the date when the historical salary records are retrieved, such as acting pay, promotions, overtime and/or deployments, will not be considered in determining whether an agreement has been implemented.**
- e. **Any outstanding pay transactions that would modify an employee's historical salary records will be processed once they are entered into the pay system and any corresponding retroactivity stemming from the collective agreement will be issued to affected employees.**

Implementation

- a. **The effective dates for economic increases will be specified in the agreement. Unless otherwise stated, the coming-into-force provisions of the collective agreements will be as follows:**
 - i. **All components of the agreements unrelated to pay administration will come into force on signature of agreement.**
 - ii. **Compensation elements such as premiums, allowances, insurance premiums and coverage and changes to overtime rates will come into force on the effective date of the prospective compensation increases.**
- b. **Collective agreements will be implemented over the following timeframes:**
 - i. **The prospective elements of compensation increases (such as prospective salary rate changes and other compensation elements such as premiums, allowances, changes to overtime rates) will be implemented within one-hundred and eighty (180) days after signature of agreements where there is no need for manual intervention.**
 - ii. **Retroactive amounts payable to employees will be administered within 180 days after signature of the agreement where there is no need for manual intervention.**
 - iii. **Prospective compensation increases and retroactive amounts that require manual processing by compensation advisors will be implemented within five-hundred and sixty (560) days after signature of agreements. Manual intervention is generally required for employees on an extended period of leave without pay (e.g., maternity/parental**

leave), salary protected employees and those with transactions such as leave with income averaging, pre-retirement transition leave and employees paid below minimum, above maximum or in between steps. Manual intervention may also be required for specific accounts with complex and complicated salary history.

2. Employee Recourse

- a. **A non-pensionable amount of two-hundred and fifty dollars (\$250) will be provided to each employee in the bargaining unit on date of signature, in recognition of extended implementation timeframes.**
- b. **Where prescribed implementation timeframes have been breached, a sixty dollar (\$60) payment will be provided to each employee identified in 1.a. who is affected. For every six (6) months thereafter where employees have not had their agreements implemented, a further sixty dollar (\$60) payment will be provided, up to a maximum of two (2) payments.**
- c. **An employee will only be eligible for one initial lump sum payment and one penalty payment every six months.**
- d. **Employees may request that the departmental compensation unit or the Public Service Pay Centre verify the calculation of their retroactive payments, where they believe these amounts are incorrect.**
 - **In such a circumstance, for employees in organizations serviced by the Pay Centre, they must first complete a Phoenix feedback form indicating what period they believe is missing from their pay.**

RATIONALE

Concerning Part I of the Employer proposal, the Union is not inclined to negotiate, within the Collective Agreement, minute details on how retroactivity shall be paid. The Employer has the basic responsibility to determine how to proceed with the calculation and administration of retroactive payments. Nevertheless, since the early stages of the current round of bargaining, the Union has been very clear with the Employer that when it comes to the calculation and administration of retroactive payments, the PSAC is expecting the Employer to follow three clear principles:

1. The calculation must be accurate;
2. The process ought to be transparent and include a recourse mechanism for our members;
3. The payment shall be done in a timely manner.

Part II of the Employer proposal is even more troubling, in our view. Treasury Board proposes a 180-day period to implement increases where there is no need for manual intervention, and an extraordinary 560-day period for all cases requiring manual intervention. The Public Service Labour Relations Act provides for a 90-day window for a collective agreement to be implemented (Exhibit B46). In good faith, the Union agreed in the last round of bargaining to a longer implementation period of 150 days. The PSAC is disappointed with the government's inability to meet reasonable implementation deadlines for its workers, especially considering the Union already agreed in the last round to increase the timeframe. This has been a reoccurring problem, as the government has struggled to meet its implementation deadlines for several other collective agreements due to Phoenix issues. Following the Employer's inability to meet the previous round's implementation deadline, the PSAC asked the Board to order the Employer to pay damages to workers, and to take all necessary steps to immediately comply with the FPSLRA and implement the terms of the Collective Agreement. The PSAC is still waiting to be heard by the Board on this issue. At the onset, given the amount of time provided for under the law, the Union submits the Employer's proposal is unreasonable. Nonetheless, the Union has additional concerns with the Employer's language as presented.

From the Union perspective, Part II a. ii., where the Employer stipulates that "*Compensation elements such as premiums, allowances, insurance premiums and coverage and changes to overtime rates will come into force on the effective date of the prospective compensation increases*" is very concerning. Essentially, this language would severely delay the effective date of several significant compensation elements under the Collective Agreement and could have serious implications for our membership. Under previous PA memoranda of settlements, the norm has been that compensation elements of this type are to be effective on the date of the signing of the Collective Agreement (Exhibit B47). While the Union has negotiated an extension to the implementation period in the past, PSAC has no interest in delaying the date when provisions become effective. The Employer position is unprecedented. PSAC submits that it would at best confuse, and at worst, penalize our membership. As an example, one of the compensation

elements that would be affected by the Employer implementation proposal is the parental allowance. During bargaining, both parties have tabled extensive proposals to significantly amend the parental leave article, given legislative changes that have recently come into effect. However, by agreeing to the Employer proposal on implementation, a new provision on parental leave would only be effective within 180 days. As a result, some of our members would have to forego the opportunity for a potential allowance even though the new provision would already appear in the duly signed Collective Agreement.

Furthermore, in Part III of its proposal, the Employer is proposing a recourse mechanism that includes a \$250 non-pensionable amount in recognition of the extended implementation timeframe. If the Union had any interest in such a proposal, the amount would need to truly represent the hindrance caused by the Employer's inability to implement the Collective Agreement within a reasonable amount of time. Additionally, the proposal of a maximum amount payable is unacceptable in a context where several of our members have had to wait for more than two years for the implementation of the previous Collective Agreement. Finally, it is worth noting that the Employer has not extended to PSAC the same offer that was presented to several other federal unions (Exhibit B48).

In summary, the Union has already taken a reasonable approach in agreeing to extend the timeframe provided for by the *Federal Public Sector Labour Relations Act* to 150 days. Moreover, the Employer proposal on the date provisions would come into force would create a dangerous precedent, while the proposed amounts are simply insufficient to recognize the burden created by the extended implementation period. Hence, the Union respectfully requests that the Employer's proposal not be included in the Commission's recommendation.

PSAC PROPOSAL

APPENDIX M

MEMORANDUM OF UNDERSTANDING BETWEEN THE TREASURY BOARD AND THE PUBLIC SERVICE ALLIANCE OF CANADA WITH RESPECT TO MENTAL HEALTH IN THE WORKPLACE

Replace current MOU with:

Memorandum of Understanding Between Treasury Board and the Public Service Alliance of Canada with Respect to Mental Health in the Workplace

This Memorandum of Understanding is to give effect to the agreement reached between the Employer and the Public Service Alliance of Canada regarding issues of mental health in the workplace.

The work of the Joint Task Force on Mental Health (JTF), highlighted the essential need for collaboration between management and unions as one of the key elements for successful implementation of a psychological health and safety management system within the federal public service.

As a result of the work done by the JTF, the parties agree to establish a Centre of Expertise on Mental Health in the Workplace (COE). The COE is established to pursue the long-term focus and to reflect the commitment from the senior leadership of the parties on the importance of mental health issues in the workplace. The COE will focus on continuous improvement and the successful implementation of measures to improve mental health in the workplace.

The COE will:

- **Have a joint governance structure between the PSAC (the Alliance) and Employer representatives**
- **Have a central, regional and virtual presence;**
- **Have a mandate that can evolve based on the needs of stakeholders within the federal public service;**
- **Have dedicated and long-term funding from Treasury Board.**

The parties agree to establish a formal governance structure that will include an Executive Board (previously named Steering Committee) and an Advisory Board (previously named Technical Committee).

The Executive Board and the Advisory Board will be comprised of an equal number of Union and Employer representatives. The Executive Board is responsible for determining the number and the identity of their respective Advisory Board representatives.

The Executive Board shall approve the terms of reference of the Advisory Board. This date may be extended by mutual agreement of the Executive Board members. The Advisory Board's terms of reference may be amended from time to time by mutual consent of the Executive Board members.

The ongoing responsibilities of the COE include:

- **Continue to build upon the overall Federal Public Service Workplace Mental Health Strategy;**
- **Continue to identify ways of reducing and eliminating the stigma in the workplace that is too frequently associated with mental health issues;**
- **Continue to identify ways to better communicate the issues of mental health challenges in the workplace**
- **Assess various tools such as existing policies, legislation and directives available to support employees facing these challenges;**
- **Monitor practices on mental health initiatives and wellness programs from within the federal public service, from other jurisdictions and from other employers that might be instructive for the federal public service;**
- **Continue to drive towards the implementation of the National Standard of Canada for Psychological Health and Safety in the Workplace (the Standard) and identify how implementation can best be achieved within the public service; recognizing that not all workplaces are the same;**
- **Promote the participation of joint health and safety committees and health and safety representatives;**
- **Promote the participation of the joint employment equity committees;**
- **Continue to identify challenges and barriers that may impact the successful implementation of mental health best practices; and**
- **Continue to identify areas where the objectives reflected in the Standard, or in the work of other organizations, represent a gap with existing approaches within the federal public service. Once identified, make ongoing recommendations to the Executive Board on how those gaps could be addressed. The National Standard for Psychological Health and Safety in the Workplace should be considered a minimum standard that the Employer's occupational health and safety program may exceed.**

In addition to these responsibilities, the COE will play a key role in:

- **Providing a roadmap for alignment to the National Standard.**
- **Providing expert support and guidance to all key stakeholders**
- **Establishing a best practice repository**
- **Developing a whole-of-government communications strategy in collaboration with various stakeholders**
- **Establishing partnerships and networks with key organizations**
- **Convening communities of practice**

RATIONALE

In March 2015, the President of the Treasury Board of Canada and the President of the Public Service Alliance of Canada reached an agreement to establish a Joint Task Force to address mental health in the workplace. Two committees were created, a Steering Committee and a Technical Committee. The Steering Committee provided guidance and leadership to the Technical Committee, and was led by the Chief Human Resources Officer, the President of the Public Service Alliance of Canada and President of the Professional Institute of the Public Service of Canada. The Technical Committee was composed of equal representatives of bargaining agents and the Employer, and was co-chaired by representatives of the Treasury Board Secretariat and the Public Service Alliance of Canada.

The Task Force produced three reports as part of its mandate, and following the first report, a federal Centre of Expertise on Mental Health in the Workplace was created in the spring of 2017. The Technical Committee recommendations provided to the Steering Committee called for a co-governance structure, long-term funding and for the Centre to operate arm's length from Treasury Board. To date, the Centre has been co-led by Employer and Union representatives (but not co-managed), and the 2018 federal budget proposed funding for a centre to focus on wellness, diversity and inclusion. Currently, the Centre does not operate at arm's length from Treasury Board.

The issue of mental health in federal workplaces is not going away, and indeed appears to be worsening over time (Exhibit B51). The Union believes that the excellent work that was done collaboratively by the Joint Task Force needs to continue and evolve through the operation of the Centre of Expertise. Since its establishment, the Technical Committee has been acting as an adhoc advisory committee to the Centre, and the Union is proposing that this become formalized into a joint governance structure. The issues related to mental health in the workplace require the joint and equal participation of both the Employer and bargaining agents, and the example established by the committees that operated under the mandate of the Joint Task Force demonstrated a level of success

that PSAC wishes to continue and take further through the operation of the Centre of Expertise. To continue this success, PSAC proposes a joint governance structure, and joint advisory capability in its proposal in this amended MOU on Mental Health in the Workplace.

PSAC PROPOSAL

APPENDIX N

MEMORANDUM OF UNDERSTANDING BETWEEN THE TREASURY BOARD AND THE PUBLIC SERVICE ALLIANCE OF CANADA WITH RESPECT TO CHILD CARE

Replace current MOU with:

This Memorandum of Understanding is to give effect to the agreement reached between the Employer and Public Service Alliance of Canada regarding child care. As a result of the work done by the Joint National Child Care Committee, the parties agree to establish an ongoing Child Care Joint Union-Management Committee. The Child Care Joint Union-Management Committee is established to continue the work of the Joint National Child Care Committee and will be given the carriage of the Committee's recommendations, in addition to other measures identified through further research and analysis and agreed to by the parties.

The Child Care Joint Union-Management Committee will:

- **be under the auspices of the National Joint Council;**
- **be co-governed by Union and Employer representatives;**
- **have a mandate that can evolve based on the needs of stakeholders within the federal public service;**
- **perform its work neutrally and at arm's length;**
- **have dedicated and long-term funding from the Treasury Board to finance the establishment and ongoing support of child care centres in the federal public service.**

The Child Care Joint Union-Management Committee will be comprised of an equal number of Union and Employer representatives. The ongoing responsibilities of the Child Care joint Union-Management Committee include:

- **defining criteria for the establishment of workplace day care centres;**
- **identifying opportunities for establishing workplace child care centres (for example, pursuing community partnerships), including opportunities that will come with the expansion of licensed child care across the country;**
- **carrying out needs assessment to determine priority locations when a decision has been to establish a licenced workplace child care in a given region;**
- **conducting centralized research to understand the challenges and work-life needs of working parents who are employees of the public service;**

- examining the feasibility of capturing information related to employees working shift hours and other non-standard hours within existing information systems;
- allowing departments to partner with local licensed child care providers or school boards to provide services;
- exploring the feasibility for departments to partner with other employers located near each other to establish not-for-profit, licensed child-care services nearby.

The Child Care Joint Union-Management Committee shall also:

- develop a communication strategy to inform employees, including managers, about licensed child care supports in the public service;
- develop an information package on licensed child care to provide when employees complete forms for maternity or parental leave;
- provide guidance and best practices to departments to assist employees in obtaining information on child care options considering the needs of employees, including the needs of those who work irregular hours;
- leverage partnerships with various networks and services (e.g., Employee Assistance Services) to implement information and referral services for child care tailored to the needs of Federal Public Service employees, including emergency licensed child care;
- establish an interdepartmental parents' network on the GC 2.0 platform to connect parents across the public service to share ideas and support;
- leverage existing training, including through the Joint Learning Program, to increase employee awareness of existing mechanisms to manage work-family balance.

Workplace child care funding model

The Employer shall, through meaningful consultation with the Child Care Joint Union-Management Committee, develop a new workplace child care funding model that encourages the establishment of new licensed workplace child care centres and the ongoing support of existing licensed workplace centres in the public service. Consideration should be given to the possibility of creating a centrally funded program guided by rigorous criteria and needs assessment for the establishment and maintenance of licensed workplace child care centres.

Treasury Board Policy on Workplace Day Care Centres

The Employer shall, through meaningful consultation with the Child Care Joint Union-Management Committee, revise the Treasury Board Policy on Workplace Day Care Centres so that it can better encourage and support the establishment

and ongoing operation of high-quality, accessible, affordable, licensed and inclusive child care services in federal buildings while maintaining the following elements:

- **licensed workplace child care centres in federal buildings are operated by not-for-profit organizations;**
- **licensed workplace child care centres are staffed to offer support and services in both official languages in regions designated bilingual for language-of-work purposes;**
- **licensed workplace child care centres are accessible to parents and children with disabilities.**

RATIONALE

In the next 10 years, the federal government will be hiring thousands of younger workers, many of whom have or will be starting families. These young workers will join a large number of existing employees who often have unique child care needs, given the organization of work in the federal government and the frequent requirement to work shifts and other non-standard hours. In 1991, Treasury Board established a workplace day care policy that was intended to assist employees who are parents and need child care to pursue careers in the public service. While by the mid-1990s there were a dozen centres, no new day care facilities have been established since 1998. In recent years, a number of the original day cares closed or nearly closed because their subsidies were dependent on a “lead” sponsoring department rather than Treasury Board. The growing needs of our members far exceed the current capacity of high-quality day cares located in federal buildings and workplaces.

During the last round of bargaining with Treasury Board, PSAC obtained a commitment from the Employer to establish a Joint Committee to better address the child care needs of PSAC members (Exhibit B52). The work of the Joint Committee began in September 2017 and the committee received information from child care experts on the state of child care in Canada and on the application of the Treasury Board policy on workplace day care. The joint committee also reviewed collective agreements and policies that could provide employees with young children with assistance in managing work-family balance.

A final report with a set of recommendations was signed by both parties on January 22nd, 2019 (Exhibit B53). The core elements of this proposal are essentially a cut-and-paste of these recommendations by the Joint Committee.

The PSAC simply wants to ensure that the excellent work of the Joint National Child Care Committee is not set aside. Our proposal would establish under the auspices of the National Joint Council a new Child Care Joint Union-Management Committee to continue the work of the Joint National Child Care Committee. The new committee would be given the carriage of the previous committee's recommendations of advocating for a stronger workplace daycare policy that will better support our members with young children and address the unique challenges faced by employees who work non-standard hours and/or shift work.

The PSAC also proposes that the new committee undertake a review of the Treasury Board Policy on Workplace Day Care Centres, and its funding model. Such a review should aim at expanding the number of subsidized high-quality day care facilities located in federal buildings. These centres play an important role where there is a dramatic lack of affordable quality child care. They have helped to eliminate barriers to women's participation in the labour market and have made it possible for parents to go to work without concerns about the safety and well-being of their children.

The Joint Committee recommendations are a clear demonstration that there is a common understanding between both parties about the challenges the Federal Government is facing when it comes to child care. Furthermore, we believe there is a common recognition that this discussion should be ongoing. The National Joint Council, which includes all of the bargaining agents in the core public administration, is the appropriate environment to continue those discussions as it calls itself the forum of choice for co-development, consultation and information sharing between the government as an Employer and public service bargaining agents. Through the National Joint Council (NJC), the parties work together to resolve problems that apply across the public service.

Again, with this proposal the Union is simply aiming to reference the recommendations of the Joint National Child Care Committee in the Collective Agreement. Having something tangible in the agreement is essential in our view because provisions in the agreement are enforceable and can be shielded from changes in government and/or mandates. If both parties are committed to having a truly joint process than we would suggest that there is no better way than making that commitment as part of the collective bargaining process. Moreover, the Collective Agreement is an information tool for our members and providing guidance to assist employees in obtaining information on child care is one of the key recommendations of the Committee. Thus, the Union respectfully requests that its proposals be included in the Board's award.

PSAC PROPOSAL

APPENDIX O MEMORANDUM OF AGREEMENT ON SUPPORTING EMPLOYEE WELLNESS

Delete the MOU.

RATIONALE

The parties signed the MOU in December of 2016, and the Technical Committee began its work in March, 2017. This committee met more than a dozen times in 2017, and did much good work in reviewing research, best practices and public service data on the wellness content agreed to in the MOU. By January 2018, the Technical Committee was awaiting further guidance from the Steering Committee, which never materialized. As a result, the Technical Committee never prepared formal recommendations for a wellness plan prior to the commencement of a new collective bargaining round later in 2018. The PSAC believed at that time, that it was premature to try and formalize any recommendations for inclusion in this round of bargaining, especially given the challenges that the Phoenix compensation system posed, and the level of resources needed to address pay and benefit issues amongst federal public service employees. Consequently, the Union believes that the MOU has been overtaken by circumstances that make it impossible to complete the work, and so it proposes to delete the MOU from the Collective Agreement and have any discussions that relate to employee wellness within the context of collective bargaining.

PSAC PROPOSAL

APPENDIX XX

MEMORANDUM OF UNDERSTANDING BETWEEN THE TREASURY BOARD OF CANADA AND THE PUBLIC SERVICE ALLIANCE OF CANADA

This Memorandum of Understanding is to give effect to the agreement reached between the Employer and the Public Service Alliance of Canada (PSAC) concerning the process to be followed to re-open the Collective Agreements for the following bargaining units:

Program and Administrative Services (PA)

Technical Services (TC)

Operational Services (SV)

Education and Library Science (EB);

for the purpose of addressing the differences that exist between the above-noted Collective Agreements and the terms and conditions of work of employees who are transferred into these bargaining units from other public sector bargaining units while the Collective Agreements are in effect.

The parties agree that:

1. Such employees shall become members of the Alliance occupational groups on the date in which their transfer is effective.
2. The Articles of the Collective Agreements for the above-noted bargaining units dealing with Check-Off (Article 11 (PA); Use of Employer Facilities (Article 12 (PA); Employee Representatives (Article 13 (PA) and Leave With or Without Pay for Alliance Business (Article 14 (PA) shall apply effective the date on which such transfers are effective.
3. Increases to rates of pay and allowances that apply to such employees shall be effective as per past practice.
4. All other terms and conditions of work that apply to such employees shall be frozen subject to negotiations between the Employer and the Alliance.
5. Negotiation of such terms and conditions of work shall commence no later than ninety (90) days after notice of the intent to transfer such employees into the above-noted occupational groups is provided to the Alliance.

6. **Should a negotiated settlement of the terms and conditions of work of such transferred employees not be reached, the parties agree that either side may declare impasse and that any outstanding issues be referred to binding arbitration by a Board of Arbitration consisting of a sidesperson representing each party and a mutually agreed-upon arbitrator chosen by the parties.**

RATIONALE

From time to time, reorganizations occur in the public service that result in transferring employees working under other collective agreements into the core public administration.

The most recent examples of this situation include the transfer of employees of the Canada Revenue Agency to Shared Services Canada in 2011 under the auspices of the *Public Sector Rearrangement and Transfer of Duties Act*, and the transfer of employees of the National Capital Commission to the Department of Canadian Heritage as the result of the adoption of the *Budget Implementation Act 2013* (Bill C-60).

On May 21, 2020, approximately 1,000 Civilian Members of the Royal Canadian Mounted Police, who have been pay-matched to classifications in the PA, TC, SV and EB bargaining units, will be deemed to be PSAC members.⁸⁹

Needless to say, such transfers unleash a flurry of discussions between Treasury Board and the bargaining agent that may involve, but are not limited to:

- salary protection
- implementation dates for advancement on the wage grid and future pay adjustments
- retroactive pay (including for overtime and acting hours and deployments, as well as regular hours)

⁸⁹ Legislative changes to deem Civilian Members to be public servants came in 2012 with the *Enhancing the Royal Canadian Mounted Police Accountability Act*. In 2015, a Supreme Court of Canada decision gave the RCMP the right to unionize, and the move to transfer Civilian Members to the core public administration gained momentum after Parliament passed Bill C-7, which established conditions for the Mounties to organize a police-only union.

- retroactive recalculation of any cash-out of compensatory, vacation and severance pay
- grandparenting of certain terms and conditions of work
- reviewing of job descriptions
- dispute resolution process

Without any clear rules to guide the parties, these discussions can be protracted, resulting in an unfair burden of stress to transferred employees, who are working for a new employer and are left uncertain about their appropriate income and their terms and conditions of work.

For former NCC and CRA employees transferred to the core public administration in 2011 and 2013 respectively, certainty did not come until June 27, 2017, with the release of a decision on the outstanding issues between the parties by a PSLREB adjudicator.

These transfers are further complicated by the fact that they typically occur not during a round of collective bargaining, but when the bargaining unit is under contract – meaning there is no clear dispute resolution process if the parties – Treasury Board and the Union – are unable to reach a negotiated agreement on outstanding issues created by the transfer.

With a new transfer pending – that of Civilian Members into the PA, TC, SV and EB bargaining units – and one which is likely to occur after the current round of bargaining is complete, PSAC proposes that the parties agree to a bargaining protocol to guide the parties in such situations.

In the proposal above, it is the view of PSAC that such employees should become members of the bargaining group the day the transfer is effective, and that current articles 11, 12, 13 and 14 dealing with Check-Off; Use of Employer Facilities, Employee Representatives and Leave With or Without Pay for Alliance Business shall

also apply effective the date of transfer to ensure proper representation of these new members.

PSAC is further of the view that increases to rates of pay and allowances of transferred employees shall become effective as per past practice, pending negotiations between the parties.

In points 4 and 5, PSAC proposes that the concept of a legislative freeze of all other terms and conditions of work of transferred employees be applied; and that negotiations covering such terms and conditions of work commence no later than 90 days after notice of intent to transfer is given to the bargaining agent.

Finally, it is the Union's position that if the employees are transferred into a bargaining unit which is under contract at the time of transfer, and if the parties are unable to reach a negotiated settlement with respect to the terms and conditions of work of transferred employees, the only reasonable dispute resolution mechanism is for the parties to refer any outstanding issues to binding arbitration.

PSAC respectfully requests that the Commission recommend the adoption of this proposed Memorandum of Agreement.

PART 4

OUTSTANDING PA SPECIFIC ISSUES

PSAC PROPOSAL

ARTICLE 2 INTERPRETATION AND DEFINITIONS

“family” (*famille*)

except where otherwise specified in this agreement, means father, mother (or alternatively stepfather, stepmother, or foster parent), brother, sister, step-brother, step-sister, spouse (including common-law partner spouse resident with the employee), child (including child of common-law partner), stepchild, foster child or ward of the employee, grandchild, father-in-law, mother-in-law, daughter-in-law, son-in-law, **sister-in-law, brother-in-law**, the employee’s grandparents and relative permanently residing in the employee’s household or with whom the employee permanently resides, ~~any relative for whom the employee has a duty of care, irrespective of whether they reside with the employee, a person who stands in the place of a relative for the employee whether or not there is any degree of consanguinity between such person and the employee.~~

RATIONALE

The Union’s proposal in Article 2, to amend the definition of family to include brother-in-law and sister-in-law, is meant to not only create a definition of family that is better reflective of the diverse ways in which individuals assign importance to various familial relationships, but to also give the Collective Agreement greater internal consistency.

The current language of the Collective Agreement recognizes a number of familial relationships that are created through an employee’s spouse. Specifically, the spouse of an employee’s child (son-in-law and daughter-in-law) and the employee’s spouse’s parents (mother-in-law and father-in-law) are granted recognition through the current language in Article 2. Furthermore, brother-in-law and sister-in-law are the final in-law equivalent of the immediate family that are left unrecognized in the Collective Agreement. This is a completely arbitrary exclusion that the Union is looking to correct.

The continued exclusion of brother-in-law and sister-in-law from the definition of family in Article 2 has tangible effect on employees as it denies them access to certain rights that are available to them for similar familial relationships. Specifically, the exclusion of brother-in-law and sister-in-law from the definition of Family in Article 2 excludes employees from accessing leave without pay for care of the family for the siblings of their spouse (Article 22.09). This exclusion also limits their access to bereavement leave without loss of pay to one day, as opposed to the seven days available to mourn the loss of a son-in-law, daughter-in-law, father-in-law, or mother-in-law (Article 22.02 e).

This arbitrary unfair distinction may cause undue hardship on the members of the bargaining unit. The Employer has offered no defense of this distinction, and the Union respectfully requests that its proposal for Article 2 be included in the Commission's recommendations.

EMPLOYER PROPOSAL

The Union agrees to the Employer proposal with the following amendment:

"continuous employment" (emploi continu)

2.01 For the purpose of this Agreement:

"continuous employment" (*emploi continu*)

has the same meaning as specified in the ~~existing *Public Service Terms and Conditions of Employment Regulations*~~ **Directive on Terms and Conditions of Employment** of the Employer on the date of signing of this Agreement.

RATIONALE

The Employer is proposing to update the title of its directive as a housekeeping measure which the Union accepts. However, it is also proposing to remove references to the date of signing of this agreement which the Union does not accept. Such a modification to the collective agreement would allow the Employer to unilaterally diminish the conditions of employment of PA Group members without bargaining with their Union. The Union does

not accept such a concession nor has the employer provided any rationale or demonstrated need for this change.

PSAC PROPOSAL

ARTICLE 3 APPLICATION

EMPLOYER PROPOSAL

The Union agrees to the Employer proposal with the following amendment:

3.03 With the exception of clauses relating to maternity leave, maternity and ~~parental~~ allowance, medical appointments for pregnant employees, and maternity-related reassignment or leave in this agreement, expressions referring to employee or the masculine or feminine gender are meant for all employees, regardless of gender.

RATIONALE

This language was offered by the employer in their May 1st proposal. As the language relating to parental allowance is not gender-specific, it is not necessary for the reference to be in this clause.

PSAC PROPOSAL

ARTICLE 25 HOURS OF WORK

~~The Union reserves the right to present further proposals on Article 25.~~

NEW

~~25.XX The Employer shall not change day workers into shift workers nor change shift workers into day workers without mutual agreement between the Employer and the Alliance.~~

25.05

- a. The Employer will provide two (2) rest periods of fifteen (15) minutes each per full working day except on occasions when operational requirements do not permit.

The Union believes the parties have tentative agreement on 25.05 (b) below:

- b. **The Employer shall provide an unpaid meal break of a minimum of thirty (30) minutes per full working day, normally at the mid-point of the working day.**
- c. **In addition to the paid rest periods in 25.05 a. above, the Employer will provide two (2) additional appropriate periods of paid protected time each per full working day to a nursing mother for the purpose of breastfeeding or performing breast milk pumping hygiene. The Employer shall provide an appropriate, private and safe place for these functions to be performed.**

25.09 Variable Hours

- a. Notwithstanding the provisions of clause 25.06, upon request of an employee and with the concurrence of the Employer, an employee may complete the weekly hours of employment in a period of other than five (5) full days, provided that, over a period of fourteen (14), twenty-one (21) or twenty-eight (28) calendar days, the employee works an average of thirty-seven decimal five (37.5) hours per week., ~~and such request shall not be unreasonably denied.~~

Shift work

25.13 The Employer shall not schedule rotating shifts except with the express mutual consent of the Alliance in accordance with Article 25.11.

When, because of operational requirements **and with the mutual consent of the Alliance**, hours of work are scheduled for employees on a rotating or irregular basis, **or on a non-rotating basis where the employer requires employees to work hours later than 6 p.m. and/or earlier than 7 a.m.**, they shall be scheduled so that employees, over a period of not more than fifty-six (56) calendar days:

- a. on a weekly basis, work an average of thirty-seven decimal five (37.5) hours and an average of five (5) days;
- b. work seven decimal five (7.5) consecutive hours per day, exclusive of a one-half (1/2) hour meal period;
- c. obtain an average of two (2) days of rest per week;
- d. obtain at least two (2) consecutive days of rest at any one time except when days of rest are separated by a designated paid holiday which is not worked; the consecutive days of rest may be in separate calendar weeks.

RATIONALE

Meal breaks

In Article 25.05 b., the Union is proposing that the standard unpaid meal break which normally takes place at the mid-point of the working day be formalized in the Collective Agreement.

Although in most parts of the country the unpaid meal break is generally 30 minutes in length, it is common for employees working in isolated posts which have no cafeterias at the worksite and few or no restaurants in their communities to be provided with a one-hour meal break to allow them sufficient time to go home, have a meal, and return to work. It is important therefore that this necessary practice be reflected in the Collective Agreement, hence the reference to “minimum.” The Employer had included this proposal as part of its May 1st 2019 comprehensive offer. The Union believes that the parties have agreement on this proposal.

Nursing Breaks

Under 25.05 c., the Union is seeking to introduce paid breaks for breastfeeding mothers to breastfeed or pump milk as well as a safe and private location in which to do so.

When this proposal was presented to the Employer during bargaining, the Employer gave no rationale whatsoever for rejecting it. The Employer has simply stated that it was “not interested” in granting this type of leave to nursing mothers. The Employer went on to state that managers could individually grant the right to breastfeed “on a case by case basis”.

It is the Union’s position that this demand is not only based on well-established health benefits for children as well as mothers but is also on the recommendation of countless Canadian and international labour, health and human rights organizations. It is also congruent with newly-enacted federal legislation providing unlimited breastfeeding breaks as minimum standards. Failing to include such provisions in the Collective Agreement at this juncture would effectively leave members of the PA group with inferior guaranteed work accommodations than those provided to ununionized workers who operate under the Canada Labour Code. It would also risk discrimination against public service workers on the basis of gender and family status.

The benefits of breastfeeding for the health of children and mothers has been established throughout the scientific literature. Citing the 2016 epidemiological study by Victora et al. published in The Lancet Journal (Exhibit A30), the World Health Organization highlights the widespread long-term benefits to health of breastfeeding for not only the child but also the breast-feeding parent (Exhibit A31). This includes and is not limited to:

For the Child:

- A 35 percent reduction in the chances of developing type II diabetes (Meta analysis of 11 studies)
- Higher performance in intelligence tests (16 observational studies)

For the Mother:

- A 30 percent reduction in ovarian cancer rates in breastfeeding parents with longer periods of breastfeeding (meta-analysis of 41 studies)
- A 4.3 percent reduction in the risk of breast cancer for every 12 months increase in lifetime breastfeeding.

The authors of the comprehensive Lancet study also state that in saving women's lives: "To achieve its full effect, breastfeeding should continue up to the age of two years" thus echoing the WHO recommendation (Exhibit A32) of breastfeeding for two years and beyond.

In addition to the recommendation of exclusively breastfeeding for the first six months after birth, the recommendation to breastfeed for two years or more after birth has been adopted by numerous Canadian bodies, including Health Canada, the Public Health Agency of Canada, the Canadian Paediatric Society, Dieticians of Canada and the Breastfeeding Committee of Canada (BCC) (Exhibit A33).

Thus, it should be noted that although workers in Canada are now entitled to up 18 months of parental leave, this leave does not extend beyond the virtually universal recommendation of international and Canadian health bodies of two years for breastfeeding. Breastfeeding workers who return to full-time work after 18 months of parental leave may still be regularly breastfeeding. These employees would likely find themselves significantly hindered in their ability to breastfeed or pump milk up to the recommended two years without any accommodation from their Employer. And for the many who return to work earlier could be faced with a lengthier obstacle to continuing breastfeeding or pumping milk.

Breastfeeding women who return to work full time and are not offered any accommodation for pumping or breastfeeding, could also potentially suffer painful breast engorgement (painful overfilling of the breasts with milk). Additionally, regular pumping and breastfeeding is necessary in order for a mother to maintain a steady supply of milk for

the child. Indeed, the Government of British Columbia Health Department describes that engorgement can occur “when you normally have a regular breastfeeding routine but cannot nurse or pump as much as usual” (Exhibit A34). The City of Toronto Public Health Department 2016 booklet entitled “Breastfeeding your Baby” additionally advises that (Exhibit A35):

“If you plan to continue breastfeeding when you return to work or school, you can express or pump your breast milk. Your breasts will continue to produce enough breast milk as long as you breastfeed, express or pump often. Any amount of breast milk is good for your baby.”

Mothers who are not accommodated to at least pump in the workplace would encounter the risk of having their milk supply decrease significantly, inhibiting their ability to breastfeed and for their child to consume breastmilk. In the 2014 ILO report, *Maternity and Paternity at Work*, the authors note that “without workplace support, working is incompatible with breastfeeding. This is because breast milk production operates on supply and demand; if a woman does not have breaks to either breastfeed or express milk, her supply will diminish, and she may no longer be able to produce enough milk for her baby.” (Exhibit A36).

Numerous Canadian and international statements have affirmed the human right of women to be able to breastfeed and for children to be breastfed. As highlighted in the Public Health agency of Canada 2018 report (Exhibit A37), the following statements and treaties are relevant in affirming the right to breastfeed:

On December 13, 1991, the Government of Canada ratified the Convention of the Rights of the Child (CRC). The convention lays out the rights of children including, as specified under Article 24 of the Convention (Exhibit A38):

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.

States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(...)

*(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education **and are supported in the use of basic knowledge of** child health and nutrition, **the advantages of breastfeeding**, hygiene and environmental sanitation and the prevention of accidents; (emphasis added).*

In 1990, UNICEF issued the Innocenti Declaration which was recently renewed in 2005. The declaration lays out the operational target that governments “enact imaginative legislation protecting the breastfeeding rights of working women and establish means for its enforcement.” (Exhibit A39) The Innocenti Declaration is celebrated and commemorated as part of World Breastfeeding Week on August 1 to 7 of each year.

The Convention on the Elimination of All Forms of Discrimination Against Women, which Canada signed in 1980 and ratified in 1981, states under Article 12 that countries should prevent and prohibit discrimination against women on the basis of pregnancy and that appropriate services in connection with pregnancy and breastfeeding should be provided (Exhibit A40).

More recently in Canada, the Canadian Human Rights Commission issued a Policy and Best Practices Guide relating to pregnancy and human rights in the workplace. It recommends that (Exhibit A41):

Employees who breastfeed or express/pump breast milk should be provided with accommodation for this purpose. Accommodation can include:

- Providing a suitable clean place to breast-feed or express milk and to store milk.

- Providing longer or extra breaks for the purpose of breast-feeding or expressing milk

Additionally, the Canadian Human Rights Commission highlights that failure to provide reasonable accommodation to a woman who breastfeeds would constitute pregnancy-related discrimination. Thus Treasury Board's contention that managers should retain the right to deny breastfeeding breaks to requesting members constitutes a status quo where managers are being given the go-ahead by the Employer to discriminate against new mothers who choose to continue to breastfeed.

The Ontario Human Rights Commission Policy on preventing discrimination of pregnancy and breastfeeding also states clearly (Exhibit A42):

- Breaks can be allowed as necessary. Employees who require breaks, such as for pumping or breastfeeding, (...) should normally be accorded those breaks, and not be asked to forgo normal meal breaks as a result, or work additional time to make up for the breaks, unless the employer can show undue hardship.

(...)

- A supportive environment can be provided for a woman who is breastfeeding. Accommodation may mean allowing a caregiver to bring the baby into the workplace or a service environment where children do not typically attend (such as a college or university class) to be breastfed, making scheduling changes to permit time to express milk or breastfeed or to reach home in time to breastfeed, and providing a comfortable, dignified and appropriate area so that a woman can breastfeed, or express and store breast milk. In some special cases, it may involve permitting a leave of absence from work. A supportive environment can generally be created with minimum disruption.

The International Labour Organization has also issued multiple reports, recommendations and conventions stressing the necessity of guaranteed breaks for breastfeeding. For example (Exhibit A43):

“A woman shall be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.” ILO Convention, 2000 (No. 183) Article 10(1)

“The period during which nursing breaks or the reduction of daily hours of work are allowed, their number, the duration of nursing breaks and the procedures for the reduction of daily hours of work shall be determined by national law and practice. These breaks or the reduction of daily hours of work shall be counted as working time and remunerated accordingly.” ILO Convention, 2000 (No. 183) Article 10(2)

“Where practicable and with the agreement of the employer and the woman concerned, it should be possible to combine the time allotted for daily nursing breaks to allow a reduction of hours of work at the beginning or at the end of the working day.” ILO Recommendation, 2000 (No. 191) Paragraph 8

“Where practicable, provision should be made for the establishment of facilities for nursing under adequate hygienic conditions at or near the workplace.” ILO Recommendation, 2000 (No. 191) Paragraph 9

Although the Employer provided absolutely no rationale for the outright refusal to provide any form of breaks or accommodation for PA members who breastfeed, it cannot be argued that government does not recognize that such breaks both practical or necessary as part of Canadian labour norms. The Government’s Bill C-86, which received royal assent on December 13th 2018 – the same government which provided Treasury Board with its mandate, modified the Canada Labour Code to include (Exhibit A44):

The Act is amended by adding the following after section 181:

DIVISION II.1

Breaks for Medical Reasons or Nursing

(...)

Nursing break

181.2 *Subject to the regulations, every employee who is nursing is entitled to and shall be granted any unpaid breaks necessary for them to nurse or to express breast milk.*

Such unlimited breaks for breastfeeding mothers are now the basic minimum for all workers in federally regulated businesses and industries in Canada whether unionized or not (Exhibit A45). Industries under the Canada Labour Code include banks, transportation, radio and television broadcasting, and many others. More than 18,000 employers and 900,000 employees operate under this basic minimum, which Treasury Board has refused to extend to PA members, who are employees of the Federal Government.

The Union is seeking paid breaks rather than unpaid breaks, as our position is that no mother should suffer a reduction in pay in order to breastfeed or pump milk. Additionally, worldwide trends in labour rights and legislation have demonstrated a clear shift from unpaid breaks for nursing to paid breaks. According to a report by the ILO, the number of developed economies with statutory provisions for paid nursing breaks have almost doubled between 1994 and 2013, going from 38 to 66 countries (Exhibit A45). The Union's position is that as a member of the G7 and one of the most prosperous countries in the world, Canada should be part of this trend and should provide for paid breaks for nursing, as 66 other countries already do.

The Prime Minister of Canada, The Right Honourable Justin Trudeau, has even used his official Twitter account to indicate support for breastfeeding accommodation policies. On August 6, 2016, the Prime Minister's official Twitter account announced a message from his spouse, Sophie Grégoire-Trudeau: "This World Breastfeeding Week, let's support

mothers to breastfeed anytime, anywhere. - SGT [#WBW2016](#)" (Exhibit A46). The WBW hashtag refers to World Breastfeeding Week which is celebrated every year in the first week of August to commemorate the signing of the 1990 Innocenti Declaration cited above. The most recent 2019 WHO Declaration on the occasion of World Breastfeeding Week stated (Exhibit A47): "Mothers also need access to a parent- friendly workplace to protect and support their ability to continue breastfeeding upon return to work by having access to breastfeeding breaks; a safe, private, and hygienic space for expressing and storing breastmilk; and affordable childcare." With its current bargaining position, Treasury Board is out of step with the policy intents of the Prime Minister's office in denying members of the PA group the right to "breastfeed anytime, anywhere".

It seems inconceivable that Treasury Board should deny accommodation for breastfeeding in its Collective Agreement covering more than 80,000 workers – the largest bargaining unit in Canada – despite the overwhelming Canadian and international consensus on the necessity to support mothers who breastfeed in the workplace from a legal, public health and human rights perspective. The Union therefore respectfully requests that the Commission include paid breastfeeding breaks in its recommendations.

Shift Work

In Article 25.13, the Union is also proposing new language that would preclude the Employer from scheduling rotating shifts without the express written consent of the bargaining agent.

Where work is scheduled beyond the normal day hours of operation of 7 AM until 6 PM, the Union is additionally seeking to extend the provisions of Article 25.13 to non-rotating shifts. Article 25.11 already provides a mechanism for the consultations contemplated here between the Employer and the Union to take place.

The Employer has several 24/7 operations in various departments. In most if not all of these operations, employees are scheduled on rotating shifts. In its input call for

bargaining, PSAC heard from many members that rotating shifts are onerous, stressful, result in sleep deprivation, negatively impact work-life balance and families, and also negatively impact physical and mental health and wellness. Members with long years of service also emphasized the challenges experienced as a result of working rotating shifts extending over many years.

Besides 24/7 operations, some departments are looking at extended hours of work so that the public can access the services they require outside of their normal hours of work. This situation is one that additionally could but not necessarily should default to rotating shifts.

There are alternatives to rotating shifts. Experience has demonstrated to us that one size does not fit all. There are employees who may prefer to work evening or night shifts, or a day shift that starts earlier or ends later, due to their lifestyles or family situations.

When alternative work hours become available, or the Employer demonstrates to the Union that operational requirements require different or additional hours of work to serve the public, the Union submits that as an alternative to rotating shifts, employees could bid for the new or additional hours of work. If there are more employees wishing to work the different hours or shifts, rather than rotating shifts, new shift schedules could be established that could be populated either on a long-term basis, or a short-term basis with a set period of time for recurring shift bids, which could be filled on the basis of seniority.

Given the negative impacts experienced by employees who are required to work rotating shifts, the Union respectfully requests that the Commission recommend the Union's proposals in Article 25.

EMPLOYER PROPOSAL

Excluded Provisions

~~Clauses 25.13 to 25.23 inclusive, pertaining to shift work, do not apply to employees classified as IS.~~ In the case of employees classified as WP, these clauses apply only to employees of the Correctional Service of Canada who are employed in Community

Correctional Centres and to those employed in higher security institutions in leisure, social, cultural or athletic activities as well as those who are providing Dialectical Behaviour Therapy (DBT).

Currently, employees in the IS (Information Services) classification are not required to work shifts. The approximately 3,400 IS employees across the public service were all hired as day workers whose hours of work are captured in Article 25.06, *Day Work*. This article provides for a seven decimal five-hour work day, exclusive of a lunch period, between the hours of 7 AM and 6 M, and a thirty-seven decimal five hour work week from Monday to Friday inclusive.

The Employer has provided no information to the Union whatsoever with respect to its proposal except to indicate that IS employees are sometimes required to work earlier or later than the normal day hours of work.

The Union submits that the Collective Agreement provides for these circumstances under Article 25.12 *Late Hour Premium* and under Article 28 – Overtime.

Moreover, Article 25.11 provides for consultation to take place between the Employer and the Alliance when the Employer requires hours of work different from those provided in Article 25.06 *Day Work* in order to meet the needs of the public or the efficient operation of the service. This Article has been used considerably by the parties in recent years to vary the hours of work in certain departments. (For examples, see Exhibit A48).

The Union cannot agree to an Employer demand that could have the wholesale result of turning 3,400 employees who were hired as day workers into shift workers, particularly in view of the fact that the Employer has disclosed no information whatsoever about its plans to re-deploy our members in the IS classification.

As provisions already exist in the Collective Agreement for consultation between the parties if the Employer establishes that different hours of work are necessary, and as this provision has been used during the life of the Collective Agreement to achieve changed

hours of work, the Union respectfully requests that the Commission dismiss this Employer demand.

PSAC PROPOSAL

ARTICLE 28 OVERTIME

All overtime shall be compensated at double time. Consequential amendments throughout the agreement must be made pursuant to agreement.

28.08 Compensation in cash or leave with pay

- a. Overtime shall be compensated **on the basis of employee's preference either in cash or equivalent leave with pay**, ~~except that, upon request of an employee and with the approval of the Employer, overtime may be compensated in equivalent leave with pay.~~
- b. The Employer shall endeavour to pay cash overtime compensation by the sixth (6th) week after which the employee submits the request for payment.
- c. The Employer shall grant compensatory leave at times convenient to both the employee and the Employer.
- d. Compensatory leave earned in a fiscal year and outstanding on September 30 of the following fiscal year, shall be paid at the employee's rate of pay as calculated from the classification prescribed in the employee's certificate of appointment on March 31 of the previous fiscal year.
- e. At the request of the employee and with the approval of the Employer, accumulated compensatory leave may be paid out, in whole or in part, once per fiscal year, at the employee's hourly rate of pay as calculated from the classification prescribed in the certificate of appointment of his or her substantive position at the time of the request.

28.09 Meals

- a. An employee who works three (3) or more hours of overtime immediately before or immediately following the employee's scheduled hours of work shall be reimbursed his or her expenses for one meal in the amount of ~~ten~~ **fifteen** dollars (~~\$10~~**15**) ~~except where free meals are provided.~~
- b. When an employee works overtime continuously extending four (4) hours or more beyond the period provided in paragraph (a), the employee shall be reimbursed for one additional meal in the amount of ~~ten~~ **fifteen** dollars (~~\$10~~**15**) for each additional four (4) hour period of overtime worked thereafter ~~except where free meals are provided.~~
- c. Reasonable time with pay, to be determined by the Employer, shall be allowed the employee in order that the employee may take a meal break either at or adjacent to the employee's place of work.

- d. Meal allowances under this clause shall not apply to an employee who is in travel status, which entitles the employee to claim expenses for lodging and/or meals.

RATIONALE

The Union's overtime and meal allowance proposal includes three parts. A proposal for double overtime for all overtime, employees' preference for how overtime is paid (either in leave or cash), and the \$15 meal allowance.

First, the Union demands that all overtime be compensated at the rate of double time. This proposal simplifies and streamlines the input of overtime pay. Overtime, a form of non-basic pay, was regularly missing or miscalculated by the Phoenix pay system. Currently, overtime can be earned at variety of rates: 1.5 times the base rate, 1.75 times the base rate, and double time in specific situations. The Union's proposal simplifies the input of overtime to a single rate. Further, this proposal recognizes that any overtime is a disruption of work/life balance. Sunday is currently paid at double time and any extra time worked is equally as important as the second day of rest.

With respect to Article 28.08, understanding that sometimes overtime is necessary, the Employer must not hold the discretion over how an employee is compensated for overtime work. The Union's proposal asks that the employee's preference be respected relative to how the employee elects to receive that compensation, either in cash or equivalent leave with pay. The employee works the overtime required by the Employer. Employees should be able to decide how they want to be compensated. As a result of the Phoenix pay system failure, employees may not even see their overtime pay for years if they opt to take it as compensation.

Third, the Union is proposing an increase in overtime meal allowance. The allowance has not been increased since June 2003 – 16 years ago. What's more, the increase at that time was a mere 50 cents. In the span of that 16 years, food costs have been impacted by inflation which has increased by almost 33 percent since 2003. As such, an increase in overtime meal allowance is well overdue. Overtime meal allowance for shift workers

has been increased several times via PSLREB interest arbitrations for several PSAC bargaining units over the last several years (Exhibit A49). In recent rounds of negotiations, Treasury Board has agreed to a \$12 meal allowance in the core federal public service for the following groups: FB (PSAC); AI, PR, and RO (Unifor); EI (IBEW); FI (AFCO); FS (PAFSO); SR(C) (FGDCA); SR(E) and SR(W) (FGDTLC); SO (CMSG); SP, NR, CS, and SH (PIPSC); and EC and TR (CAPE).

The Union submits the same should apply here. Currently, the Employer provides a meal allowance of \$10 in circumstances where meals are not provided, and the employees are required to work more than three hours of overtime. In terms of demonstrable need, when this situation does arise, the Union submits that it is difficult, if not impossible, to find a restaurant that serves a meal for no more than \$10. To this point, Restaurants Canada's 2019 Food Service Facts stated that restaurant menu prices in Canada rose 4.2 percent in the last year alone—the largest one-year increase since the introduction of the goods and services tax (GST) in 1991 (Exhibit A50).

The Union submits that such an increase is reasonable and appropriate and respectfully requests that the Commission award its proposal.

EMPLOYER PROPOSAL

PA Group Specific

28.04 Assignment of overtime work

- a. Subject to operational requirements, the Employer shall make every reasonable effort to:
 - a. avoid excessive overtime and to offer overtime work on an equitable basis among readily available qualified employees,
and
 - b. **endeavor to allocate overtime work to employees at the same group and level as the position to be filled, that is, CR-4 to CR-4, PM-2 to PM-2 etc.**
and

- bc. **The Employer shall, wherever possible, give at least four (4) hours' notice of any requirement for overtime work, Except in cases of emergency, call-back or mutual agreement with the employee, the Employer shall, wherever possible, give at least four (4) hours' notice of any requirement for overtime work.**

28.09 Meals

(New)

- d. **Meal allowances under this clause shall not apply to an employee who has approval to work overtime from a location other than his or her designated workplace.**

The Employer explained that its overtime proposal in Article 28.04 was motivated primarily as an issue at Employment and Skills Development Canada, where an employee in a PM-02 classification, who was formerly a CR-04, is qualified to do CR-4 work and therefore is be offered overtime in the CR-04 classification. The Employer's proposal says that only CR-04s shall be entitled to opportunities for overtime in the CR-04 classification. The Union rejects this proposal as it undermines the principle enshrined in the Collective Agreement shall be offered on an equitable basis to all employees qualified to do the work.

The Employer also proposes that an employee who has approval to work overtime from a location other than the employee's designated workplace not be entitled to the meal allowance provided for in this Article. The Employer's proposal is restrictive, lacks specificity, and no evidence of a financial hardship was provided to support the introduction of this new language.

For these reasons, the Union respectfully requests that the Commission not include the Employer's proposal in Article 28 in its recommendations.

PSAC PROPOSAL

**ARTICLE 34
VACATION LEAVE WITH PAY**

Note: Changes to this article will come into effect on ~~April 1st~~ following the signing date of the agreement.

Scheduling of Vacation Leave With Pay

34.05

(a) Employees are expected to take all their vacation leave during the vacation year in which it is earned.

(b) Vacation scheduling: Period	Employee Submission Deadline	Employer Response Deadline	Start of Leave Period	End of Leave Period
Summer	April 15	May 1	June 1	September 30
Fall/Winter	August 15	September 1	October 1	January 31
Winter/Spring	December 15	January 1	February 1	May 31

(i) Employees will submit their annual leave requests for the summer leave period on or before April 15th, **and on or before August 15th for the fall/winter leave period**, and on or before ~~September~~ **December 15th** for the winter/spring leave periods, The Employer will respond to such requests no later than May 1st for the summer leave period, **no later than September 1st for the fall/winter period and no later than January 1st for the winter/spring leave period.**

Notwithstanding the preceding paragraph, with the agreement of the Alliance, departments may alter the specified submission dates for the leave requests. If the submission dates are altered, the employer must respond to the leave request 15 days after such submission dates;

(ii) The ~~summer and winter~~ holidays periods are:
– for the summer leave period, between June 1 and September 30;

– for the fall/winter leave period, between October 1 and November January 31;

– for the winter/spring holiday season leave period, between December February 1 and March May 31;

– for the spring leave period, between April 1 and May 31.

- (iii) In cases where there are more vacation leave requests for a specific period than can be approved due to operational requirements, years of service as defined in clause 34.03 of the Agreement, shall be used as the determining factor for granting such requests. For summer leave requests, years of service shall be applied for a maximum of two weeks per employee in order to ensure that as many employees as possible might take annual leave during the summer months;
- (iv) Years of service as defined in clause 34.03 shall be used as the determining factor for granting requests only when the leave request plus **any** scheduled days of rest **and/or designated paid holidays** total seven (7) or more consecutive calendar days off.
- (v) Requests submitted after April 15th for the summer leave period and **after August 15th for the fall/winter period, and after September 15th for the winter leave period, and after March-December 15th 1st for the winter/spring leave period**, shall be dealt with on a first (1st) come first (1st) served basis **and requests for such leave shall not be unreasonably denied.**
- (c) ~~Subject to the following subparagraphs, †The Employer reserves the right to schedule an employee's vacation leave but shall make every reasonable effort:~~
 - (i) to provide an employee's vacation leave in an amount and at such time as the employee may request;
 - (ii) not to recall an employee to duty after the employee has proceeded on vacation leave;
 - (iii) not to cancel or alter a period of vacation or furlough leave which has been previously approved in writing.

Leave to employee's credit when employment terminates

34.15 The Employer shall grant the employee any vacation leave earned but not used by the employee before the employment is terminated by layoff if the employee so requests because of a requirement to meet continuous employment requirements for severance pay.

~~Where the employee requests, the Employer shall grant the employee his or her unused vacation leave credits prior to termination of employment if this will enable the employee, for purposes of severance pay, to complete the first (1st) year of continuous employment in the case of lay-off, and the tenth (10th) year of continuous employment in the case of resignation.~~

RATIONALE

Since 2011, employees in the PA bargaining unit have had the ability to bid for vacation leave by seniority during the peak summer (June 1 to September 30) and winter (December 1 to March 31) leave periods. For the remainder of the year, vacation bids are on a first-come first-served basis.

In their input to the bargaining process, many employees identified this dual system as being confusing and expressed the desire to see one process in place for bidding for vacation for the entire year.

The Union's proposal in Article 34.05 a) divides annual leave into four parts of the year, with deadlines for submitting vacation bids, and deadlines for Employer approval. The Union acknowledges that some dates, notably the January 1 deadline for Employer approval, may be problematic, and was willing to discuss these challenges with the Employer and find a workable resolution for both parties. Unfortunately, after offering an initial counter-proposal, the Employer lost interest and declined to discuss the Union's proposal further, leaving the Union no choice but to maintain its initial proposal.

Under 34.05 b) (iv) the parties negotiated language in the last round of bargaining that provided for employees to bid for vacation in the peak periods by seniority for periods of seven days or more. This language is a clarification that includes any designated paid holidays and scheduled rest days in that seven-day period. We believe that the Employer has agreed in principle to this proposal.

Part of the proposed change in Article 34.15 is housekeeping, as employees are no longer eligible for severance pay for voluntary departures such as resignation and retirement. However, the Union submits that unused vacation entitlements are still relevant to severance payments if the employee is laid off. The amended proposal simply continues the present provision in the agreement that an employee shall be granted vacation leave for time earned but not used if such leave has an impact on continuous service requirements for severance pay.

The PSAC respectfully requests that the Commission include these proposals in its recommendations.

PSAC PROPOSAL

ARTICLE 37 INJURY-ON-DUTY LEAVE

Amend as follows:

37.01 An employee shall be granted injury-on-duty leave with pay **upon submission of a claim to a Workers' Compensation authority pursuant to the Government Employees Compensation Act. The leave shall continue** for such period as ~~may be reasonably determined by the Employer~~ **certified by a Workers' Compensation authority** when ~~such authority has a claim has been made pursuant to the Government Employees Compensation Act and a Workers' Compensation authority has notified the Employer~~ that it has certified that the employee is unable to work because of:

- a. personal injury accidentally received in the performance of his or her duties and not caused by the employee's willful misconduct,
- or
- b. an industrial illness, **vicarious trauma, or any other illness, injury** or a disease arising out of and in the course of the employee's employment,

if the employee agrees to remit to the Receiver General for Canada any amount received by him or her in compensation for loss of pay resulting from or in respect of such injury, illness or disease, provided, however, that such amount does not stem from a personal disability policy for which the employee or the employee's agent has paid the premium.

RATIONALE

In virtually all cases where the Treasury Board is the Employer, employees disabled due to an occupational illness are entitled to injury-on-duty leave with full normal pay for such reasonable period as is determined by the Employer, where the disability is confirmed by a Provincial Workmen's Compensation Board pursuant to *the Government Employees Compensation Act* [GECA].⁹⁰

Treasury Board guidelines allow the Employer to unilaterally decide when to end the benefits provided by injury-on-duty leave, even though the provincial and territorial

⁹⁰ Injury-on-duty leave <https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12139>
Congé pour accident du travail <https://www.tbs-sct.gc.ca/pol/doc-fra.aspx?id=12139>
Government Employees Compensation Act <https://laws-lois.justice.gc.ca/eng/acts/g-5/>
Loi sur l'indemnisation des agents de l'État <https://laws-lois.justice.gc.ca/fra/lois/g-5/>

workers' compensation board determines the appropriate period of recovery required to heal and to return to work⁹¹. In addition, the levels of workers compensation benefits received via their respective provincial Worker's Compensation Boards (WCB) vary by province and territory.

The Union respectfully submits that the changes proposed to article 41.01 would

1. provide a clear and consistent standard for the implementation and scope of injury-on-duty leave for all members covered under this Collective Agreement;
2. ensure that injured members covered by this Collective Agreement receive injury-on-duty leave for 'such period as certified by a Workers' Compensation authority'; and
3. bring this Collective Agreement in line with those federal units that have negotiated language ensuring pay and benefits to all injured or ill workers for the complete period approved by the provincial or territorial workers' compensation boards.

WCB benefits and inclusions are not equal across provinces and territories. Under the same Collective Agreement, our members do not receive the same WCB benefits. Upon getting switched to direct WCB benefits, an injured member drops from 100 percent of their regular pay to between 75 percent to 90 percent of their net income depending on which province or territory in which they reside. Maximum assessable salary caps also vary by jurisdiction⁹².

⁹¹<https://www.canada.ca/en/employment-social-development/corporate/reports/evaluations/federal-worker-compensation-service.html> Evaluation of the Federal Workers' Compensation Service

<https://www.canada.ca/fr/emploi-developpement-social/ministere/rapports/evaluations/service-federal-indemnisation-accident.html> Évaluation du Service fédéral d'indemnisation des accidentés du travail (accessed September 14, 2019)

⁹² Association of Workers' Compensation Boards of Canada; Benefits http://awcbc.org/?page_id=75

Association des commissions des accidents du travail du Canada; Prestations d'indemnisation http://awcbc.org/fr/?page_id=360

Inclusion of mental health injuries. Provincial and territorial workers compensation boards are updating and aligning their coverage rules for acute and chronic mental injuries. The union believes that language in this Collective Agreement should reflect the recent changes in provincial legislatures.

Jurisdiction	% of earnings benefits are based on	Max. assessable earnings (2018) ⁹³	Coverage of psychological illness due to workplace trauma ⁹⁴
SK	90% net	\$88,314	Acute and chronic trauma
NL		\$65,600	Acute and chronic trauma
QC		\$76,500	Acute and chronic, trauma and non-traumatic
NWT & NT		\$92,400	Acute and chronic, trauma only
AB		\$98,700	Acute and chronic, trauma and non-traumatic
MB	85% net	\$127,000	Acute trauma
ON		\$92,600	Acute and chronic, trauma and non-traumatic
PEI		\$55,000	Acute and chronic, trauma and non-traumatic
NB	85% loss of earnings ⁹⁵	\$64,800	Acute trauma
NS	75% net first 26 weeks, then 85% net	\$60,900	Acute trauma
YK	75% gross ⁹⁶	\$89,145	Acute trauma
BC	90% net	\$84,800	Acute and chronic, trauma and non-traumatic

Mitigation of members' hardships. The current language in the Collective Agreement is problematic, causing hardship for injured members in various ways.

The financial hardship of living on a reduced salary while on direct WCB payments is exacerbated when upon their return to work, an individual is responsible for repaying the Employer for their portions of Superannuation, Public Service Health Care Plan, Supplemental Death Benefit, and Disability Insurance. Members off for 10 days or longer

⁹³ Association of Workers' Compensation Boards of Canada; Statistics http://awcbc.org/?page_id=599

Association des commissions des accidents du travail du Canada Statistiques http://awcbc.org/fr/?page_id=2236

⁹⁴ [HR Insider https://hrinsider.ca/hr-legal-trends-workers-comp-mental-stress/](https://hrinsider.ca/hr-legal-trends-workers-comp-mental-stress/)

⁹⁵ http://awcbc.org/?page_id=9797 Loss of earnings is defined as average net earnings minus net estimated capable earnings.

http://awcbc.org/fr/?page_id=9806 *La perte de revenus est définie comme la différence entre les revenus moyens nets et la capacité de revenus moyens nets.*

⁹⁶ Unless the worker earns equal to or less than the minimum compensation amount (25% of the maximum wage rate), in which case the worker receives 100% of gross.

also lose out on the accumulation of sick leave and annual leave credits. Periods of leave without pay are not counted for pay revision, pay increases, increment dates, and continuous employment purposes, thereby creating long-term cost implications for the member.

Implementation practices of injury-on-duty leave are not consistent from region to region and even within departments. *“Departmental officials do not have any adjudication authority but must report all workplace injuries and occupational diseases...”*⁹⁷. Departments must obtain and verify notification of the period of disability from Labour Canada before injury-on-duty leave is approved. However, there is no consistent standard of a ‘reasonable’ duration for injury-on-duty leave, nor when to switch the injured member to ‘direct WCB benefits’. Leave should not be granted beyond the date certified through Labour Canada that the employee is fit for work and require a departmental review if the leave granted reaches 130 days⁹⁸. Notwithstanding this guideline, the requirement for a departmental review is bound to be extremely rare: According to aggregated, long-term data, the average duration of granted loss-of-time workers compensation claims is far below 130 days (**tables below**). The likelihood that members of this bargaining unit would ever exceed 130 days is negligible. There is therefore not cogent reason why length of injury-on-duty leave should be a concern.

Average duration of claims ()⁹⁹

Province/Territory	Average duration per claim over 5 years (2013-2017)*	Average duration of claim per year based on 2013-2017
NL	129.3	25.9
PE	69.8	14.0
NS	117.3	23.5

⁹⁷ Employer’s Guide to the Government Employees Compensation Act <https://www.canada.ca/en/employment-social-development/services/health-safety/compensation/geca.html>

Guide de l'employeur au sujet de la Loi sur l'indemnisation des agents de l'État <https://www.canada.ca/fr/emploi-developpement-social/services/sante-securite/indemnisation/liae.html> (accessed August 21, 2019)

⁹⁸Injury-on-duty Leave <https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12139§ion=html>

Congé pour accident du travail <https://www.tbs-sct.gc.ca/pol/doc-fra.aspx?id=12139§ion=html> (Accessed August 21, 2019)

⁹⁹ No data available for QC, ON, and NWT/NU
Association of Workers’ Compensation Boards of Canada

NB	105.3	21.1
MB	34.3	6.9
SK	53.6	10.7
AB	70.9	14.2
BC	74.1	14.8
YT	29.3	5.9

*The estimated total number of calendar days compensated for short-term disability over the first five calendar years of a typical Lost Time Claim (if current conditions are continued for future years)¹⁰⁰.

In Ontario¹⁰¹ the average days lost** within one month after an injury or illness has stayed mostly the same. In 2018, the average days lost in one month was 7.7.

Average duration of claims within one month and three months (Ontario)

Ontario	Average # of days lost within 1 month	Average # of days lost within 3 months
2009	7.7	14.7
2010	7.7	14.5
2011	7.7	14.2
2012	7.4	13.3
2013	7.5	13.8
2014	7.5	13.5
2015	7.6	13.6
2016	7.7	14.1
2017	7.8	14.6
2018	7.7	14.7

** Average days lost are the average number of days that loss-of-earnings benefits were paid.

Provincial Boards' claim decisions are based on the type of injury and aim to allow the employee to heal and then safely return to work. Unlike these Boards, departments do not have a century of experience adjudicating workplace related injuries and decisions to terminate injury-on-duty leave. They can and are influenced by internal biases and circumstances and the relationship of the Employer with the individual involved in the

¹⁰⁰ Canadian Workers' Compensation System http://awcbc.org/?page_id=11803

Programmes d'indemnisation des accidents du travail au Canada http://awcbc.org/fr/?page_id=11805

(Accessed September 14, 2019)

¹⁰¹http://www.wsibstatistics.ca/S1/Average%20Days%20Lost%20_%20WSIB%20By%20The%20Numbers_P.php (accessed September 14, 2019)

accident. A manager who is kindly disposed towards a member may approve a longer period of leave than if they dislike the individual. Members have reported getting switched to direct WCB payments after only a few days.

The nature of the accident or illness can influence the Employer's decision to move members to direct WCB payments. Members suffering from a repetitive strain injury are more likely to be switched to direct benefits quickly; a workplace accident previously covered by the media can prompt the Employer to keep the member on injury-on-duty leave longer.

Whereas wages paid under the current injury-on-duty leave provisions are usually drawn from the respective section or branch of the department in which the injured member is working, direct WCB claim payments come out of a central budget at Federal Workers Compensation Program (FWCP)¹⁰². This can put pressure on the department to switch the injured member to direct WCB payments as soon as possible to free up salary money and replace the injured member with a 'fit' worker. This type of situation often becomes a barrier when trying to accommodate an injured member with modified duties or a gradual return to work program.

Members cannot challenge or appeal the Employer's decision to switch them to direct WCB payments, no matter how unreasonable the decision may appear to be.

Previous recommendation by Conciliation Board

It is significant that having presented its case to a Conciliation Board, the Board agreed with the Union that the Employer's discretion over the period of injury-on-duty leave should be removed¹⁰³. The Board recommended that the first part of clause 41.01 read:

¹⁰² Audit of the Federal Workers Compensation Programs - January 2018 <https://www.canada.ca/en/employment-social-development/corporate/reports/audits/federal-workers-compensation-programs.html>

Audit des programmes fédéraux d'indemnisation des accidentés du travail - Janvier 2018 <https://www.canada.ca/fr/emploi-developpement-social/ministere/rapports/verification/programmes-federaux-indemnisation-accidentees.html> (accessed September 14, 2019)

¹⁰³ Federal Public Sector Labour Relations and Employment Board Decisions <https://decisions.fpslreb-crtespf.gc.ca/fpslreb-crtespf/d/en/item/357499/index.do>

41.01 An employee shall be granted injury-on-duty leave with pay for the period of time that a Workers Compensation authority has certified that the employee is unable to work ...

Existing contract language in other collective agreements

The PSAC/UPCE collective agreement has language ensuring pay and benefits to all injured/ill workers for the complete period approved by the provincial or territorial workers' compensation board. Similarly, the PSAC represents workers at the House of Commons in the Library Technician and Clerical and General Services, Library Sciences and Operational and Postal Workers groups at the House of Commons who have language in their collective agreements that does not give the Employer discretion to determine the term of injury-on-duty leave, but instead links it to the Worker's Compensation Authority claim decision (Exhibit A50-B).

Our proposal is grounded in sound rationale and these federal sector collective agreements prove that our proposal is fair to injured workers and workable for the Treasury Board. In light of these reasons, the Union respectfully asks the Board to include this proposal in its recommendations.

PSAC PROPOSAL

ARTICLE 39 MATERNITY-RELATED REASSIGNMENT OR LEAVE

The Union tentatively agrees to the Employer's counterproposal.

39.01 An employee who is pregnant or nursing may, during the period from the beginning of pregnancy to the end of the ~~fifty-second (52)~~ **seventy-eighth (78th)** week following the birth, request that the Employer modify her job functions or reassign her to another job if, by reason of the pregnancy or nursing, continuing any of her current functions may pose a risk to her health or the health of the foetus or child. On being informed of the cessation, the Employer, with the written consent of the employee, shall notify the appropriate workplace committee or the health and safety representative.

39.02 An employee's request under clause 39.01 must be accompanied or followed as soon as possible by a medical certificate indicating the expected duration of the potential risk and the activities or conditions to be avoided in order to eliminate the risk. Depending on the particular circumstances of the request, the Employer may obtain an independent medical opinion.

39.03 An employee who has made a request under clause 39.01 is entitled to continue in her current job while the Employer examines her request but, if the risk posed by continuing any of her job functions so requires, she is entitled to be immediately assigned alternative duties until such time as the Employer:

- (a) modifies her job functions or reassigns her;
or
- (b) informs her in writing that it is not reasonably practicable to modify her job functions or reassign her.

39.04 Where reasonably practicable, the Employer shall modify the employee's job functions or reassign her.

39.05 Where the Employer concludes that a modification of job functions or a reassignment that would avoid the activities or conditions indicated in the medical certificate is not reasonably practicable, the Employer shall so inform the employee in writing and shall grant leave of absence without pay to the employee for the duration of the risk as indicated in the medical certificate. However, such leave shall end no later than ~~fifty-two (52)~~ **seventy-eight (78)** weeks after the birth.

39.06 An employee whose job functions have been modified, who has been reassigned or who is on leave of absence shall give at least two (2) weeks' notice in writing to the Employer of any change in duration of the risk or the inability as indicated in the medical certificate unless there is a valid reason why that notice cannot be given. Such notice must be accompanied by a new medical certificate.

39.07 Notwithstanding 39.05, for an employee working in an institution where she is in direct and regular contact with offenders, if the Employer concludes that a modification of job functions or a reassignment that would avoid the activities or conditions indicated in the medical certificate is not reasonably practicable, the Employer shall so inform the employee in writing and shall grant leave of absence with pay to the employee for the duration of the risk as indicated in the medical certificate. However, such leave shall end no later than at the time the employee proceeds on maternity leave without pay or on termination date of the pregnancy, whichever comes first.

RATIONALE

The following rationale will commence with an explanation of the intent of the initial demand tabled from the outset of bargaining.

The Union tabled its demand for this Article in its initial package of proposals on May 29, 2018 (Exhibit A51) during the first session of bargaining with the Employer. The original demand was to extend the reassignment or leave for the entirety of the mother's breastfeeding period. There were also other proposed amendments to the article, the most significant of which was that leave for the duration of the risk to the pregnant or nursing mother should be with pay rather than without.

As described in the rationale for breastfeeding breaks under Article 25 – Hours of Work, the nationally and internationally recommended breastfeeding period is 104 weeks and beyond after the birth of the child. The current Collective Agreement allows for maternity-related reassignment or leave up to 52 weeks after the birth of the child.

Treasury Board previously had a policy which, given it was not enshrined in the Collective Agreement, was unilaterally rescinded without consultation with the Union on July 19, 2010. (Exhibit A52)

The former policy not only recognized that certain working situations present hazards for breastfeeding mothers, but also allowed for reassignment or leave throughout the breastfeeding period with no set limit in weeks. The Treasury Board policy stated:

To alleviate, during the period of pregnancy and nursing (breast-feeding), health concerns of employees who are exposed to certain biological, chemical, physical, or psycho-social hazards in the workplace such as may exist in laboratories, on ships or construction sites, or at remote sites.

(...)

It is government policy that departments will make a reasonable effort to modify job duties or reassign or transfer pregnant or nursing employees who are concerned about the performance of certain duties during their pregnancy or while nursing.

(...)

Should accommodation not be reasonably practicable or should the pregnant or nursing employee refuse such accommodation, the employee may be required to take leave without pay in addition to other leaves provided for in her collective agreement or in Treasury Board policies.

Upon rescinding the policy, the information bulletin released by Treasury Board on July 19, 2010 to Deputy Heads, Heads of Human Resources and Chiefs of Staff Relations on Staff Relations instructed that: "Requests for Maternity-Related Reassignment or Leave are to be governed by the applicable collective agreement of the requesting employee" (Exhibit A53).

The Union is therefore proposing that the language in the current Collective Agreement be extended so that the recommended period of breastfeeding would be fully covered as it was under previous Treasury Board policy.

The Union additionally believes it is possible for the Employer to find safe alternative work for the members of the PA bargaining unit and that no employee should be forced onto leave without pay when requiring an accommodation of this nature.

Indeed, a provision to place an employee on leave with pay, as contained in the original demand, if the Employer cannot find alternative work would have the effect of encouraging the Employer to find alternative duties that can be safely performed by the pregnant or nursing worker.

The concept of having paid leave when a worker cannot be accommodated via job modification or reassignment exists in only one provincial jurisdiction. Québec has the *For a Safe Maternity Program* which grew out of protections contained in the *Act Respecting Occupational Health and Safety* and the *Act Respecting Industrial Accidents and Occupational Diseases*. (Exhibit A54)

Under sections 44-46 of the Quebec Act *Respecting Occupational Health and Safety*, reassignment is allowed until such time that a child is weaned. (Exhibit A55):

A worker who furnishes to her employer a certificate attesting that her working conditions involve risks for the child she is breast-feeding may request to be re-assigned to other duties involving no such risks that she is reasonably capable of performing.

(...)

If the requested re-assignment is not made immediately, the worker may stop working until she is reassigned or the child is weaned.

Furthermore, the Quebec For a Safe Maternity Experience program guarantees an income replacement indemnity equal to 90% of her weighted net income, up to a maximum of \$76,500 (maximum yearly insurable earnings). This indemnity is not taxable (Exhibit A54). Every single worker in the province of Quebec is covered by legislation providing pregnant and nursing employees leave with pay for the entire length of

breastfeeding period if no reassignment is possible. Federal public service workers deserve no less

At the Federal level, a provision in section 132.5 of the *Canada Labour Code, Part II, Occupational Health and Safety*, also provides for leave with pay for the period the nursing employee has informed the employer that she requires a job modification or reassignment and the period that the employer is seeking to make this accommodation. Section 132.5 says (Exhibit A56):

“The employee, whether or not she has been reassigned to another job, is deemed to continue to hold the job that she held at the time she ceased to perform her job functions and shall continue to receive the wages and benefits that are attached to that job for the period during which she does not perform the job.”

We believed that this improvement to our collective agreements was necessary for a number of reasons:

- The duty to accommodate pregnant or nursing workers should not result in them having to shoulder the financial burden of taking leave without pay if their job cannot be made safe, or if they cannot be reassigned. It is the Employer’s duty to provide a safe work environment, as established through health and safety and human rights and discrimination jurisprudence. It would stand to reason, therefore, that if this safe work environment cannot be provided by the Employer, then the Employer should pay for the employee’s period of leave.
- If the Employer takes the time and makes a genuine attempt to modify the job of a pregnant or nursing employee, and/or makes a genuine attempt at reassigning that employee to a safe job, then the actual costs of sending members on leave with pay should be minimal. It is in the Employer’s best interests to follow the steps outlined in the Collective Agreement, and try to accommodate the employee, as the result will be fewer members being sent on leave with pay.

- It could be only a matter of time before a grievance or human rights complaint is filed on the issue of being on leave without pay, claiming it to be discrimination based on sex or family status. There is also the possibility of an employee pursuing legal action if the child incurs health problems for example due to being exposed to a toxin through breast milk. The Employer could avoid these problems by granting leave with pay in 43.05.

On March 20, 2019 at 10:17 am, 10 months after the initial demand was presented, the Employer tabled its first counter offer to this demand. The Employer proposed to extend this leave from 52 to 78 weeks but refused to provide paid leave to workers who cannot be reassigned (Exhibit A57).

Although the Union does not believe that this is adequate for our members, we believe that is a step in the right direction for improving these provisions. In the interest of finding common ground with the Employer, the Union tentatively agreed to the counter and withdrew its other demands relating to this proposal.

However, in its subsequent pass on May 1, 2019, the Employer withdrew its counterproposal and did not include it in its submission to the Public Interest Commission, apparently on the grounds that the counterproposal was offered as part of a package which included counters on unrelated articles to which the Union could not agree. The Union respectfully requests that the Commission recommend that the Employer resubmit its counter of March 20, 2019 that extended reassignment leave to 78 weeks, allowing the parties to reach a compromise.

PSAC PROPOSAL

ARTICLE 44 LEAVE WITH PAY FOR FAMILY-RELATED RESPONSIBILITIES

The Union agrees to the Employer proposal in 44.01 (g).

44.01 For the purpose of this article, family is defined as:

- a. spouse (or common law partner resident with the employee);
- b. children (including foster children, step-children or children of the spouse or common-law partner, ward of the employee), grandchild;
- c. parents (including step-parents or foster parents);
- d. father-in-law, mother-in-law, brother, sister, step-brother, step-sister, grandparents of the employee;
- e. any relative permanently residing in the employee's household or with whom the employee permanently resides;
or
- f. any relative for whom the employee has a duty of care, irrespective of whether they reside with the employee-;
- or
- g. a person who stands in the place of a relative for the employee whether or not there is any degree of consanguinity between such person and the employee.**

44.02 The total leave with pay which may be granted under this article shall not exceed ~~thirty seven decimal five (37.5) hours~~ **fifty-six and one quarter hours (56.25)** in a fiscal year.

44.03 Subject to clause 44.02, the Employer shall grant the employee leave with pay under the following circumstances:

- a. to take a family member for medical or dental appointments, or for appointments with school authorities or adoption agencies, if the supervisor was notified of the appointment as far in advance as possible;
- b. to provide for the immediate and temporary care of a sick member of the employee's family and to provide the employee with time to make alternative care arrangements where the illness is of a longer duration;
- c. to provide for the immediate and temporary care of an ~~elderly~~ member of the employee's family;
- d. for needs directly related to the birth or the adoption of the employee's child;
- e. to attend school functions, if the supervisor was notified of the functions as far in advance as possible;

- f. to provide for the employee's child in the case of an unforeseeable closure of the school or daycare facility;
- g. seven decimal five (7.5) hours out of the thirty-seven decimal five (37.5) hours stipulated in clause 44.02 above may be used to attend an appointment with a legal or paralegal representative for non-employment related matters, or with a financial or other professional representative, if the supervisor was notified of the appointment as far in advance as possible.
- h. **to visit with a terminally ill family member**

44.04 Where, in respect of any period of compensatory leave, an employee is granted leave with pay for illness in the family under paragraph 44.03(b) above, on production of a medical certificate, the period of compensatory leave so displaced shall either be added to the compensatory leave period, if requested by the employee and approved by the Employer, or reinstated for use at a later date.

RATIONALE

The Union has three key proposals in this Article.

Under the definition of the family contained in this Article, the bargaining unit is seeking parity with the EB group by including “**A person who stands in the place of a relative for the employee whether or not there is any degree of consanguinity between such person and the employee**”. This specific element was added to the definition of family under this Article in the EB agreement in the 2014 round of bargaining in order to accommodate the cultural practices of indigenous peoples in Canada (Exhibit A58).

Additionally, this provision has been added to other federal public service collective agreements in the current round of bargaining, including the SP agreement represented by the PIPSC, as well the EC agreement represented by CAPE (Exhibit A59).

The Employer had included language in its May 1, 2019 comprehensive offer to the Union. However, the Employer appears to have withdrawn this offer as it was not included in its submission to the Public Interest Commission, presumably on the grounds that it was offered as part of a package which included counters on unrelated articles to which the

Union could not agree. The Union respectfully requests that the Commission recommend that this language be included in the new agreement. The Union sees no justification for denying PA members the right to utilize such leave for while granting it to other PSAC members as well as to those represented by other bargaining agents.

Also, under this Article, the Union is seeking to include “**to visit with a terminally ill family member**” in the list of circumstances under which the Employer shall grant the employee leave with pay,

In the course of a family member’s medical illness, a person may reach the stage of being considered terminally ill and be placed under palliative care. In such circumstances, an employee may wish to spend final moments with the family member whose life will soon come to an end. The Article currently allows for family-related leave in circumstances involving care only. The Union is seeking explicit language that provides for visitation of a terminally ill relative so that this specific situation is not left open to differing interpretations of regarding the provision of care.

The Union is also seeking to increase the amount of family-related responsibility leave available to employees to 56.25 hours annually from 37.5 hours. The pressure on workers to care for family while juggling full-time jobs has increased in recent years and the current quantum is insufficient to meet the needs of employees.

Economic and societal trends that have emerged over the past few decades have led to workers in Canada having children later than previously. Indeed, according to many economists, as described in a study by Mills et al. 2015:

“A second set of arguments, primarily made by economists, links early child bearing to a high motherhood ‘wage penalty’ and demonstrates that postponement of motherhood results in substantial increases in earnings, particularly for higher educated women and those in professional occupations.” (Exhibit A60)

This, coupled with other factors such as an aging demographic, children staying in the household as dependents longer than previously, and families having fewer children to share in the care of elderly family members, has led to an increase in caregiver responsibilities, the outcome of which has been termed “the sandwich generation”. Current societal trends do not suggest that this phenomenon is going to reverse.

In 2011-2013, Dr. Linda Duxbury of Carleton University’s Sprott School of Business, and Dr. Christopher Higgins of the University of Western Ontario’s Ivey School of Business conducted a study of more than 25,000 employed Canadians which focused on the work-life experiences of employed caregivers. (Exhibit A61)

Among their findings were:

- Of the 25,021 employees surveyed, 25 percent to 35 percent are balancing work, caregiving and/or childcare. Sixty percent of those in the caregiver sample are in the sandwich group.
- Forty percent of the 25,021 employees in the survey sample reported high levels of overload both at work and at home. Employees in the sandwich group reported the highest levels of overload. Employees in the caregiver sample stated that they cope with conflict between work and caregiving by bringing work home and giving up on sleep, personal time and social life — strategies that put them at higher risk of experiencing burnout and stress.

One of the recommendations of this major study is that employers provide more flexibility in work hours and leave.

A review in Statistic Canada’s 2004 Labour and Income publication also recognized the presence of a sandwich generation in Canada and described its impact:

However, caregiving often leaves little time for social activities or holidays. More than a third found it necessary to curtail social activities, and a quarter had to change holiday plans. Often a call for help can come in the night and the caregiver must leave the house to provide assistance. Some 13 percent experienced a change in sleep patterns, and the same percentage felt their health affected in some way. While 1 in 10 sandwiched workers lost income, 4 in 10 incurred extra expenses such as renting medical equipment or purchasing cell phones. (Exhibit A62)

Bargaining demands from our membership consistently identify improvements to family-related responsibility leave provisions as a high priority. Given that the studies also demonstrate that employees are experiencing increased pressures due to caregiving responsibilities, we respectfully ask the Commission to recommend an increase in the amount of family-related leave available to our members.

Moreover, employees at the Canada Revenue Agency, also PSAC members, have 45 hours per year of paid family-relative responsibility leave available to them. This is 7.5 hours more per year, or 20 percent more hours of leave than are available to PSAC members in the core public administration. (Exhibit A63)

The CRA bargaining unit was carved out of a core public service table, the PA group, in 1999. The SP classification at CRA came into effect in November 1, 2007 after a classification review was completed. The mandate for bargaining at the CRA is also set by Treasury Board. As noted in the final report Public Interest Commission chaired by Arbitrator Ian R. Mackenzie to the CRA in 2014 (Exhibit A64):

[8] The CRA is a separate agency, as identified in Schedule V of the Financial Administration Act (FAA). Until December 14, 2012, the CRA had the authority to set its own collective bargaining mandate and enter into collective agreements on the direction and authority of the CRA's Board of Management. Bill C-45 amended the Canada Revenue Agency Act (CRAA) to require the CRA to obtain a mandate approved by the President of the Treasury Board. Once a tentative agreement is reached, the CRA is

now required to seek the endorsement of the Treasury Board to ensure compliance with that mandate.

The appropriateness of external comparability of CRA and the PA group – the largest PSAC bargaining unit – was highlighted in the same report (Exhibit A64):

[27 The PIC has carefully considered the submissions of the parties on the issue of seniority or years of service. The factors for a PIC to consider in making its recommendations include the comparability of terms and conditions of employment between occupations within the public service and comparability relative to employees in similar occupations (section 175 of the PSLRA). The majority of the PIC is of the view that the most comparable group within the core public service is the PA group. The employees in the bargaining unit are in occupations that are more similar to those in the PA group than those in the FB or CX bargaining units. The PIC therefore recommends that the collective agreement contain the bargaining agent's proposal for years of service to be used in vacation scheduling, as was recently agreed to in the PA group collective agreement.

The Union believes that there is no justification for Treasury Board to provide family-related responsibility leave provisions to employees in the core public administration that are inferior to those enjoyed by employees of the CRA. We respectfully request that the Commission recommend our proposal.

PSAC PROPOSAL

ARTICLE 47 BEREAVEMENT LEAVE WITH PAY

47.01 When a member of the employee's family dies, an employee shall be entitled to bereavement leave with pay. Such bereavement leave, as determined by the employee, must include the day of the memorial commemorating the deceased, or must begin within two (2) days following the death. During such period, the employee shall be paid for those days which are not regularly scheduled days of rest for the employee. In addition, the employee may be granted up to three (3) days' leave with pay for the purpose of travel related to the death.

- a. At the request of the employee, such bereavement leave with pay may be taken in a single period of seven (7) consecutive calendar days or may be taken in two (2) periods to a maximum of five (5) working days.
- b. When requested to be taken in two (2) periods,
 - i. the first period must include the day of the memorial commemorating the deceased or must begin within two (2) days following the death, and
 - ii. the second period must be taken no later than twelve (12) months from the date of death for the purpose of attending a ceremony.
 - iii. The employee may be granted no more than three (3) days' leave with pay, in total, for the purposes of travel for these two (2) periods.

47.02 An employee is entitled to one (1) day's bereavement leave with pay for a purpose related to the death of his or her ~~brother-in-law or sister-in-law, nephew~~, **aunt, uncle niece,** and grandparents of spouse.

47.03 If, during a period of paid leave, an employee is bereaved in circumstances under which he or she would have been eligible for bereavement leave with pay under clauses 47.01 and 47.02, the employee shall be granted bereavement leave with pay and his or her paid leave credits shall be restored to the extent of any concurrent bereavement leave with pay granted.

47.04 It is recognized by the parties that circumstances which call for leave in respect of bereavement are based on individual circumstances. On request, the deputy head of a department may, after considering the particular circumstances involved, grant leave with pay for a period greater than and/or in a manner different than that provided for in clauses 47.01 and 47.02.

RATIONALE

The Union is proposing to add brother-in-law and sister-in-law into the Definition of Family in Article 2. Consequential to that, Article 47.02 would not apply to these family members.

However, the Union is also proposing to extend the classes of family members for whom an employee would be able to seek one day of leave with pay to grieve and administer bereavement responsibilities, to include aunt, uncle, niece and nephew.

The public service is gradually expanding, as it should, to be more fully representative of Canadian society. As we have submitted in previous proposals, many public sector workers belong to cultures that revere and respect extended family kinships. In certain cultures, including indigenous societies, aunts and uncles and nieces and nephews are traditionally considered to be immediate and important family members.

In every recent round of bargaining, the input the Union has received from bargaining unit employees places a high emphasis on definition of family, family-related responsibility leave, and bereavement leave. The death of an aunt, uncle, niece or nephew is a time when an employee may be grieving, administering bereavement responsibilities, paying last respects, helping a mother or father cope with the death of their brother or sister, or supporting an employee's own brother and sister as they attempt to cope with the loss of their child. This is a time of enormous difficulty and intense emotions for employees. It not a time for which vacation leave was contemplated.

The Union submits that employees should not be required to use vacation leave to attend the funeral of an aunt, uncle, niece or nephew, and respectfully requests that the Commission include this proposal in its recommendations.

EMPLOYER PROPOSAL

47.01 For the purpose of this article, “family” is defined per Article 2 and in addition:

- a. a person who stands in the place of a relative for the employee whether or not there is any degree of consanguinity between such person and the employee. An employee shall be entitled to bereavement leave under 47.01**

(a) only once during the employee's total period of employment in the public service.

RATIONALE

The Union agrees to the Employer's counterproposal in 47.01 a. The inclusion of such language into a Collective Agreement recognizes the diverse nature of some family relationships, which has been accepted by the Employer elsewhere within the core public service. The language proposed for addition to 44.02 (45.02), 47.01 and 50.01 (51.01) currently exists in the EB Collective Agreement between the Treasury Board and the PSAC

This language was also recently achieved earlier in 2019, during negotiations between the Employer and other bargaining units within the core public service. These include, but are not limited to those with CAPE, ACFO and the Association of Justice Counsel (Exhibit A65). As such, the Employer has acknowledged that such language is required in settlements with other Bargaining units and that pattern has emerged.

The Union therefore respectfully requests that the proposals be incorporated into the Commission's recommendation.

PSAC PROPOSAL

ARTICLE 58 CALL CENTRE EMPLOYEES

58.02

- (a) All Call Centre employees shall receive at least five (5) days of in-person training on crisis intervention and coping skills upon initial hire.
- (b) All Call Centre employees shall receive a minimum of three (3) days of in-person training every two (2) years to reinforce coping skills. ~~be provided the opportunity to participate in a minimum of two (2) days of training annually on matters related to working in a Call Centre, such as training to reinforce coping skills.~~
- (c) All Call Centre employees shall receive a minimum of three (3) days of in-person crisis intervention training every two (2) years.

NEW

58.05 Call Centre employees shall have a minimum of thirty (30) seconds off the telephone between calls.

NEW

58.06 Call Centre employees who feel negatively impacted by abusive or threatening behaviour of a client shall:

- a) have the right to immediately advise the client that they are terminating the call;
- b) report the incident to their immediate supervisor;
- c) be provided with immediate Critical Incident debriefing on request;
- d) be provided the time they need to recover from the call before returning to their duties;
- e) suffer no reprisals for exercising their rights under this Article.

58.07 Call Centre employees who feel negatively impacted by a call from a client in crisis shall:

- a) report the incident to their immediate supervisor;
- b) be provided with immediate Critical Incident debriefing on request;
- c) be provided the time they need to recover from the call before returning to their duties;
- d) suffer no reprisals for exercising their rights under this Article.

58.XX A Call Centre is defined as a work environment that handles both inbound or outbound phone calls and often addresses requests from both external clients (e.g. the public) and internal clients (e.g. other public service employees). Call Centre workers are employees whose primary responsibility is responding to or making telephone calls. They must continuously be available and ready to answer telephone calls for fifty percent (50%) or more of their time to be considered to be employed in a Call Centre environment performing Call Centre work. Call Centre environments that comply with the preceding criteria can be characterized by large groups of employees or smaller groups (e.g. two or three employees).

RATIONALE

Training

The federal government employs approximately 7,000 employees in call centre operations in the core public administration across the country. Some of them specifically serve fellow public service employees, for example, the Public Service Pay Centre in Miramichi, NB, and the Public Service Pension Centre in Shediac, NB. The majority, however, serve the public, for example, at Service Canada operations that assist Canadians with accessing benefits such as the Canada Pension Plan, Old Age Security, and the Guaranteed Income Supplement. A diverse array of other federal government departments also operate call centres, such as Veterans Affairs, Global Affairs, and the Department of Environment and Climate Change.

In the last round of bargaining, PSAC and Treasury Board recognized in the Collective Agreement for the first time the unique work environment in the call centre world, and the unique challenges that face call centre employees, by negotiating language that applies specifically to workers in call centres.

Besides the existing language in Article 58, the parties also negotiated a Memorandum of Understanding that called a study of call centre work (Exhibit A66).

This study was undertaken by professors Richard Chaykowski and Robert Hickey of Queen's University and was completed in October 2018 (Exhibit A67).

In 58.02, as a result of input from our members working in call centres, and supported by the results of the study, the PSAC is proposing to strengthen the training language agreed to by the parties in the last round of bargaining.

The Union is looking for five days of crisis intervention training and training to reinforce coping skills for all new employees. Additionally, we are seeking three days of in-person refresher courses on crisis intervention training every two years, and three days of in-person training on coping skills every second year.

The study found that stress and burnout have been a major theme in call centre research. The study also examined the impact of customer aggression and incivility; it found that these “psychosocial hazards” had a significant effect on the mental health and well-being of call centre employees; and also found a significant impact on service quality and retention.

Quality, in-person crisis intervention training and training on coping skills are critical tools to assist employees in dealing with difficult calls, and further, such training is an asset to the Employer as it will assist with employee retention.

Abusive or Crisis Calls

In a related vein, in Articles 58.06 and 58.07, the Union is seeking to add to the Collective Agreement a protocol to be followed by employees (and management) when an employee is negatively impacted by abusive or threatening behaviour from a client, or a crisis call from a client. This protocol is already in place at Employment and Skills Development Canada call centres (i.e. Service Canada) and we believe this “best practice” should be followed at all federal government call centres.

Time off between calls

The Union is seeking a 30-second break between calls. Currently, the standard “break” between when a call centre employee hangs up a call and then takes a new call is 10

seconds – barely enough time to take a sip of water. The study found a positive correlation between micro-breaks and stress reduction and job performance, as well as mitigating strain and exhaustion.

Definition of a Call Centre

Many call centre operations have added email as a standard procedure for interacting with callers. Subsequently, some federal government call centres – even some which only interact with the public via telephone – are referring to their operations as “contact centres.” The name of the current article in the Collective Agreement has created confusion in some workplaces about whether it applies to them when they are referred to as “contact centres.” The definition the Union proposes to add to the Collective Agreement was agreed to by the Joint Union-Management Committee struck by the MOU in the last agreement to study best practices in call centres.

For all of these reasons, the Union respectfully requests that the Commission include the above call centre proposals in its recommendations.

PSAC PROPOSAL

NEW ARTICLE WP SPECIFIC WORKING CONDITIONS

Training for All Employees in the WP Classification

- WP.01 **All employees in the WP classification shall be provided with a minimum of three (3) days of in-person training every two (2) years to reinforce coping skills.**
- WP.02 **All employees in the WP classification shall be provided with a minimum of three (3) days of in-person crisis intervention training every two (2) years.**

Training and Certification for Correctional Program Officers

- WP.03 **All CPOs shall be provided with four (4) weeks of in-person training at initial hire.**
- Such training shall incorporate the following:**
- (i) Principles of adult learning**
 - (ii) Effective group management techniques**
 - (iii) Effective facilitation techniques**
 - (iv) How to effectively challenge criminal thinking**
 - (v) Motivational skills**
 - (vi) Information on learning disabilities, mental health issues, FASD**
 - (vii) Safety procedures**
 - (viii) Job procedures and protocols (OMS, report-writing, etc)**
 - (ix) Program materials**
- WP.04 **A CPO shall only be required to be certified once in any period of continuous service within the classification.**
- WP.05 **Following initial certification, a CPO shall be assigned to co-facilitate with an experienced CPO until their first anniversary date of hire.**
- WP.06 **Clinical supervision shall be provided at each site at least twice per month for each select program group (Sex Offenders, Adapted, Aboriginal and Mainstream) to provide support and guidance to facilitators as well as timely and effective assistance.**

Workload for Parole Officers at Correctional Service of Canada

- WP.07 **In Community Correctional Centres, Parole Officers shall have no more than eight (8) offenders in their caseload at any given time.**
- WP.08 **“Community Parole Officers:**
- a) shall have no more than twelve (12) offenders in their caseload at any given time**
 - b) shall have frequency of contact limited to no more than thirty (30) per month**
 - c) shall not be required to write more than a maximum of five (5) reports per month of Community Assessments or Community Strategy and Assessments for Decisions for offenders not part of their caseloads.**
- WP.09 **In institutions, Parole Officers shall have no more than twenty (20) offenders in their caseload at any given time.**
- WP.10 **For each additional offender added to the maximum caseload provided for in articles WP.07, WP.08 and WP.09 above, the Parole Officer shall be paid an additional \$100 per week. Parole Officer Supervisors exceeding these maximums shall also be paid an additional \$100 for each additional offender per week. Such amount shall be pensionable.**

Memorandum of Understanding between Treasury Board of Canada and the Public Service Alliance of Canada with respect to Parole Officer Caseload

This Memorandum of Understanding is to give effect to an agreement reached between Treasury Board of Canada and the Public Service Alliance of Canada with respect to Parole Officer caseload.

The parties recognize that there may be different requirements and job responsibilities for Parole Officers who work in Community Correctional Centres, who work in Community Parole Offices, and who work in Correctional Institutions.

The parties therefore agree to have meaningful consultations during regular meetings of the Institutional Workload Review Steering Committee and the Community Parole Officer Resource Formula National Working Group.

The Employer agrees to share the results of its institutional workload review survey and its expenditure review with the Union representatives on the Steering Committee and the Working Group and to consult meaningfully on the establishment of reasonable caseloads for Parole Officers and other issues relating to Parole Officer workload.

RATIONALE

Crisis Intervention and Coping Skills Training for All Employees in the WP Classification

Employees in the WP classification work in one of two federal government departments: either Correctional Service of Canada or Veterans Affairs Canada.

Day-to-day work in each department can be fraught with peril. The clientele served by WP employees is unique and can be generally considered unpredictable, high-risk, and potentially dangerous.

In Correctional Service of Canada, the complex offender population includes a volatile mix of individuals who may be incarcerated in minimum, medium, maximum, or multi-level security institutions and who are often disadvantaged persons who frequently have substance abuse issues, whose needs, skills and abilities, and personalities vary greatly, and whose lived experiences may range from the mundane to the horrific.

Employees in the WP classification at Veterans Affairs Canada, be they adjudicators or benefit administrators, also deal on a daily basis with a potentially volatile and unstable clientele, and one that is very familiar with the handling of weapons.

Veterans returning from war, in particular, have generally been exposed to horrifying situations and as a result, may be suffering from Post-Traumatic Stress Disorder. The damaging and long-lasting impact of PTSD on soldiers has been amply studied elsewhere

and is vividly and capably chronicled in the book *Waiting for First Light: My Ongoing Battle with PTSD* by former General and retired Senator Romeo Dallaire.¹⁰⁴

To ensure that employees in both departments can deal skillfully and effectively with the clientele they serve and can quickly and safely defuse threatening situations, the Union is calling for a minimum of three days of in-person training once every two years to reinforce coping skills; and a minimum of three days of in-person crisis intervention training every two years.

WP employees themselves have identified to the Union their need for ongoing training in the areas of crisis intervention and coping skills to assist them in trying to protect themselves and their co-workers from both physical harm and psychological injury on the job.

In 2017, the Union of Safety and Justice Employees released a study entitled “*A Report on the Invisible Toll of Psychological Trauma on Federal Public Safety Workers*” (Exhibit A68).

Qualitative and quantitative data was gathered from a 36-question national online survey and in-depth interviews with members of USJE. The respondents, predominantly female, included institutional and community Parole Officers who document detailed histories of violent offenders; and Correctional Program Officers who work in the assessment and treatment of sex offenders, among many others in Canada’s federal public safety and justice systems.

“Not surprisingly, federal public service employees represented by USJE who work within the Correctional Service of Canada also experience pervasive levels of secondary trauma, including persistent and high levels of anxiety, stress, hypervigilance, insomnia, depression, nightmares, social withdrawal, lack of trust, increased consumption of

¹⁰⁴ Published in 2019 by Vintage Canada (Penguin, Random House)

alcohol, among others, associated with working with traumatic material and within a traumatic penitentiary environment.”

According to the study, numerous interviewees indicated that the CSC has a workplace culture that perpetuates mental health impacts as a sign of weakness. Survey respondents were asked a series of questions about workplace culture and the comfort level of employees towards asking for support from managers or supervisors after exposure to traumatic material, stories or incidents.

In the study, 31.7 percent and 28.7 percent of respondents said that they would never feel comfortable asking for support before, during or after viewing traumatic material and stories and 18.5 percent of respondents said that they would never feel comfortable approaching managers or supervisors before, during or after a traumatic incident.

A large majority of respondents who completed USJE’s national survey disclosed experiencing at least some personal impact after viewing traumatic material as part of their job. Negative impacts such as insomnia and depression were widely reported, occurring as a result of secondary exposure to trauma.

Indeed, 82.9 percent of Correctional Service of Canada employees who responded to the survey said that they experienced some personal impact, with 85.7 percent of CSC workers experiencing at least one of insomnia, nightmares, depression, increased consumption of alcohol and drugs, unhealthy eating habits. And 72 percent said that they dealt with insomnia on an ongoing basis.

In addition, 29.5 percent of survey respondents said that they are exposed to traumatic content in written material ‘several times a day’ while 26.9 percent said that it was ‘several times a week’. More than 90 percent of respondents who work for the CSC say that they listen to stories of trauma such as abuse, violence, sexual abuse, fatal accidents or suicide at least once a month. Close to one-third (29.6%) of respondents say that they

here these types of stories several times a day while 28.9 percent said that it was ‘several times a week’.

CSC employees provided frequent accounts that working directly with offenders within institutions and the community, combined with the constant exposure to disturbing files was interfering with their personal lives. Insomnia, distrust, hypervigilance, nightmares, unhealthy habits (such as increased alcohol consumption) and over-protectiveness were reported by this group.

A total of 80.5 percent of CSC workers said that they experience at least some personal impact from exposure to, or the possibility of exposure to traumatic or stressful situations within their jobs.

Current availability of training

In the survey, 79.3 percent of CSC employees said that they had received no training for reading and viewing traumatic material, and 78.7 percent indicated that they received no specific training for listening to traumatic stories.

In response to a question (Table 24 in Exhibit A69) about whether or not the Employer has ever provided warnings about the risks of being exposed to traumatic material, stories or situations, 44.5 percent selected ‘never’ while 28.7 percent said once or twice. This data shows an overall lack of training and preparedness from Employer to employees providing a critical service to Correctional Service of Canada and entrusted with the obligation to keep the public safe.

Training and Certification for Correctional Program Officers

Correctional Program Officers are employees in the WP classification who work for Correctional Service of Canada providing programs for offenders in institutions, in community correctional centres, and in community parole offices.

Offenders and parolees are required to participate in the programs offered by CPOs, with the long-term goal of reducing recidivism after an offender is released.

As indicated previously, the prison population is diverse, but generally speaking, it is not a population that has a high level of education. In addition, offenders may have learning disabilities, Fetal Alcohol Spectrum Disorder and/or other mental health injuries. They may have committed violent crimes, they may be sexual offenders, and they may have been victims themselves of violent crimes and sexual abuse.

In order to effectively deliver programs to the offender population, CPOs therefore need to have training not only in principles of adult learning, but also group management techniques, facilitation techniques, motivational skills, safety procedures, and job procedures and protocols. Importantly, as there are four streams of programming for offenders – Mainstream, Adapted, Aboriginal, and Sex Offenders – they also need information on indigenous culture and society, and on sexual abuse, FASD, learning disabilities, mental health issues, and on how to effectively challenge criminal thinking.

Currently, the minimal training provided to CPOs involves them videotaping themselves while they deliver programs to groups of offenders. The videotapes are provided to their managers and may be months or even years old before the CPO receives feedback. This untimely response is ineffective; it doesn't help the CPO who had questions about how to deal with a particular issue; it doesn't take into account on-the-job learning that has taken place in the intervening months; and of great concern, it doesn't provide the CPO with the necessary safety training. In community parole offices, for example, a Program Officer may be delivering a program to a group of a dozen or so parolees after-hours, with no other staff on the premises – a potentially dangerous situation.

Moreover, despite the lack of training and timely feedback, Correctional Program Officers are required to re-certify for their jobs every three years. Effectively, the CPOs are applying – again and again – for their own jobs. The Union submits that this is unreasonable. A much more fair approach would be to provide initial and ongoing training to CPOs and to provide feedback in a timely manner.

The Union therefore proposes that Correctional Program Officers receive four weeks of in-person training, incorporating basic safety procedures and protocols as well as the basics cited above, on initial hire (see proposal WP.04).

In addition, we propose certification be required only once in any period of continuous service with CSC – but that after initial certification, the CPO be provided with the on-the-job training that would come with co-facilitating with an experienced CPO for a period of one year (see proposal WP.05). Finally, we propose that clinical supervision be provided twice per month for each specific program group so that the CPO will receive timely and pertinent feedback, assistance, support and guidance (see proposal WP.06).

Workload for Parole Officers at Correctional Service of Canada

Parole officers and their supervisors have been struggling with excessive workload issues for more than two decades, with matters getting worse under successive administrations to the point where these employees fear a mounting crisis in Canada's correctional system.

In a 2002 report commissioned by CSC entitled "The Work of the Parole Officer within the Correctional Service of Canada: A Review of Case Management." the author, Ed Wozniak cites the issue of excessive workload numerous times. Among the observations in the report, Wozniak notes that among other factors, increased workloads:

"have resulted in Institutional Parole Officers reporting that they are spending less and less time with the offender. The reduction in offender contact has severely limited the Parole Officer's ability to satisfy a significant number of CSC's Performance Standards, which call for regular and meaningful offender contact." (Exhibit A70)

A study commissioned by the Union of Solicitor Justice Employees in 2017 observes that:

"Under the former government, budgets cuts to Federal Corrections introduced in 2012 under the Deficit Reduction Action Plan (DRAP) led to significant reductions in federal public safety resources. An increasingly complex offender population – due to substance

abuse, gang violence, and mental health issues – has demanded greater responsibilities from Parole Officers and their supervisors without corresponding increases in staff and resources to manage them. New policy directions for penal reform by the Liberal government are long overdue, however, these have also had implications for a public safety workforce already at a tipping point.” (Exhibit A71)

According to Canada’s former Correctional Investigator Howard Sapers:

“Cuts to Correctional Services under the federal government’s Deficit Reduction Action Plan in the 2012 budget — a decrease of \$300-million in funding for federal facilities in the last three years — have been borne by offenders at the expense of evidence-supported rehabilitation and reintegration programs.” (Exhibit A72)

In May 2019, The Union of Safety and Justice Employees (USJE) (Exhibit WP4) conducted a survey with Parole Officer members to understand how a long-term trend in under-resourcing Canada’s correctional system has impacted the ability of Parole Officers to ensure public safety. Some of result of the survey amongst 538 paroles include:

- More than 93 percent said their workload was too heavy, with only 5.6 percent saying it was just about right.
- 69 percent of Parole Officers surveyed say they are not able to adequately protect the public given their current workloads.
- 92 percent agree that an increase in the number of Parole Officers would improve their capacity to keep Canadians safe.
- Almost 85 percent agreed that a decrease in the number of offenders on Parole Officer caseloads would improve public safety in this country.
- Almost 70 percent of all respondents said when they take leave for a period of more than five days, CSC never arranges for caseloads to be covered.

In federal institutions, Parole Officers are assigned a caseload of offenders whose progress must be continually monitored. Caseload is determined by the security classification of the institution where the Parole Officer works.

- In a minimum-security institution, one Parole Officer for every 25 offenders
- In a medium-security institution, one Parole Officer for every 28 offenders
- In a maximum-security institution, one Parole Officer for every 30 offenders

Caseload ratios increased in 2014, two years after the Deficit Reduction Action Plan was implemented. Before that ratios were set at one Parole Officer for every 25 inmates, regardless of security level.

The 2002 Wozniak report made note of the lack of consideration for the complexity of cases in assigning caseloads:

“the caseload formula in institutions is solely focused on the size of an individual's caseload and takes no account of the complexity of individual cases, frequency of contact etc. as is the case in determining community workloads”.

Indeed, the mental health of the offender should be a determining factor for caseload size. According to Parole Officers, cases in which offenders are suffering from mental health issues are far more complicated and time-consuming. The complexity of these cases also means that Parole Officers have less time to address other assigned cases. The current system takes no consideration of this.

The Union is proposing that in Community Correctional Centres, a Parole Officer should have a caseload of no more than eight offenders (see WP.07) and that in Community Parole Offices, a Parole Officer should have no more than 12 offenders in the caseload, that frequency of contact be limited to 30 visits per month, and that a Community Parole Officer shall not be required to write more than five reports per month of Community Assessments or Community Strategy and Assessments for Decisions for offenders not part of their caseloads (see WP.08).

For Parole Officers in federal institutions, the Union believes that a safe and manageable ratio should limit the caseload of any one Parole Officer to 20 offenders at any given time (see WP.09).

The monetary compensation contemplated by the proposal in WP.10 is intended to compensate Parole Officers and their supervisors who are required to take on unmanageable caseloads, but the Union is of the view that it would act as a mechanism to ensure that the Employer has a disincentive to demand more work of existing staff and an incentive to hire the required additional staff.

Parole Officers and their supervisors at the Correctional Service of Canada are at a breaking point and despite decades of talks and studies about caseloads, as well as warnings to management that this excessive caseload is not only impacting the mental and physical health of staff but also presenting a growing risk for public safety, there has been no concrete corrective action.

PSAC PROPOSAL

NEW ARTICLE PRE-RETIREMENT LEAVE

NEW

XX.xx The Employer will provide thirty-seven decimal five (37.5) hours of paid leave per year, up to a maximum of one-hundred and eighty seven decimal five (187.5) hours, to employees who have the combination of age and years of service to qualify for an immediate annuity without penalty under the *Public Service Superannuation Act*.

RATIONALE

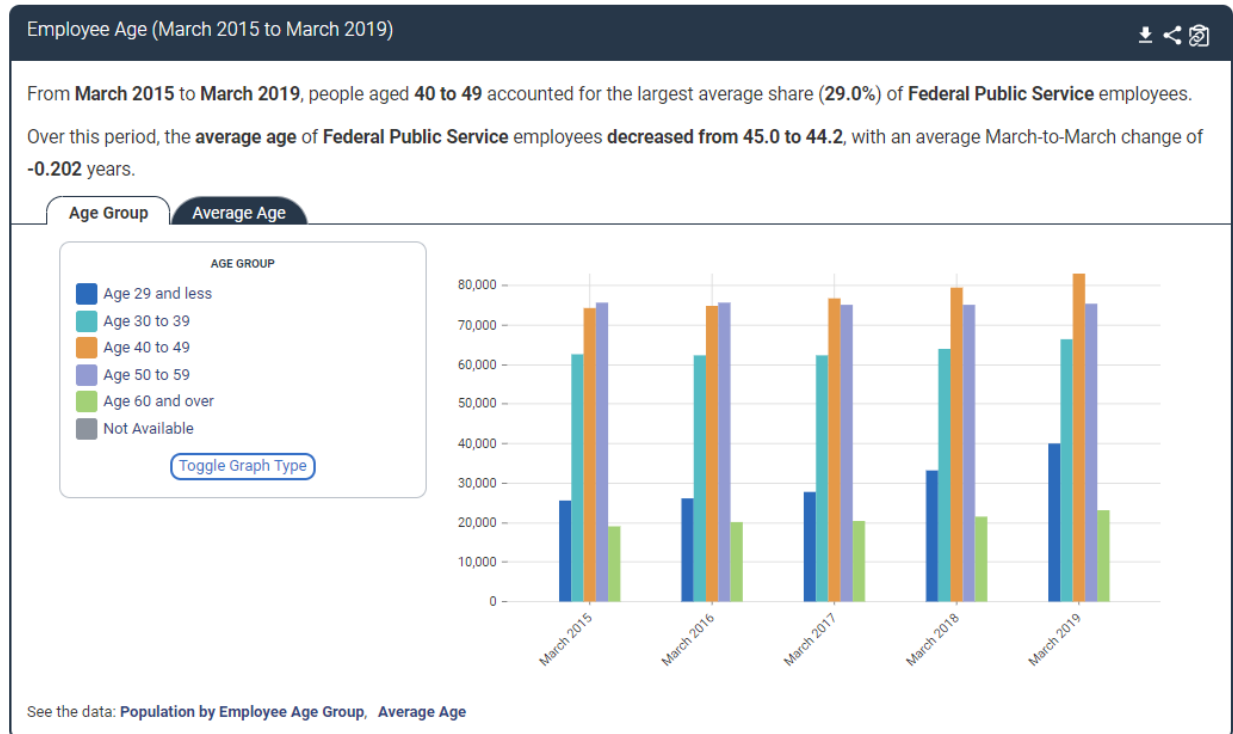
With this proposal, the Union seeks to provide increased flexibility to employees by helping them better balance their work and personal lives and more easily transition into retirement. This accommodates the needs and concerns of employees who are approaching retirement age with respect to their health matters, family responsibilities and personal fulfilment. The Employer will also benefit from this leave provision, as it will help to ease the coming wave of retirements from the public service. Offering employees tangible incentives, such as more paid leave, will help encourage older employees to remain in the workforce longer, allowing them to provide training and mentoring for new employees, and preserving their institutional memory for the organization.

The transition from full-time employment to complete retirement is a significant step in a worker's life. From the Employer's point of view, phased retirement programs are useful in retaining skilled older employees who would otherwise retire outright. Additional leaves of absence benefit older workers, not only in easing the transition to retirement, but also in balancing their work and family responsibilities, particularly if they must care for an aging spouse or elderly relative(s).

The Coming Retirement Tidal Wave

This issue will be important across the federal public service. While Table 1 identifies the average age in the federal public service at 44.2 years of age,¹⁰⁵ Tables 2 and 3 highlight the average age of each sub-group.

Table 1: Treasury Board Secretariat Infographic: Employment Age



These figures are consistent across each classification. This should be a source of concern for the Employer. The shrinking labour market results in more and more competition for skilled workers. With the large number of members nearing retirement age, members are looking for options to assist them with their transition into retirement and help them balance their work/life needs. The Employer will also require solutions to help retain the workforce and minimize the impacts of the impending retirement tidal wave.

¹⁰⁵ <https://www.tbs-sct.gc.ca/ems-sgd/edb-bdd/index-eng.html#orgs/gov/gov/infograph/people>

Table 2: PA Group (Source: TBS Demographic Data Reported 31 Mar. 2018)

	50-59	60+	Above 50	Average Age of Each Sub Group
AS	29.2%	6.8%	35.9%	44.97
CM	16.7%	16.7%	33.3%	50.05
CR	29.1%	10.4%	39.5%	45.21
DA	50.0%	19.0%	69.0%	53.20
IS	5.2%	11.1%	25.1%	42.49
OE	100%	0%	100%	55.81
PM	25.8%	5.7%	31.5%	44.04
ST	50.5%	15.2%	65.7%	51.56
WP	26.2%	5.1%	31.4%	44.60

Table 3: SV Group (Source: TBS Demographic Data Reported 31 Mar. 2018)

	50-59	60+	Above 50	Average Age of Each Sub-Group
FR	24.6%	6.5%	31.1%	44.03
GL	42.9%	17.4%	60.3%	50.47
GS	42.7%	15.3%	58.0%	50.09
HP	41.7%	24.2%	65.9%	52.06
HS	31.6%	9.3%	40.9%	47.17
LI	34.1%	40.7%	74.7%	56.51
PR(S)	50.0%	0%	50.0%	49.78
SC	12.0%	33.6%	45.5%	45.91

Current Provisions

Treasury Board currently has a Pre-retirement Transition Leave found in the Directive on Leave and Special Working Arrangements, which is available to members of the PA/SV group as well as other Treasury Board bargaining units. This policy allows members to reduce their work week by up to 40 percent in the two years prior to retirement. Their pay

is adjusted according to the hours that they work, while their pension and benefits continue at the same level as if they were working full time.

Introducing a provision for Pre-retirement Leave, in line with the Union's proposal, would also be consistent with the stated aims of the Treasury Board's Pre-retirement Transition Leave policy, but rather than turn these employees into a part-time work force, they would remain full time employees benefiting from additional time away from the workplace without experiencing a precipitous drop in pay. In a time when there will be a massive wave of retirements coming, it is imperative that the Employer introduces enticements for employees to stay longer and to impart the corporate memory to the new group of employees.

Furthermore, the Union's proposal is comparable to provisions that exist elsewhere in the federal public administration. The Canada Revenue Agency (CRA) and the PSAC, as well as the Canada Post Corporation and Canadian Union of Postal Workers (CUPW), have included in their Collective Agreements provisions similar to that the proposed in this brief.

Canada Revenue Agency and PSAC

Article 52: Pre-retirement Leave

52.01 The Employer will provide thirty-seven decimal five (37.5) hours of paid leave per year, up to a maximum of one-hundred and eighty-seven decimal five (187.5) hours, to employees who have the combination of age and years of service to qualify for an immediate annuity without penalty under the *Public Service Superannuation Act*.

(Exhibit A73)

Canada Post Corporation and CUPW

19.12 Pre-retirement Leave

- a) In addition to vacation leave provided for under this agreement, a regular employee who attains fifty (50) years of age and completes twenty (20) years of continuous employment or, attains sixty (60)

years of age and completes five (5) years of continuous employment, shall be entitled to be paid a pre-retirement leave of one (1) week in the vacation year in which he or she becomes eligible for such leave and in every vacation year thereafter until the employee's retirement up to a maximum of six (6) weeks pre-retirement leave from the time of eligibility until the time of retirement

- b) An employee may elect to take his or her fifth (5th) and sixth (6th) weeks of pre-retirement leave during the same year.
- c) Pre-retirement leave with pay shall be scheduled in one (1) week blocks separate from the scheduling of vacation leave at a time to be determined by the Corporation, taking into consideration the employee's wishes, seniority and operational requirements.
- d) It is understood that there shall be no payment made to or on behalf of any employee in lieu of unused pre-retirement leave.
- e) No employee shall be required or authorized to work during his or her pre-retirement leave.
- f) When any day scheduled as pre-retirement leave falls on a designated paid holiday, the employee shall be entitled to an alternate day at the end of his or her pre-retirement leave.
- g) In the event of termination of employment, for reasons other than death or lay-off, the Corporation shall recover from any monies owed to the employee an amount equivalent to pre-retirement leave taken by the employee after the beginning of the vacation year and prior to his or her birthday or anniversary date, whichever is later.
- h) In the event that an employee exercises his or her right under paragraph (b), the Corporation shall not recover the fifth (5th) or the sixth (6th) week of pre-retirement leave if the Corporation would not otherwise be able to recover the fifth week pursuant to paragraph (g).

(Exhibit A74)

In addition to the Pre-Retirement Leave language listed above, CRA employees also have access to a Pre-Retirement Transition Leave policy.

The PSAC submits that a pre-retirement leave entitlement benefits both the Employer and the employee. It provides employees with an easier transition to retirement. And it increases the ability of the Employer to retain long-serving employees at a time when a large proportion of these employees are approaching retirement. In addition, the PSAC respectfully notes that certain federal public service employees already enjoy access to pre-retirement leave.

The PSAC therefore respectfully requests that the Commission include this proposal in its recommendations.

PSAC PROPOSAL

NEW APPENDIX

MEMORANDUM OF AGREEMENT WITH RESPECT TO ADMINISTRATIVE SUSPENSIONS PENDING INVESTIGATIONS

Stoppage of pay and allowances will only be invoked in extreme circumstances when it would be inappropriate to pay an employee.

Each case will be dealt with on its own merits and will be considered when the employee is:

1. in jail awaiting trial, or
2. clearly involved in the commission of an offence that contravenes a federal Act or the Code of Conduct, and significantly affects the proper performance of his/her duties. If the employee's involvement is not clear during the investigation, the decision shall be deferred pending completion of the preliminary hearing or trial in order to assess the testimony under oath.

RATIONALE

The Union is seeking parity with the Border Services Group (FB Group) by proposing the exact same language which Treasury Board has agreed to in the Collective Agreement for the FB Group. (Exhibit A75) The issue relates to issues of stoppage of pay during a disciplinary investigation.

The Issue of stoppage of pay during disciplinary investigations has been addressed in numerous court cases.

The Supreme Court of Canada's decision in *Cabiakman v. Industrial Alliance Life Insurance Company* (Exhibit A76) established that a suspension must be administered by observing the following conditions: the Employer must act in good faith and equitably; the suspension must be short; the suspension must in principle be with pay except for exceptional circumstances; and the Employer cannot unilaterally ignore its obligation to pay the employee's salary. The Supreme Court concluded by noting that an employee on

whom a suspension without pay has been imposed is right to believe that that action constitutes a disguised termination and, hence, a disciplinary action or measure. (See *King v. Deputy Head (Correctional Service of Canada)*, 2011 PSLRB 45) (Exhibit A77).

The *Cabiakman* decision involved an individual contract of employment governed by the Civil Code of Quebec and was based on the question of whether an employer has unilateral power to suspend the effects of an individual contract of employment for administrative reasons while requiring the employee to continue to be available for work. The Court wrote:

[79] This having been said, the withholding of pay poses a different problem. In the instant case, in the context of a suspension that at all times remained administrative in nature, there was no reason to refuse to pay the salary of an employee who remained available to work. It was not open to the appellant to unilaterally impose a temporary cessation of performance of the correlative obligations while requiring that the employee continue to be available. The respondent was not required to endure the suspension, imposed on him by the appellant, of the performance of his work and also be denied the consideration for that work, namely his salary. This conclusion, which, as we have seen, is entirely consistent with the majority of the decisions of specialized labour law tribunals involving the application of collective agreements, is based on the nature of the reciprocal obligations created by an individual contract of employment governed by the Civil Code.

Additionally, the presumption that an administrative suspension should be with pay, minus exceptional circumstances, is established in the case law. See *King* (supra):

(38) Withholding pay is *prima facie* punitive since it deprives an employee of the salary to which he or she is otherwise entitled. A suspension prevents an employee from working. The disruption of work and wages are penalties; see *Massip v. Canada (Treasury Board)*, [1985] F.C.J. No. 12 (C.A.) (QL). They are disciplinary actions that flow directly from an employer's decision to convene an investigation and to suspend without pay.

More specifically, suspending an employee without pay pending an investigation amounts to disciplining the employee prior to any conclusive finding of wrongdoing. It is in effect a constructive dismissal and a presumption of wrongdoing. While the principle of “innocent until proven guilty” is not applicable in the civil context, the arbitral case law within the federal public sector militates in favour of suspensions with pay only once there has been a finding *on a balance of probability* of actual wrongdoing or there is just and sufficient cause to suspend without pay. See *McManus v. Treasury Board (Revenue Canada, Customs & Excise)*, PSSRB File Nos. 166-02-8048 and 8078 (19800310) and *Bétournay v. Canada Revenue Agency*, 2017 FPSLREB 37. Obviously, the onus is on the employer to establish that there is cause to enact such a severe penalty.

As the Board noted in *Bétournay v. Canada Revenue Agency*, under s. 12(3) of the FAA, (Exhibit A78) discipline must be *for cause*. This provision necessarily bars an employer from suspending an employee *without pay* where no cause for the discipline imposed has yet been determined. Adjudicator Perreault explains her reasoning at paragraphs 134 and 135:

[134] Another reason it seems unfair to me to deprive an employee of his or her wages during an investigation, regardless of the outcome, is the wording of the legislation under which an employer acts. As part of the labour relations scheme in the federal public sector, under s. 12(3) of the Financial Administration Act (R.S.C. 1985, c. F-11), any discipline imposed by an employer must be for cause. However, until the employer explains to the employee the justification to support the discipline, it cannot be justified within the meaning of the Act. It cannot be retroactively justified, since the rationale provided to support the discipline, the employer’s reasons, must actually exist when the discipline is imposed. In the context of imposing discipline, the reason cannot be the misconduct itself but instead the explanation the employer provided to justify the discipline imposed. Otherwise, the wording of s. 12(3) would be meaningless. When the Financial Administration Act specifies that the discipline must be for cause, it must be understood that it imposes on the employer the obligation to explain to the employee its rationale behind the discipline at the moment the discipline affects the grievor. That is why in the

letter that it gave to the grievor, the Agency explained to her the cause supporting the termination.

[135] Thus, the employer must be able to explain the rationale that it invokes, meaning that it must have a reason at the moment discipline affects an employee. How could the reason apply retroactively? In law, it can exist only from the moment it is explained to the employee. It seems contrary to the notion of justice to recognize a legal effect of a reason before it can even be formulated. From the moment the employer is in a position to explain its rationale to the employee, it can terminate. It is the employer's responsibility at that moment to explain its rationale to the employee. Unless it can explain its reason for the discipline to the employee at the moment it affects the employee, the discipline cannot be justified within the meaning of the s. 12(3) of the Financial Administration Act. Logically, the employer cannot impose discipline retroactively.

The Union could not identify any specific Treasury Board policy or directive that addressed administrative suspension pending investigation with pay or disciplinary suspension without pay pending an investigation, nor is it in either the *Financial Administration Act* or the *Public Service Employment Act*.

In rejecting the Union's proposal, the Employer informed the Union bargaining team at the table that it was refusing to accept this demand on the basis that The Public Service Alliance of Canada had made it clear in its PIC submission for the FB group that certain FB members have different responsibilities when describing issues of pay. The Employer also went on to describe its adherence to "the Larson criteria" for disciplinary measures, which it regarded as reason to reject this demand. The Union believes that both of those arguments are invalid and do apply to this proposal.

With regards to differences with the FB group: FB members do indeed have, some different roles from PA group members. As members of Canadian Border Services Agency, FB group members have responsibilities relating to border security and enforcement. However, the Alliance had made these particular arguments with respect to

pay grids relative to the roles and responsibilities which are unique to the FB group and had not used this rationale to defend a unique type of characteristic regarding suspension without pay. Additionally, while it could perhaps be argued that given the nature of the work performed by FB group, investigative suspensions may occur more frequently, the Exhibit refers to administrative suspensions pending investigations, which are common to both FB and PA members. Moreover, many PA members also have law enforcement responsibilities. Both the Union and Canadian courts believe that pay should not be denied during an investigative suspension except under exceptional circumstances.

Furthermore, the 2002 *Larson* decision, which occurred nine years prior to the Supreme Court *Cabiakman* decision, does not address the issue of denial of pay during an administrative suspension pending investigation where there has been no finding of wrongdoing. The reliance of Treasury Board on this decision to justify the refusal of including the same Exhibit in the PA agreement as already exists in the FB agreement is specious. The refusal of the Employer to acknowledge the ruling of the Supreme Court of Canada on this matter subsequent to the *Larson* decision and to rely on an older decision which does not speak of issues relating to denial of pay is in the Union's opinion utterly misguided.

Impact of suspensions without pay on members

Members of the PA group have unjustly suffered lengthy administrative suspensions without pay pending investigations, after which they have been completely cleared of any wrongdoing.

The following examples are illustrative of this:

In one case, the security clearance of an employee of the RCMP came up for renewal in July 2018. At that time, the Employer discovered that the employee belonged to a recreational motorcycle group. This set the Employer off on a full-fledged administrative investigation, and the employee was suspended without pay from August to December 2018. The delays created severe financial hardship for this employee. In December, the

employee resigned, since due to the length of the investigation, he ran out of financial resources and needed to cash out his pension in order to cover living expenses. The resignation was additionally brought on because during the suspension, the employee broke a leg. Without access to sick leave, the employee received only a month of Employment Insurance benefits, which were stopped when the attending physician approved a return to work. This employee, who was never found to have violated any of the Employer's policies, experienced terrible financial consequences as a result of being under investigation,

Another employee of the RCMP was placed under administrative suspension pending an investigation into the employee's relationship with the biological father. The employee had recently reunited with the estranged father, who was renting the employee's garage for part-time mechanic work. The father was subsequently accused of criminal activity, and our member had no knowledge of the situation. The investigation by the Employer took more than a year, during which time the employee was without pay, and consequently accumulated a significant amount of debt. The employee had provided to the Employer an explanation of all the circumstances in question, but the Employer still took an inordinate amount of time to investigate the situation. The employee was ultimately exonerated but the damage the employee experienced both financially and psychologically had been done. The employee ultimately deployed to another organization as she felt that her reputation had been irreparably tarnished.

Lengthy delays breach procedural fairness rights

Human Resource offices in the RCMP have informed Labour Relations officers at the PSAC that they have no set timeline for either an administrative suspension or security clearance suspension to be completed.

As evidenced in the cases above, this further exacerbates the damage to employees' financial and personal lives, their emotional health, and their professional reputations.

The impact of these unjust denials in pay pending investigation have been devastating to employees and are now compounded by the uncertainty brought by a flawed and faulty Phoenix pay system.

The language the Union is seeking does not expand the existing rights of our members. It merely seeks to avoid wrongful denial of pay, financial hardship and lengthy investigation and grievance processes. The parties have already agreed in the FB Collective Agreement on how administrative suspensions are to be handled, and there is no reasonable justification as why the Exhibit should not be included in the PA Agreement as well. The Union respectfully requests that the Commission include the Union's proposal in its recommendations.

PSAC PROPOSAL

****APPENDIX C**

MEMORANDUM OF UNDERSTANDING WITH RESPECT TO A JOINT LEARNING PROGRAM

This memorandum is to give effect to the agreement reached between the Employer and the Public Service Alliance of Canada in respect of employees in the Program and Administration Services, Operational Services, Technical Services, Border Services and Education and Library Science bargaining units.

The PSAC – TBS Joint Learning Program (JLP) will continue to provide joint training on union management issues.

**

The Employer agrees to provide **\$355,375** ~~\$330,000~~ per month to the PSAC – TBS JLP starting on the date of signature of the PA collective agreement until the subsequent PA collective agreement is signed to ensure continuity of this initiative. **

~~The Employer further agrees to provide funds for the purposes of a joint study in the amount of fifty thousand dollars (\$50,000) to identify the need for training of health and safety committees and appropriate mechanism for any required training, in line with the National Joint Council (NJC) Directive.~~

The Employer agrees to provide seven hundred and twenty-five thousand dollars (\$725,000) ~~one million dollars (\$1,000,000)~~ to fund a pilot project to develop programs and materials, facilitator training and delivery of workshops to fulfil training needs for occupational health and safety committees. Furthermore, the parties agree to establish a joint advisory committee reporting to JLP Steering Committee in order to define the scope of the pilot project. It will be made up of an equal number of representatives from the employer and the union and be established within 60 days of the signing of the collective agreement.

**

The PSAC – TBS JLP will continue to be governed by the existing joint PSAC – TBS Steering Committee ~~to which two seats will be added for the other bargaining agents and the equivalent additional number of seats for employer representatives.~~ The Bargaining Agent Side Secretary on the National Joint Council will be invited to attend the meetings of the PSAC – JLP Steering Committee with voice but no vote.

RATIONALE

The Union is proposing to increase the amount allocated to the jointly managed Joint Learning Program from \$330,000 to \$355,375 per month as well as providing \$725,000

to fund a pilot project relating to learning needs occupational health and safety committees.

Although the Employer is simply offering to renew the current MOU in its PIC submission, in its May 1, 2019 counterproposal (Exhibit A79), it offered the following with regards to base funding:

“This amount will be increased by a percentage that is in line with the base salary increase provided to the PA group for the duration of this agreement.”

In their May 1st proposal, Treasury Board additionally offered to:

“provide \$400,000 to fund program development, materials facilitator training and workshops to fulfil training needs for occupational health and safety committees.”

The Employer subsequently withdrew its counter-proposal and did not include it in its submission to the Public Interest Commission, presumably on the grounds that the counterproposal was offered as part of a package which included counters on unrelated articles to which the Union could not agree. The Union requests that the Commission recommend the adoption of the Union’s position with respect to funding of the JLP. However, the Union is open to modifying the proposal with respect to health and safety committee training to read as follows:

The Employer agrees to provide seven hundred and twenty-five thousand dollars (\$725,000) to fund a pilot project to develop programs, materials, facilitator training, and delivery of workshops tailored to the learning needs of occupational health and safety committees and representatives.

The Joint Learning Program

The Joint Learning Program (JLP) was initially negotiated as a pilot project in 2001 following a series of recommendations of a joint report (the Fryer Report) that was intended to address the arduous labour relations of that period. Recommendation #31 was that the parties deliver comprehensive joint union-management training. The JLP was subsequently established as a “Program” in 2007 after a positive evaluation conducted by “Consulting and Audit Canada” in its report dated March 2004.

The JLP is the only program that is co-governed and is a true partnership between Treasury Board Secretariat (TBS) and the Public Service Alliance of Canada (PSAC). All levels of the governance/management/development/delivery structure are performed jointly.

The JLP is guided by a Joint Steering Committee that is comprised of five senior representatives from the Union and five senior representatives from the Employer. A list of Joint Steering Committee members is available below. Two Co-Directors have been appointed to coordinate the program with a national JLP administrative office as well as twelve regional coordinators (two coordinators per region, with one representing the Union and the other representing the Employer).

Members of the JLP Steering Committee as of June 30, 2019

Union Representatives	Employer Representatives
Magali Picard , National Vice-President, Public Service Alliance of Canada	Paule Labbé , ADM Executive and Leadership Development, Treasury Board Secretariat
Jean-Pierre Fortin , National President, Customs Immigration Union	Manon Rochon , ADM Human Resources Branch, Public Services and Procurement Canada
Fabian Murphy , National President, Agriculture Union	Gail Johnson , ADM Human Resources, Employment and Social Development Canada

Stéphane Aubry , National Vice-President, Professional Institute of the Public Service of Canada	Tracey Sametz , DG Human Resources, Transport Canada
Greg Phillips , National President, Canadian Association of Professional Employees	Darlene DeGravina , VP Human Resources, Canadian Food Inspection Agency
NJC Bargaining Agent Side Secretary Andrea Dean	

The JLP, with the participation of Employer and Union representatives, has developed workshops to be delivered to all core public service employees in a joint fashion, with facilitators from both parties. This promotes “buy-in” from both the bargaining agents and the departments.

Initially the program was only for PSAC members in the core public administration. Since 2011, members of all bargaining agents in the core public administration are eligible to participate in JLP workshops.

Funding

Funding for the JLP is negotiated as part of the collective bargaining process with the PSAC. A Memorandum of Understanding currently resides in the collective agreements of the PA, SV, TC, EB and FB groups. Since June 14, 2017, the Program has received funding on a monthly basis, which ensures that the Program can continue to deliver workshops to meet its mandate of improving labour relations, even when the Collective Agreements are being renegotiated.

Period (signed to expiry)	Funding	# of months	Funding per month
November 2001-2003	\$ 7 millions	19 months	\$368,000
March 2005 to June 2007	\$8.75 millions	30 months	\$292,000 (bridge funding \$292,000)

Jan. 2009 to June 2011	\$8.75 millions	30 months	\$292,000 (bridge funding \$292,000)
June 2011 to June 2014	\$9.35 millions (\$8.75 million + \$600K)	36 months	\$260,000 (bridge funding \$292,000)
June 2017 to signed collective agreement	\$330,000/month (+ \$50,000 to conduct joint study)		

At the beginning of a collective agreement, the funding is divided from what are known as Votes 1 and 20. This process was established in 2001 when a variety of options were examined to provide the best solution to accomplish the desired outcome of the parties. The funds from Vote 1 are used to pay for the salaries of 16 TBS employees. There are two TBS employees (who are on secondment from departments) per region (British Columbia, Prairies, Ontario, National Capital Region, Québec, and Atlantic) and four TBS employees in the national office. The funds from Vote 20 are disbursed to the JLP to pay for six PSAC employees in the PSAC National Office, plus all expenses related to employees, rent, equipment, promotion, workshop material, facilitator development, and workshop delivery. A total of 22 employees work on a full-time basis for the JLP.

Operations and Delivery

The Program trains on average 100 facilitators per year. There is a pool of approximately 600 active facilitators across all departments and regions in the core public administration. The facilitators provide workshops above and beyond their regular duties and have their manager’s approval to attend a five-day facilitator training session as well as an additional two to three days of training in order to deliver the *Mental Health in the Workplace* workshop. Facilitators and their managers commit to delivering at least five workshops over a period of 18 months following their initial training session.

The program does not have a calendar of workshops, meaning that workshops need to be requested for them to take place. Either a department or the Union can identify the need for one of the JLP's workshops, and in collaboration with the other party, make a joint request to the program. Workshops are then organized through the Regional Field Coordinators with the help of a Union and an Employer organizer in the workplace. It costs the program approximately \$1,500 per workshop and includes the travel of two facilitators and a small workshop budget. There is no cost to departments to participate other than paying the participating employees' salary.

The JLP model is different than the traditional learning approach of a trainer offering their knowledge to a group of learners. In its workshops, the experiential learning model is used and participants are directly involved in their learning by participating in exercises that foster reflection, dialogue, problem-solving and application of ideas and skills to workplace situations. The learners are provided the opportunity to engage and apply their knowledge through hands-on experience, while simultaneously learning new information about the workshop topic. This approach fosters better working relationships, opens lines of communication, helps establish better ways of achieving goals, builds healthier workplaces and promotes positive behavioral changes in the workplace. As such, workshops are offered to no more than 20 participants at a time to allow for fulsome discussions. The JLP encourages intact teams (management and employees from the same sector) to participate in workshops so that when participants return to the workplace, employees and managers can continue to foster their shared learning.

The following topics are available for delivery:

- Duty to Accommodate (DTA)
- Employment Equity (EE)
- Labour-Management Consultation (LMC)
- Mental Health in the Workplace (MHW)
- Respecting Differences / Anti-Discrimination (RD/AD)

- Preventing Harassment and Violence in the Workplace (PHVW)
- Understanding the Collective Agreement (UCA)

Should a department and the Union wish to offer workshops to all or a majority of their employees within a particular workplace, the JLP will train facilitators within the department so that the department has its own capacity to deliver JLP workshops to their employees. The JLP funds this training, but not the subsequent delivery of workshops.

Results

Since 2007, the JLP has delivered more than 5,700 workshops to more than 100,000 public service employees. The delivery percentage for each workshop is – DTA (5%), EE (2%), LMC (6%), MHW (21%), RD/AD (12%); PHVW (31%), UCA (23%). More than 75 departments and agencies have taken advantage of the JLP's services and below is a short list of those who have been most active with the program.

- Employment Services and Development Canada – 19%
- Canadian Border Services Canada – 11%
- Department of National Defense – 8%
- Department of Fisheries and Oceans – 7%
- Public Services and Procurement Canada – 7%

Program Evaluation

Goss, Gilroy Inc. (GGI) was retained by the JLP Steering Committee in 2017 to conduct a program evaluation for the period of 2013 to 2017. The evaluation examined the impacts of the program in four main areas: joint administration and delivery, learning outcomes, labour-management outcomes, and the program relevance and alternatives.

The conclusions of the evaluation confirm the following:

- The JLP is aligned with and contributes to creating a more fair and equitable public service
- Governance, operational structures and the delivery model are working well
- There are direct and indirect positive impacts on labour relations
- The Program contributes to important public service worker learning outcomes
- The Program continues to be relevant and warrants a minimum number of improvements

The Program Evaluation can be found in Exhibit A80 and the Summary and Action Plan (as approved by the JLP Steering Committee) can be found in Exhibit A81.

Considerations

Following the evaluation results, the program has focused on updating material and content, and revisiting workshop topics. In September 2018, a revised Understanding the Collective Agreement workshop was made available which included updated case studies and references to other bargaining agent collective agreements, which resulted in an increase in the demand for the workshop.

Furthermore, the program has been developing a new workshop to reflect the adoption of Bill C-65 and the new legal landscape with respect to harassment and violence in the workplace. The workshop, entitled Preventing Harassment and Violence in the Workplace, was made available for delivery in July 2019, and covers warning signs and the impact of harassment and violence. It will examine the new *Canada Labour Code* health and safety provisions on harassment and violence and the human rights framework under the *Canadian Human Rights Act*. As of September 30, 2019, the JLP has received more than 150 requests to deliver this workshop in various departments and 50 percent of the demand comes from Employment and Social Development Canada, Department of Fisheries and Oceans and Indigenous Services Canada. The JLP

anticipates an increase of 20 percent in the number of delivered workshop due to the release of this new workshop.

The program is now turning its focus toward reviewing its Employment Equity and Duty to Accommodate workshops in light of the new federal accessibility law. The JLP is also working at expanding its facilitator development program as recommended by the evaluation, which noted that the majority of facilitators felt they could be more effective with additional training opportunities. Additional monies will be set aside to support such initiatives.

Summary Justification for Increased Funding

The budget approved by the JLP Steering Committee for fiscal 2019-20 (Exhibit A82) includes the cost for salaries and benefits at the level of \$2,578,904. The JLP monthly funding must factor in any increases in salaries and benefits for the 22 employees working in the JLP.

With an anticipated 20 percent increase in the delivery of workshop (100 additional workshops per year at \$1,500 each) and an increase of 15 percent in the facilitators' development budget ($\$337,000 * 15\%$), an increase in the funding is required to meet the demands from departments and local unions and for implementing the recommendations from the evaluation.

The Union is proposing to modestly increase the core funding in order to accommodate the following increasing costs:

1. Increase in salaries of JLP employees (roughly 1.5% per year for three years)
2. An anticipated 20 percent increase in workshop demands due to the release of a new workshop on harassment free workplaces
3. Increase budget for facilitators development by 15 percent.

The overall yearly cost of these projections is:

	Details	Cost
1. Salary Increase	Up to 1.5% per year for 3 years on salary envelope of \$2,578,904	\$ 39,000
2. Workshop demand increase	100 workshops * \$1,500 = \$150,000/year	\$ 150,000
3. Increase budget for facilitators development	\$337,000 to \$387,550	\$ 50,550
TOTAL:		<u>\$ 239,550</u>

The Union has costed its demand at:

Current allocation: \$330,000/ month (\$3,960,000 per year)

Union proposal: \$355,375/ month (\$4,264,500 per year)

Overall, the Union has proposed an annual increase in the budget of \$304,500.

The Union proposal is therefore very close to projected funding needs. The demand was reduced from the initial proposal in order to find consensus with the Employer over monetary issues. The Employer has not offered any counter-costing during bargaining.

The Employer's proposal to maintain the current JLP funding as is would severely restrict the activities of the Joint Learning Program and would risk dampening the efficacy and quality of the work performed. It would not meet the increasing demands of the program nor fulfill the recommendations stated by the independent third-party consultant. The Union has also clarified to the Employer that increasing the yearly amount by a percentage tied to economic increases is less than ideal because it offers delayed financing for current needs and arbitrarily ties increases to the wage increases of PA

members. Lastly, Treasury Board appears to be countering the recommendations of its own member of the steering committee, which has approved the budget.

Health and Safety Pilot Project:

In 2017, the parties negotiated an MOU in which the Employer agreed to provide funds to the JLP for the purposes of a joint study to identify the learning needs of health and safety committees, and appropriate mechanism for any required training, in line with the National Joint Council (NJC) Directive.

To that end, the JLP Steering Committee invited the National Joint Council (NJC) Service-Wide Committee on Occupational Health and Safety to act as an advisory group for the study. In April 2018, it was further decided to retain the services of Dr. Tom Rankin from Mansell, Rankin and Associates to develop the study plan and to carry out the study.

To develop the study plan, a number of interviews were conducted with key informants and here are some of the findings that were presented to the PSAC and TBS bargaining teams on October 17, 2018 (Exhibit A83):

- OHS committees in the federal public service struggle with basic Committee functioning and they face challenges in identifying and mitigating psychological hazards;
- The extent or type of current training to OHS Committees that complies with legislation is not consistent across government, and when the training covered the required topics, in too many cases it was ‘too watered down’ or ‘check the box training’
- There is a need for in-person, high quality, comprehensive and common training programs for OHS committees.
- The focus of the need’s assessment process should be on identifying the knowledge, skills and behaviour for core OHS areas such as legal requirements,

role and responsibilities, identifying and mitigating physical and psychological risks, OHS Program Management, Committee functioning, etc.

In June 2018, a working group of 12 OHS experts representing the bargaining agents and the Employer gathered for a two-day workshop to identify an initial draft of common training needs of OHS Policy and Workplace committees within the federal public service. The learning needs that have been identified that are common to all workplaces fall under five areas: legislative framework, role and responsibilities, hazard identification and assessment program, meeting skills, and the three basic rights of employees.

Co-chairs of OHS Policy Committees from all departments were invited to participate in one of the four half-day focus groups to provide comments concerning the draft list of learning needs as identified by the OHS experts, and to provide comments on their perspective and opinions regarding additional training. (This consultation document can be found in Exhibit A83). OHS Policy Committee representatives from 24 departments participated in the focus groups. The JLP also conducted an online survey with members of OHS Policy and Workplace Committees in November and December 2018.

The consultation approach was one that reflects and reinforces the philosophy of union – management collaboration where decisions are taken by consensus. It ensured that all key stakeholders had an opportunity to actively participate in the assessment process taking into account not only the legal requirements for OHS committee training but also the direct experience of Committee members.

In May, consultant Tom Rankin presented his final report (Exhibit A84) to the JLP Steering Committee. He presented each of the five learning areas as identified by the expert working committee. He also highlighted the consensus that there is a need for basic training course for OHS Committees in the federal public service. He also noted that expectations have been raised that training would be available soon, but that the training would not address the more fundamental issues, such as guidance and accountability.

Finally, Mr. Rankin presented its recommendations which can be summarized as follows:

1. Develop two (2) workshops

- Basic training workshop for OHS committee members: A two-day training targeted at members of policy, regional and workplace committees from various departments to equip participants with the basic knowledge, skills and confidence to enable them to make a positive contribution.
- OHS Committee Relationship Improvement Workshop: A two-day workshop targeted at intact OHS policy, regional or workplace committees to explore key OHS challenges facing their department or agency, to assist in clarifying expectations and taking stock of Committee functioning in order to identify areas for improvement, and related action plans.

2. Assign the JLP the responsibility to design and deliver the two workshops

- The JLP's joint governance structure, workshop staffing protocols and well-earned reputation for competence and fairness overcomes the "pro management" or "pro union" view of OHS training
- Basic training workshop complements OHS training offered by others and the relationship improvement workshop is in line with the JLP's mandate

3. Make both workshops accessible but not mandatory for departments and agencies

- A "pull not push" approach as expressed by several interviewees

4. Consult with the National Joint Council Joint Employment Equity Committee before proceeding with the detailed design

- To ensure that the workshops reflects equity and human rights considerations

The results of the study were shared with the NJC-SWOSH in May 2019 and with the OHS Community of Practice committees in June 2019.

The Union's proposal has been fully costed, taking into account that two additional staff for 18 months - one representing the Union and one representing the Employer – are required for the JLP to get this new program up and running. The establishment of this new program involves developing the pilot framework and action plan, designing and piloting workshop material, a mapping criteria and process to recruit facilitators, designing and delivering train-the-trainer training, delivering workshops to members of OHS Committees, assessing results, and more. The full costing sheet can be found in Exhibit A85.

The pilot project is a direct recommendation of the joint study commissioned by both parties. The Employer has offered no justification for failing to support this initiative at the required level nor has it offered any counter costing arguments. The Union therefore respectfully requests that the Commission include the Union's proposals in its recommendations.

PSAC PROPOSAL

APPENDIX G

MEMORANDUM OF UNDERSTANDING BETWEEN THE TREASURY BOARD OF CANADA AND THE PUBLIC SERVICE ALLIANCE OF CANADA WITH RESPECT TO OCCUPATIONAL GROUP STRUCTURE REVIEW AND CLASSIFICATION REFORM

This memorandum is to give effect to the agreement reached between the Employer and the Public Service Alliance of Canada in respect of employees in the Program and Administrative Services bargaining unit.

~~Notwithstanding that classification is an exclusive employer authority as recognized in the Federal Accountability Act, the Employer is committed to engaging in meaningful consultation with the Alliance with respect to the review and redesign of the PA occupational group structure (OGS), followed by meaningful consultation regarding Classification Reform, relating to the development of job evaluation standards for the PA Occupational Group.~~

~~Meaningful consultation on Classification Reform will include consultation with the Alliance on the development of job evaluation standards which reflect and evaluate, in a gender neutral manner, the work performed by employees in the PA Occupational Group. It will also include ongoing dialogue with respect to providing employees with complete and current job descriptions detailing the specific responsibilities of the position.~~

~~The parties agree that meaningful consultation on the development of job evaluation standards shall take place within thirty (30) days of the signing of this collective agreement. New job evaluation standards shall be completed no later than December 30, 2017, for TB Ministers' consideration toward the objective of negotiating new pay lines for these job evaluation standards in the subsequent collective agreement.~~

The Employer is committed to complete and finalize the review and redesign of the PA occupational group structure (OGS), including the development of job evaluation standards for the PA Occupational Group.

The parties agree that the job evaluation standards are to be consistent with the application of gender neutral job evaluation principles and practices and will follow the requirements under the Canadian Human Right Act, or subsequent pay equity legislation applicable to employees in the federal public service.

The Employer is committed to engaging in meaningful consultation with the Alliance. Meaningful consultation on Classification Reform will include consultation with the Alliance on the development of job evaluation standards which reflect and evaluate, in a gender neutral manner, the work performed by employees in the PA Occupational Group.

The Employer agrees to pay to all employees in the bargaining unit, a pensionable lump sum payment of three hundred and thirty-three dollars (\$333) per month, paid bi-weekly, for all months from June 2018 onwards until the completion of the new job evaluation standards, the negotiation of new wage rates as set out below, and the implementation of the new wage rates.

Upon completion of the new job evaluation standards, the Alliance agrees to meet with the Employer to negotiate the new pay rates and rules affecting the pay of employees on their movement to the new pay lines.

RATIONALE

Respected senior civil servant Stanley David Cameron and James Calbert Best, co-founder and first president of the Civil Service Association (one of the predecessor organizations to the Public Service Alliance of Canada) became lifelong friends after negotiating the job evaluation standards that first modernized the pay system in the federal public service in the mid-1960s.

Finally brought into effect in 1964 after long years of effort, which included battling senior bureaucrats over the rug-ranking of their administrative assistants, the work of the Bureau of Classification Revision was a hallmark of the careers of both men. Their names were long associated with classification reform despite the fact that each of them moved on to accomplished careers that included other significant achievements. Stan Cameron was a senior associate deputy minister when he retired at age 60 in 1979. Cal Best was Canada's first black assistant deputy minister and first black Canadian high commissioner. He retired in 1990 after serving his term as High Commissioner to Trinidad and Tobago.

Much has happened since the Bureau of Classification Revision transformed the classification system in the public service in 1964. Man landed on the moon. The Berlin Wall was demolished. The Cold War as we knew it was vanquished when the Soviet Union unraveled. Apartheid was defeated in South Africa.

Closer to home, as well as around the world, the advent of the computer revolutionized the workplace, changing forever the face and nature of work.

Yet for the major PSAC bargaining units in the federal public service, covering more than 100,000 employees, the classification standards established 55 years ago under the watchful eyes of Cameron and Best remain in place. Today, the classification standards, once so promising, have outlived their times and are hopelessly outdated. Few of these classification standards accurately reflect the nature of the changed work, which means that most public service workers are not paid in accordance with a proper, modern job evaluation system.

Moreover, some employees are even being paid according to classification standards to which work that doesn't even exist anymore is ascribed. For example, OE (Office and Equipment); DP (Data Processing), and ST (Secretarial, Stenographic and Typing).

Tentative steps toward classification reform

By 1989, government employers could no longer ignore the unfairness of a classification system so obviously outdated by the changes that had occurred during the previous 30 years. In 1990, a task force was formed to review classification and job evaluation in the public service. It suggested developing a single job evaluation plan that would reflect the requirements of the *Canadian Human Rights Act*

There were varying degrees of success throughout the public service as a whole. A Universal Classification System was negotiated for some bargaining units at the House of Commons in the early years of this century, including the PSAC bargaining units at the House and the Communications, Energy and Paperworkers Union (now UNIFOR) bargaining unit for the broadcast employees and technicians at the House of Commons. New job evaluation systems were sporadically negotiated between Treasury Board and some smaller bargaining groups of federal public service workers, for example, the AO group, who are federal pilots represented by the Air Lines Pilots Association.

Meanwhile, it took less than eight years for the Canada Revenue Agency to transform from being part of the core public administration into a separate employer and to conclude an entire new classification system, including negotiating pay bands and rules surrounding conversation.

The Agency was formed in 1999, and by 2007 it had created two new classification standards for all staff, following meaningful consultation with the bargaining agent. Further to that, additional memoranda were negotiated between the parties regarding the conversion exercise, including specific agreements on the right of employees to file grievances on job descriptions, pay, and classification.

A new classification standard and the conversion exercise around that standard was also achieved for employees of the Canada Border Services Agency, which was created on December 12, 2003 by an Order-in-Council amalgamating Canada Customs (from the former Canada Customs and Revenue Agency) with border and enforcement personnel from the Department of Citizenship and Immigration Canada and from the Canadian Food Inspection Agency. The negotiations on the new standard included all aspects of classification reform, which was implemented soon after CBSA became part of the core public administration again, as the FB bargaining unit.

Classification reform at CRA, CBSA, other federal bargaining units in the core public administration, and at bargaining units in the Parliamentary precinct all demonstrated that with focused attention and interest in moving forward, classification reform can become a reality.

However, in May 2002, after 12 years of effort, the government abandoned the planned universal pay structure approach.

With some public service workers in some bargaining units being reclassified, while their comparators in other bargaining units have not been, frustrations have been growing

among many PSAC members who feel that their work is not being appropriately valued and that they are not being appropriately compensated.

Finally, a breakthrough came in the 2007 round of bargaining, when the Collective Agreement for the PA bargaining unit was reached in January 2009. The agreement contained a Memorandum of Settlement that committed the Employer to meaningful consultation with PSAC on a review and redesign of the Occupational Group Structure, followed by meaningful consultation regarding classification reform. The MOU further committed to the Employer to begin the consultations with respect to the PA bargaining unit within six months of signing the agreement, with a timeline for the other PSAC bargaining units to follow and anticipated that the initial review and redesign of the Occupational Group Structure would take two years. (Exhibit A86)

The work was not completed before the Collective Agreement expired in June 2011. The MOU was renegotiated in the subsequent round of bargaining, this time committing the parties to meaningful consultation on the development of job evaluation standards to take place within 30 days of the signing of the Collective Agreement. The MOU went on to say that “New job evaluation standards shall be completed no later than December 30, 2017, for TB Ministers’ consideration toward the objective of negotiating new pay lines for these job evaluation standards in the subsequent collective agreement.”

Although discussions were held between the parties, Treasury Board again failed to meet the deadline for the development of new job evaluation standards that it had agreed to in the second MOU. Negotiations with respect to new pay lines should have taken place during this round of bargaining but have not.

Treasury Board has subsequently announced that it has finally completed the job evaluation standards, However, it failed to negotiate or even propose new pay lines for this round of bargaining. Our members have waited long enough to be paid fairly, in accordance with an up-to-date and accurate gender-neutral evaluation of their work. As such, we are seeking damages of a pensionable lump sum of \$333 per month for each

member in the bargaining unit until such time that a new classification system is established, and new pay lines are negotiated that accurately compensate employees for the important service they provide every day to the public.

There is precedent for the concept of damages. As part of the agreement on the first MOU on Occupational Structure and Classification Reform in the 2007 round of bargaining (which anticipated redesign of the Occupational Group Structure to be complete within two years), PSAC withdrew a pay equity complaint filed on behalf of the PA Group, and in return, the Employer paid a “fine” of \$4,000 to each employee in the bargaining unit.

Given the tortured history of this file and the fact that a precedent for damages has already been established, the Union is respectfully requesting that the Commission recommend its proposal.

EMPLOYER PROPOSAL

The Employer has not engaged in any meaningful discussion on Occupational Group Structure and/or classification reform at the bargaining table in this round of bargaining. In response to the Union demand, it has simply proposed renewing the MOU contained in the last Collective Agreement. This is not a realistic proposal. The MOU contained in the last Collective Agreement commits the Employer to completing job evaluation standards by December 30, 2019, a deadline it missed, and does not speak to negotiating pay lines in the next Collective Agreement.

Hence the Employer’s proposal is not meaningful and PSAC respectfully requests that the Commission does not recommend its adoption.

EXHIBITS