

Values and Ethics

“Scooping” a 30 Billion Dollar Pension Surplus

What do values and ethics have to do with “scooping” a 30 plus billion dollar pension surplus a good chunk of which came from your (the employees) contributions to the pension plan? What does it say

about a government that witnesses the wrong and now is in a position to right it, but does nothing about it? It's true that the issue is before the courts, but isn't there a moral issue here as well? I'll leave that for you to decide. For those of you who don't know what I'm talking about, on November 8, 1999 bargaining agents representing federal public service employees including PAFSO filed a lawsuit with the Ontario Superior Court of Justice against the federal government, alleging that the government had unlawfully and unscrupulously taken the combined pension surplus of 30.2 billion dollars for its own purposes. The money was not used for plan improvements or a decrease in employee contributions.

The parties have been fencing in the courts over the past few years, over evidentiary and jurisdictional issues. A trial date has been set and the merits of the bargaining agents' claims will finally be heard commencing February 26, 2007. The trial is expected to last eight weeks - six for the evidence and two for the argument.

The lawsuit, given the amount of money involved, is the most significant case of its kind in Canadian history. One of the most compelling arguments will focus on the irony of the Federal Government's legislative role to make laws to protect its citizens from unethical and unscrupulous employers who see an accumulated surplus in a pension plan that its employees have contributed to, as another source of the companies revenue. The irony being how the government sees this obligation differently when dealing with its own employees. The trial will be as much about the moral, as well as the legal (including fiduciary) obligations of an employer who wears two hats – government in its legislative role and employer and its accountability. But I am putting the cart before the horse.

In 1990 - 1991, the Public Accounts reported a deficiency of 2.6 billion dollars in the Public Service Superannuation Account. In 1993, the Treasury Board became aware that according to the Public Accounts for 1992 the deficiency was eliminated and the Public Service Superannuation Account was showing a surplus of 4.6 billion dollars. Similarly, the Canadian Forces Superannuation Account showed a surplus of 5.5 billion dollars and the RCMP Superannuation Account had a surplus of 715 million dollars. The combined surplus in 1993 was over 10 billion dollars. Treasury Board was also aware at that time that there was no authority in the federal sector pension statutes to permit the removal of surpluses from the pension accounts. In fact, the *Pension Benefits Standards Act* which provides minimum standards for all federally regulated employers (save and except the Treasury Board, DND and the RCMP) prohibited it. The Treasury Board as an employer was excluded from the provisions of this statute, and as a consequence the Public Service Superannuation Plan, the Canadian Forces Superannuation Plan and the RCMP Superannuation Plan were not regulated by this statute. However, there was a practice in place that changes to the *Pension Benefits Standards Act* would result in corresponding changes in the federal plans. This practice was arbitrarily ended by the government when it recognized the huge surplus that had been created in the federal plans and it decided to take ownership of these surpluses. From the time the surplus was realized in 1993 to March 31, 1995, it became evident that the three superannuation plans, (your pension plan, the DND plan and the RCMP plan), were entirely funded by employees' premiums and the plans' investment income. In other words, during this period the government took what amounted to a “premium holiday” and began to use the surplus in these plans for

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purposes other than plan improvements. The combined accumulated surplus in the plans by this time was 20.5 billion dollars and, 14.1 billion dollars had been scooped into the Fiscal Framework by the Department of Finance. Interest on these accounts was a staggering 2 billion dollars per annum.

It was also evident in 1995 that the Treasury Board wanted changes to the Public Service Superannuation Plan. It wanted to reduce the government's pension costs and to limit the risks of providing indexed benefits but changes would be captured in the name of pension reform. Pension reform meant; increasing the level of contributions from the employees, (the same people who lost a share in the surplus), shifting some of the risk of adverse experience by creating a different method of financing the plan through market investments of plan assets, (it turned out this meant that market investment of contributions would have to be limited to future contributions) and a new governance structure. The carrot presented to the bargaining agents, when these reforms were first floated by the Presidents of the unions, was a share in the remaining pension surplus. It didn't take a rocket scientist to figure out that there was nothing in the proposed pension reforms that would benefit the employees. In fact, there was concern expressed in the employer circles that it would be perceived as a unilateral re-write of the employment contract to the detriment of employees.

The solution proposed by the government was to negotiate with the bargaining agents changes to the pension plan on its terms. The existing surplus, as it turned out, was not a part of the government's mandate – as this money had already been spent or was earmarked for spending. The bargaining agents were being asked to give up any claim to the surplus in the Superannuation Account as a pre-condition to negotiations. The bargaining agents refused the pre-conditions set by the government, and the government refused to discuss the sharing of the surplus in the negotiations or anywhere else for that matter.

The bargaining agents were well aware that the government would be the big "winner", financially, with pension reform. Contribution increases alone being proposed under a 60/40 cost sharing government proposal would mean savings to the government of over 15 billion dollars over the 15-year period 2000-2015. Needless to say, negotiations with the government as employer quickly reached an impasse and the employer, as the Government of Canada, using its legislative authority, proceeded to amend the *Public Service Superannuation Act*.

The New Act:

On September 14, 1999, Parliament passed the *Public Sector Pension Investment Board Act* (Bill C-98). The new Act brought more bad news for employees. But equally disheartening, the new Act appeared to no longer respects the minimum pension standards provided for in the *Pension Benefits Standards Act* which governs the pensions of other federally regulated employers. The amendments included the following:

(a) The amending legislation established a new Public Service Pension Fund to receive all employee and employer contributions as of April 1, 2000, and from which will be paid all benefits in respect of service after April 1, 2000. All benefits for pensionable service prior to April 1, 2000, are payable from the existing Superannuation Account. Benefits payable from the Superannuation Account are limited to benefits earned from service prior to April 1, 2000. The amending legislation does not permit any transfer of the surplus in the Superannuation Account to the new Public Service Pension Fund, even if the Public Service Pension Fund is in deficit.

(b) Pursuant to s.44.2(3) of the PSSA as amended by the amending legislation, the Government of Canada will no longer be required to make contri-

butions at least equal to the contributions required to be made by employees.

(c) Contribution rates for employees were changed from 7.5% earnings less the employees' contribution to the Canada Pension Plan to 4.0% of earnings up to the YMPE (Yearly Maximum Pensionable Earnings for Canada Pension Plan), plus 7.5% of earnings over the YMPE. The new contribution formula required employees to make higher contributions than the old formula in each year starting from 2000. The new contribution formula is subject to a further increase to be determined by the Minister of up to .4% per year for the years 2004 to 2010*, provided that the maximum employees' contributions do not exceed 40% of the current service cost [sections 5(1.1), 5(1.2) and 5(1.4) of the PSSA as amended]. (*On July 7, 2005, the federal government imposed yearly increases in employee contribution rates of .3% for the next 8 years).

We should not lose sight of the fact that one of the key factors in the elimination of the deficit and the growing of the surplus was due to the legislative freeze on public service wages for a six year period in the 1990s. The wage freeze reduced the plans' liabilities and contributed in large part to the rising increases in the pension surplus during this period. By the late 1990s, the combined accumulated pension surplus had risen to over 30 billion dollars. This 30 plus billion dollars surplus including interest from the plans' investment income was taken by the Federal Government.

Aside from the legislation and moral issues this case brings to the forefront, the fact that the Government has complete control over its employees pensions by virtue of its ability to use its legislative authority to unilaterally alter the terms of the plan, raises the bar on its fiduciary obligation to the plan contributors. At least one would expect that to be the case.



The cost of this challenge in terms of legal and actuarial experts has been enormous. PAFSO's share of the legal bill leading into the trial will be approximately 50,000 dollars. This does not take into account our legal costs since the lawsuit was initiated in November 1999. The cost borne by the larger bargaining agents will be significantly higher. However, the cost to an individual or unrepresented employee acting on their own without the bargaining agent's support would be prohibitive. Public Service employees had every right to expect that a surplus which they had contributed to would stay within the plan to be used for a rainy day or plan improvements. Hopefully, at the end of the day the Court will agree.

The information used for this article was taken primarily from the "Statement of Claim" filed on behalf of the bargaining agents with the Ontario Superior Court of Justice November 8, 1999. You can view this statement and other information related to the pension surplus court challenge by logging on to the Nelligan O'Brien Payne website: <http://www.nelligan.ca>

We will keep you informed on the progress of the trial in later updates. ■

The New *Public Service Employment Act*

A Year Later

It has been a year since the new *Public Service Employment Act* came into force in the dark and dying days of December 2005. If you haven't noticed a difference in how positions are being filled (not to be confused with assignments) you probably haven't been involved in a staffing process.

The new *Public Service Employment Act* which came into force December 28, 2005 is a complete rewrite of the *Public Service Employment Act* that was the law in

staffing matters prior to the introduction of the new Act. The reasons advanced for these very substantive changes all related to the inherent delays in staffing positions under the previous legislation, whether they be related to communications between the staffing branch and the manager or the appeals that flowed from the staffing action. These issues have been specifically addressed in the new Act. The most significant changes from an employee's perspective would be:

1. The ultimate responsibility for decisions regarding selection and appointments belong to the manager.
2. Candidates in a selection process no longer have to be ranked in order of relative merit. Merit has been redefined in the new Act.
3. The old appeal process has been replaced with a different redress process targeted at early intervention but restricted access to third party intervention.
4. Deployment.

Buzz words like "open" or "closed" selective process have been replaced with "internal" or "external". "With competition" and "without competition" are now "advertised" and "non advertised".

The manager's responsibility to staff positions is only fettered by a few caveats:

1. The manager has to take into consideration before deciding upon an "appointment process" individuals who are entitled to an appointment on a priority basis.
2. While the manager has the flexibility in using an advertised or non advertised appointment process, if the manager chooses a non advertised process the manager must be able to show that the process meets the deputy-head's criteria for the use of non-advertised processes and appointment values. The manager can meet this obligation by providing a written rationale stating how he/she has met this criteria. This decision could be the subject of a complaint to the new

Public Service Staffing Tribunal if there is cause to believe there was an abuse of authority in making the decision.

3. The "area of selection" must respect the organizations area of selection policy.

With these caveats in mind, the manager is no longer restricted to look only internally to make an appointment before resorting to an external competition. If he/she chooses an external selection process it would be open to all Canadians in accordance with the Public Service Commissions National Area of Selection policy.

Giving the managers the ultimate responsibility for the appointment process is intended to speed up the process, but what about merit?

Redefining Merit

Under the old legislative regime, merit was defined by the tried and tested root of common law – case law. Under the new legislation, merit is defined in the legislation and it doesn't necessarily mean "best qualified" as the candidates no longer have to be ranked according to "relative merit". Managers may now choose the "right fit" for the position based on the merit criteria that have been established for the position(s).

Under the new Act merit is achieved when the person considered for appointment meets the essential qualifications for the position (not in relation to others). The manager has the discretion to consider additional criteria that are assets for the work performed or for the department currently or in the future, any current or future operational requirement, and/or any current or future need of the department and the Public Service as a whole. All of these terms are defined:

• **Essential Qualifications** are qualifications required to perform the work involved in a position. Essential qualifications may include, but are not limited to experience, education, knowledge, skills, personal suitability, and competence in either or both official languages.



- **Asset Qualifications** are qualifications that are not essential to perform the work, but rather may – now or in the future – benefit the organization, or be an enhancement in terms of the work to be performed.
- **Current and Future Operational Requirements** are deemed important for the operation of the work unit or the organization. They are attributes of the work, not of the person. Examples of operational requirements include: working on weekends, travel, and shift work.
- **Current and Future Organizational Needs** are criteria that enable organizations to fulfil their mandates and address their needs – both now and in the future. They are more closely related to the organization than the position. Examples of organizational needs might include the need to improve representation of designated group members, to place affected staff, and to bring about organizational renewal.

The merit criteria may be applied in any order and any of the merit criteria can be used as a screening tool. A manager may decide which candidate meets an operational or organizational need before assessing the essential qualifications. Having said this essential qualifications must be assessed for candidates who are screened into the appointment process. A manager who is delegated authority for appointments must pass a Public Service Commission knowledge test and must have access to a staffing officer in the department that has been certified by the Public Service Commission (PSC).

One final point before looking at the employees' redress procedures. The assessment processes must treat all individuals in a fair and non-discriminatory manner.

A New Redress Process

The appeal process under the old legislation has been replaced with a two-step redress procedure.

1. Informal Discussion.

2. Public Service Staffing Tribunal (PSST).

Informal Discussion:

Rather than wait until the results of the appointment process are announced, the new Act promotes an early intervention process that allows candidates who have been eliminated from the appointment process an opportunity to discuss the reasons with the manager. It also provides the manager with an opportunity to correct any errors and possibly re-enter the candidate into the process before a final decision is made. A candidate who is eliminated from the appointment process should be informed as quickly as possible of the decision together with the reasons. The Act also provides for full disclosure at all stages of the appointment process, to make the appointment process as transparent as possible. An employee is entitled to be accompanied by a PAFSO representative at the "informal discussion" stage.

The Public Service Staffing Tribunal:

The Public Service Staffing Tribunal is a newly created independent tribunal to hear complaints concerning the appointment process. The Appeal Boards under the old *Public Service Employment Act* have been eliminated.

The new *Public Service Employment Act* set the grounds for a complaint. These grounds are limited to allegations concerning:

- abuse of authority in the establishment or application of the merit criteria
- abuse of authority in choosing between an advertised and non-advertised external appointment process; and
- failure to assess a candidate in the official language of his/her choice.

The Tribunal has the authority to order corrective measures including a revocation of an appointment. A year later into the Act, the Tribunal has issued only one decision. The decision concerned the disclosure process, and potential conflicts with the *Privacy Act*. You can read this decision online by going to the PSST website.

Other Avenues for Redress – (Appointment Process)

Complaint to Deputy Head

Employees can also complain directly to the Deputy Head on appointments. Under the new *Public Service Employment Act* the Deputy Head has the power to revoke appointments and to take corrective action if after investigation, the Deputy Head is satisfied that an error, omission or improper conduct affected the appointment.

Public Service Commission (PSC)

The Public Service Commission continues to have the authority to conduct investigations on the propriety of appointments made as a result of an external process. The PSC as the delegator of the staffing authority also has the right to audit departments concerning appointments and, in some cases, has the right to revoke the delegated authority.

Deployment

The deployment process described at Part 3 of the new *Public Service Employment Act* (PSEA) no longer provides an employee who is not the person being deployed with any redress. According to the new PSEA:

- 1) A deployment is not an appointment under the new PSEA Sec. 53 (1).
- 2) The PSC mandate does not extend to deployments even though it is Part 3 of the Act.
- 3) According to the new PSEA, the PSC's mandate extends only to appointments of persons to or from within the public service in accordance with the Act.
- 4) Deployments are not part of a delegated staffing action from the PSC to the Department. The deputy minister of a department is given the authority to deploy employees by the Act itself.
- 5) An employee who believes that their career aspirations or for some other valid reason believes the deployment was an improper use of the Deputy



Minister's authority no longer has a right to formally complain to anyone. The Investigation Branch of the PSC no longer has a mandate to deal with these issues. The Treasury Board Policy on Deployment was rescinded in June 2006.

- 6) Only the deployed person has rights under the Act.
- 7) Deployment provisions could not become the subject matter of collective agreements negotiated under the PSLRA.

The Deployment section of the new PSEA is wide open for abuse, and there does not appear to be any safeguards left in place to curtail abuse when it occurs. Given the apparent lack of jurisdiction on the part of the PSC over this part of the new PSEA coupled with the fact that a deployment has to be made in accordance with the manner directed by the Treasury Board and in accordance with its regulations, the question arises - what is the purpose of having the Deployment provisions in the new PSEA?

From our understanding, a deployment process was never intended to be a part of a regular staffing process. It was always intended as an extraordinary measure to accommodate individual circumstances but not as a competitive process to fill vacant positions within or between occupational groups.

While a deployment allows an employee to transfer within an occupational group or between occupational groups, this envisages an employee transferring from one substantive position within the same group into another substantive position within the group. We would suggest that the drafters of this part of the legislation never considered a deployment where the person being transferred would move from his/her substantive position to another occupational group where there are no substantive positions only pooled/rotational positions which can vary dramatically from one assign-

ment to the next. The removal of any rights for redress to other than a person being deployed, and the rescinding of the Treasury Board policy on deployment, has opened the door to deployment exercises becoming a regular part of the staffing process - a process for which it was never intended.

PAFSO's Take on the New Act

The majority of the bargaining agents including PAFSO were opposed to the provisions of the new PSEA. We didn't see a need to redefine the merit principle. We also saw the changes as a backward step because it gave the manager too much authority in the appointment process. The elimination of ranking the candidates could easily bring into play the managers personal preferences in choosing the successful candidate. The reasons advanced for the need for change include (1) a cumbersome appeal process and their inherent delays in confirming an appointment and (2) the length of time it would take to complete a selection process citing issues between the staffing officer and the manager, are built on a shaky foundation.

A 1997 PSC study on the impact on appeals in the selection process indicated that given the number of appointments, the appeal rate was insignificant and the appeal decisions were released in a very timely fashion. This study would hardly support a need for change based on a flawed appeal process. It is difficult to say if the new Act will be more efficient when it comes to making appointments to and from within the Public Service, but needless to say there will be fewer "appeals" or employee interventions.

But efficiency isn't the only factor. Giving the manager so much authority, even with the PSC knowledge test behind them is like steering an aircraft carrier into uncharted waters. In choosing the "right fit", it is difficult to shy away from the human aspects of the decision-making process. The merit principle was first introduced as the basis for appointment to and from within the Public Service

towards the end of the First World War because there was a growing concern among the legislators that the best qualified candidates were not always the ones chosen in an appointment process. Friends, and friends of friends, family and relatives, neighbors were getting the nod over others. It wasn't only nepotism that prompted the legislators in the early 1900's to introduce the merit principle it was "favoritism" on a broader scale. Now 90 years later we have changed the legislation that has the potential of reintroducing "favoritism" in the selection process. Only this time it will be legal so long as the candidate is "qualified".

The bureaucrats in favor of the new PSEA would argue the new Act reflects the reality of the staffing process before the new Act was introduced. In assessing merit under the old Act, the human element was always present. The managers in their role in the staffing process, in ranking the candidates, would always find a way to ensure their pick ranked among the highest to assure their candidate got an offer of appointment. From the bureaucrat's perspective, the new Act legitimizes this reality. But that rationale brings me back to the early 1900's and the reasons for introducing the old merit principle in the first place. So long as the candidate is qualified, the manager from the employer's perspective should be able to choose among the qualified candidates the "right fit" for his or her team. Our concerns with the change legitimizing this practice is the "right fit" for one manager may not be the "right fit" for the manager who succeeds the manager who made the decision in the first place. It has the potential for reducing the selection process into a popularity contest among "qualified candidates". In the short term this may prove more beneficial to the work unit so long as the team and the manager remain a constant. In the long term, especially if the players change, the benefits may not be so obvious. "Networking" could become as important as merit.



If the employee has proven to be an asset for one manager, there is a good chance when an opportunity for advancement presents itself, that employee will be a prime candidate in the selection process. If the manager moves on, and there is an opportunity for advancement where the manager has moved, that employee would also be a prime candidate. From the manager's perspective, there is nothing wrong with this because the employee has already proven themselves. From the employee's perspective, at least from those who have not been given the opportunity to prove themselves, they potentially would be overlooked in the appointment process even though they have been qualified. This reality may impact on the morale of the work unit or it may not, but the potential is present.

Some of the managers have looked at this new responsibility in a different light. As some have put it, the departments are training people (the manager) to do better - something most should not have to do at all. Instead of fixing the problem, the managers are being asked to learn new ways of managing it.

Another complaint from the managers is the new way of managing the problem has created a lot more work. They find themselves spending a great deal of time on staffing issues, with no additional resources. The majority of the work that was previously done by a staffing officer attached to the Human Resources Division now is the responsibility of the manager. Under the new staffing system, managers are going to have to prepare all of the documentation required to launch a staffing action (job descriptions, organizational charts, statements of qualification, language profiles, selection tools like interview questionnaires, and staffing notices). They will have to:

- (i) process all of the applications received, eliminate the non-qualified and document the deficiencies;
- (ii) advise the non-qualified and invite them to an "informal" discussion;

- (iii) hold discussions with anyone who accepts the invitation,
- (iv) make a selection among the qualified and write up the rationale for the selection;
- (v) send a notification of the proposed choice to all of those who were not selected and invite all of them to 'informal' discussions;
- (vi) hold those discussions with those that accepted the invitation; and
- (vii) wait five days and, send out another notification of the actual choice together with the opportunity for informal discussions.

If the managers do something wrong in the process, they may be obliged to start the process over. The managers are expected to take on this new role with no additional resources. The staffing officer's role is reduced to advising the manager on what to do - the staffing officer is no longer responsible for doing the work.

If the manager is only required to do this once in a blue moon, that is one thing. But when there is a large turnover, or growth, or retention, or recruitment issues, it could become a nightmare. Some of these positions may remain vacant because of the manager's workload for a lot longer period than would be the case under the old system. Worse still, the manager may look at alternatives to fill an urgent staffing need like deployments, term employment or contract workers. Should this happen, it would defeat the purpose for the changes to the legislation.

The managers and the Public Service Commission have an interest in seeing this does not happen. Someone should be able to monitor the staffing actions to detect possible abuses.

The provisions of the new Act are to be reviewed in five years. By then there should be enough evidence to determine if the changes were a good thing or a bad thing. Hopefully during this time, the PSC

will exercise its authority and conduct audits when warranted. We are particularly concerned with the option of the non advertised selection process left in the hands of the managers and the potential for abuse. However, we are equally concerned about the added workload these changes have placed on the managers and the potential for looking at short cuts to solve staffing issues. The DM's unfettered discretion on deployment is also a huge concern.

How will the New Act impact on "appointments" to and from within the Foreign Service?

The FS group has now been restructured from one working level (the old FS-2 level) to a development level and three working levels. Advancement from the development level to the FS-2 level will be based on individual merit provided the employee has successfully completed the three year probationary period. The new Act does not impact on this process. However, advancement from the FS-2 level to FS-3 and from FS-3 to FS-4 will be influenced by the new Act.

One of our concerns with the new Act is the managers ability to decide to hold an external appointment process open to all Canadians and other occupational groups. PAFSO has made a presentation to the Public Service Commission Advisory Committee expressing our concern that conducting an external appointment process, which would be at the FS-2 level and above, would not be in the best interest of the Foreign Service occupational group because, it could potentially have a negative impact on recruitment at the entry level. PAFSO had requested that the Public Service Commission Policy on the "National Area of Selection" be amended to exclude the provisions of this policy for appointment above the entry level. DFAIT was invited to attend the session of the Public Service Advisory Council when this was discussed but declined an invitation to attend suggesting the Advisory Council lacked jurisdiction on this issue. Our concern is, if DFAIT or CIC resort to an



open competition or inter group selection process to recruit employees into the FS group above the entry level, there would be less incentive to join the Foreign Service at the entry level.

All one has to do is look at the deployment initiative process announced in December 2005, which produced over 100 complaints from FS-1 and FS-2 level employees who felt betrayed by this initiative, to understand how these new staffing initiatives will impact on the group. Their exclusion from a competitive selection process as a result of the department resorting to a “deployment” process sent a very negative message to FS officers, especially those who were acting or had acted in FS-2 or FS-3 level positions. They were left grappling with the question - what is the incentive for joining the FS group at the entry level or for remaining in the FS? Maybe this partially answers the question why, unlike other groups in the federal public service, the FS group has not grown in size since 1985. It would help explain why there continues to be a chronic shortage of FS officers despite the ambitious entry level recruitment exercises that have taken place over the past five years.

To date, the department has taken the position that staffing decisions is an employer’s prerogative and sees no benefit in consulting PAFSO. There is a requirement for the department to meaningfully consult on issues with us that will impact on our members. Consultation is a pillar in the modernization era. “Staffing” has not been excluded from issues that should be discussed. PAFSO is very disappointed in the department’s position on staffing issues. The issue of meaningful consultation has become the subject of a “policy grievance” which is now before the Public Service Labour Relations Board.

Redress Procedures

The new PSEA redress procedures replaces the old appeal board process. The first step in the process is intended to inform unsuccessful candidates of their elimination from the appointment process,

to explain why they were eliminated, and to give the manager an opportunity to correct errors in the appointment process. Unlike the earlier appeal board process, the candidate doesn’t have to wait until the appointment process is complete before accessing this process. PAFSO sees this early intervention as a positive step as it gives both the employee and the manager an opportunity to access the process.

The second step in the redress procedure is more restrictive than the appeal board procedure, but it needed to be given the new definition of “merit”. The new redress procedures are well intended and hopefully will give the managers, who have the delegated authority, an appreciation for the broader human element in the appointment process. If there are suspected abuses, the bargaining agent can always count on the Public Service Commission to conduct an audit on the department’s staffing actions and, if necessary, rescind the department’s delegated staffing authority.

How does the New Act Affect the “Assignment Process”?

The short answer is: It doesn’t. The current “assignment process”, to assign employees to FS positions both in Canada and abroad, is anything but transparent and fair. But that is the subject for another *PAFSO Update*.

Until 2003, FS officers were given a preference above employees from other occupational groups for FS assignments. However, the application of this preference has not been enforced as far as we can tell since the summer of 2003. It would appear that the assignment process has been opened up to all occupational groups at DFAIT.

Employees from other occupational groups who are successful in the bidding process have the best of both worlds. They continue to own their substantive position while on assignment, so life in the department isn’t a continuing bidding process at the end of the assignment like it is for employees in the FS group. The flawed

“assignment process” is another reason for employees in the FS group to ask themselves the question, what is the incentive for remaining in the group?

To a large extent the current assignment process under the old PSEA, as well the new PSEA, is protected by an exclusion order that allows the department to make the assignments without concerning itself about a third party complaint process accessible to the employees. Fairness and transparency are not familiar words in the assignment process. The “exclusion order” was well intended when it was first introduced. If employees were able to access a third party appeal process on every “assignment” the administration of Canada’s Foreign Policy would come to a standstill. However, the *quid pro quo* has always been that the department would act responsibly when making rotational assignments.

From our perspective DFAIT, in particular, has not lived up to its end of the bargain. The current process lacks transparency and fairness. There appears to be too much influence exercised by senior managers favouring non rotational employees for assignments abroad that have worked for them. Allowing non rotational employees equal bidding rights for assignments abroad was never in the cards and there appears to be no interest from the managers in correcting these abuses. CIC certainly gives the appearance of a fair assignment process. However, it supplements its FS work force with a large number of non rotational employees - an indication that there are not enough indeterminate FS officers.

Conclusion

While we have guarded concern with the changes to the merit principle and the delegated authority to the managers, the new Act is a reality. We have to give the new Act a chance to work, but that doesn’t mean we shouldn’t keep a close eye on the staffing actions conducted at DFAIT and CIC. We will also have to make some sense out of the new deployment process and we can’t wait until the end of the five-year review period to address our concerns. ■



Other News

● FS-4 Classification Review

Many of you will recall in mid April 2006 that the Department of Foreign Affairs and International Trade (DFAIT) announced that all FS-4 positions at DFAIT would be the subject of a classification review. The reasons behind this review was the reintegration of International Trade with Foreign Affairs. What the announcement didn't address was the salaries and allowances of those employees who would successfully bid on these assignments in the event that the position was downgraded. PAFSO's understanding of the *Pay Regulation* is that employees in these circumstances would be salary protected for as long as they encumbered the position.

PAFSO asked the Assistant, Deputy Minister of Human Resources to clarify her message by indicating the departments position in the event that the FS-4 position encumbered by an employee, was downgraded during the assignment. PAFSO thought this was an important element to consider especially for those employees who would be bidding on FS-4 assignments. The department initially refused to elaborate on the original message. PAFSO then wrote to the department asking formally for their position on this matter so we could inform the members of the department's decision and take whatever action we deemed appropriate depending on its response.

On July 14, 2006, the department finally responded to our request and informed employees that in their view the salary protection rules did not apply to employees in acting positions. The department's response came as a complete surprise to us because none of the FS officers were converted to the FS-4 level upon conversion. As a consequence, all FS-4 assignments would be encumbered by employees in an acting basis without exception. This would mean from the department's perspective none of these employees would be salary protected

(including their allowances) if, as a result of a reclassification the FS-4 position they encumbered was downgraded. The timing of the department's response in July meant a number of employees had successfully bid on these FS-4 assignments without the advantage of knowing the department's position on salary protection. In fairness to the employees, the department should have communicated their position on this issue in a more timely fashion.

PAFSO does not share the department's view with respect to salary protection. This disagreement is now the subject of a policy grievance that has been referred to the Public Service Labour Relations Board. We expect a hearing on this policy grievance announced soon. We will post the decision on the PAFSO web site when it is received.

● FS Conversion Issue - Acting Pay

Employees acting in FS-2 positions prior to conversion who continued to act in those positions after conversion.

This article will be of particular concern to employees who at the time of conversion were acting in FS-2 positions and who continued to act in those positions after conversion.

When the FS conversion was implemented on July 1, 2005, FS-2 level employees were converted to the FS-3 level regardless of the classification of the position to which they had been assigned. However, other employees who were acting in FS-2 positions on the conversion date did not fare as well the bottom line being that employees in these acting situations noticed a severe drop in their pay.

PAFSO wrote to the department about its decision to treat employees in acting FS-2 positions differently than substantive level FS-2 employees. PAFSO's position is that if an employee acting in an FS-2 position on the day of conversion continues to act in that position, the employee should be paid acting pay at the FS-3 level for as long as they encumber the position. We asked the department to reconsider its position based on this under-

standing. In December 2005, the department issued a statement confirming that it would pay employees in these situations at the FS-3 level. PAFSO believed, based on this commitment, that this issue had been resolved. However, as it turned out, DFAIT's commitment extended only to the end of the original assignment. When that assignment ended, employees who continued to act in these positions without a break in service or a, change in duties, or different reporting relationships, suffered a severe cut in pay. When we questioned the department about this turn of events, we were told that when the original assignment ended a new appointment was made resulting in a recalculation of pay. PAFSO's interpretation of the *Pay Regulations* is that the salary protection continues for as long as the employee encumbers the position, regardless of the number of extensions to the original acting appointment.

This issue has become the subject of a 'Policy Grievance' which is currently before the Public Service Labour Relations Board. We are waiting for a hearing date which we expect will be announced soon. We will post the decision on our web site when it is received.

● *Ab Initio* Status

Those of you who had to attend language school to obtain your 'C' levels in both official languages will find this article interesting.

A few years ago PAFSO was unsuccessful in its application to the Public Service Staff Relations Board to recognize *Ab Initios* as part of the FS group bargaining unit. The question that was put to the Board at the time concerned the status of the *Ab Initios* in relation to the FS group bargaining unit. PAFSO submitted that since they were recruited for FS positions and were paid by the department during their tenure at the language school, they were successful candidates in a non-imperative staffing action who required official language training. As a consequence they should be recognized as employees in the FS group bargaining



unit. When you add to this the fact that their T-4 slip named the Government of Canada as their employer and both EI and CPP deductions were made each pay period, we thought we had a sure winner. As we said at the beginning, we were not successful. While *Ab Initio* employees may not be members of the FS group while on official language training, there is plenty of evidence to suggest that they were *de facto* employees of the department.

The issue of an employee's employment status while on official language training is now the subject matter of an individual grievance. The outcome of this grievance is of particular importance to FS employees who had the experience of *Ab Initio* status. As it stands now, this time will not count as continuous employment for the purpose of contributory status to the *Public Service Superannuation Act*, or credit to the accumulation of vacation leave credits, or severance pay under the FS Collective Agreement.

The department has the ability to fix this problem by formally appointing these *Ab Initio* candidates using a non-imperative staffing action. Instead, the department waits until the candidate passes the language test to appoint the *Ab Initio* to the FS group. From our perspective formally appointing these successful candidates prior to the beginning of the second official language training would protect the department's investment in recruiting these individuals. At the same time, the department would be seen as treating these candidates similar to the way the department treated employees who have been deployed into the FS group and who require second official language training. In the December 2005 deployment exercise, employees who did not meet the official language requirements were transferred into the FS Group on a non-imperative staffing action the language proficiency was at a lower standard required of the FSDP recruits. However, employees who transferred in these situations were given up to two years to meet this requirement.

We will keep you informed on the outcome of this individual grievance. Hopefully the department's response will be favourable to the grievant and applied to all employees who are or have been on *Ab Initio* status.

● Federal Court Application – Deployment

Many of you will recall Deputy Minister (DM) Harder's decision to engage in a deployment exercise to fill between 60 and 120 vacant FS positions at the FS-2 and FS-3 levels. PAFSO advised the department prior to the announcement that the deployment exercise would be illegal and an abuse of authority. Unfortunately, DM Harder decided to accept the advice of his personnel advisors and went ahead with the deployment exercise.

Given the department's position on this issue and the unwillingness to engage PAFSO in meaningful consultation on this subject, PAFSO was left with no other choice but to look elsewhere for a resolution that would protect the interests of our members. In late December 2005, PAFSO filed an application with the Federal Court asking the Court for judicial review of DM Harder's decision.

On September 18, 2006, the court ruled and set aside DM Harder's decision. The matter was referred back to him for consideration in accordance with the reasons cited in the decision.

PAFSO takes no joy from this decision. As our counsel said in front of the Honourable Madam Justice Tremblay-Lamer, "PAFSO should not be before you on this matter. This is something that the parties should have been able to work out themselves". The decision, which ruled in our favour, was with costs.

DFAIT appealed the Federal Court decision on the last day for appeal but it has subsequently withdrawn its appeal. After the Federal Court decision was reached, PAFSO fully expected to meet with senior Human Resources officials to work out a solution that would be acceptable to everyone. No such meeting has ever taken place. Instead, senior depart-

ment officials communicated directly with the employees who had been deployed under the deployment exercise that was the subject of the Court's decision.

PAFSO tried unsuccessfully to consult with the department on the acceptable solution and we asked our legal counsel to write to request such a meeting. The President of the Public Service Commission (PSC) also wrote to the DM asking him for the steps he intended to take to implement the Court's decision. Meanwhile the over 100 individual complaints that had been filed concerning the deployment process were being held in abeyance at the PSC's Investigations Branch pending the DM's decision on remedial measures.

PAFSO was being asked by many of the individuals who had filed these complaints what was happening, while at the same time we were being asked the same question by the employees who had been deployed. The department was ignoring the Federal Court decision and telling the employees who had been deployed that nothing would change for them.

PAFSO representatives did meet with a group of employees who had been deployed to at least explain our position. In a nutshell, we explained that PAFSO was not questioning the qualification skills or abilities of the employees who had been deployed. What we were challenging was the process which denied our members an opportunity to compete. We also explained that we had tried unsuccessfully to meet with senior management to work out a solution that would be acceptable to all, but that senior management had ignored our request. If a meeting with the employer did take place, an employee representing the deployed employees would be welcomed at that meeting.

In December 2006, a year after the DM had announced his flawed deployment process, and three months after the Federal Court decision, PAFSO instructed its legal counsel to write the



Deputy Minister. In that letter, we informed the DM that if we did not hear from him with respect to the implementation issue directed by the Court we would have no other alternative but to refer the matter back to the Court in the form of a contempt of court proceeding. The request for information by our counsel was ignored, leaving us with no other choice but to proceed with our action. The motion was heard on January 18, 2007. At the hearing, the Honourable Justice Dolores Hansen indicated that she was leaning towards allowing the charge, which would mean the DM would be charged with Contempt of Court, resulting in a trial. She decided to wait until February 16 before proceeding further because the nature of the case dealt with labour relations, and moving ahead with the charge would not have done anything to resolve the dispute. She is quoted in the *Embassy* newspaper as saying "In any other circumstances, I would be issuing my order today."

It is indeed unfortunate that PAFSO's relations with the Human Resources department at DFAIT has been on a steady decline, since early 2003. Our relationship is unproductive, dysfunctional and adversarial. This has taken its toll both in our work load, added stress, and legal bills. This is not the way to do business.

We would note that as we go to press, the department has announced another competitive deployment exercise. This time it is under the "Deployment" provisions of the new *Public Service Employment Act* (PSEA). Under these provisions, only employees who are being deployed have redress rights under the new PSEA. Employees who may have legitimate concerns have no redress rights. PAFSO sees this announcement as an abuse of the intended purpose for utilizing the deployment provisions in the new PSEA and will be asking both the PSC and the TBS for a clarification. We never envisaged that a deployment exercise would become part of a regular staffing process, either under the old PSEA or the new PSEA.

● Maternity and Parental Leave and Allowances

Maternity and Parental Leave and Allowances provisions have been revised to accommodate the changes made under the Quebec Parental Insurance Plan.

You can review the changes by visiting the PAFSO website: www.pafso-apase.com. ■

Public Service Employee Survey - FS Group Results

Where You Stand on Key HR Issues

Six hundred and sixty-four (664) Foreign Service officers completed the 2005 Public Service Employee Survey out of a potential twelve hundred (1200) Foreign Service officers.

The survey is intended to measure the health of the employee/employer relationship in key areas with an expectation that senior management in each department will take steps to resolve the concerns expressed by employees in the survey. PAFSO has analyzed the results of the survey looking at key questions and answers to see how the FS group compares with the views expressed by employees in the overall survey as well as the views expressed by the other employees in both the Department of Foreign Affairs & International Trade (DFAIT) and Citizenship & Immigration Canada (CIC). We focused on two main themes:

- Family (Personal) Work Life Balance
- Confidence and Trust in the Leadership in HR Issues

The results of our analysis suggest that the public service, as a whole, did well when it came to striking a balance between work and family (personal) life. However, in the public service there are issues when it comes to confidence and trust in leadership. By contrast, DFAIT, in particular, did very poorly in both areas when compared with

the public service results. On the other hand, all CIC employee results are more in line with the results of public service in general. However, the FS at CIC indicated on a number of issues a variance with the general CIC results. The following is our analysis of the key questions. The actual questions and answers we used in our analysis follow this article.

Family (Personal) / Work Life Balance

Questions 6, 7, 13, 14, and 15, from our perspective, are the key indicators of whether a healthy family (personal)/work life balance exists. **Question 6** asks if you feel pressured "by others" to work more than your regular hours. Only 22% of the employees in the public service thought this was the case. However, almost half of the FS officers at DFAIT (48%) who answered this question felt that this was the case. This percentage has even more meaning when compared with other employees employed at DFAIT where 36% felt this was the case. The CIC result also indicated a problem in this area at least for the FS group. The general all-employee CIC result indicated that only 18% of its employees felt pressured "by others" to work overtime. But 34% of the FS employees at CIC thought this to be the case.

We would suggest that, when compared with the general public service employee answers to this question, FS officers at both DFAIT and CIC are significantly more susceptible to this kind of pressure. In DFAIT's case, the problem is broader than just the FS group where approximately 50% of the FS employees felt this was the case. The other employees at DFAIT are inclined to feel this pressure almost twice as much as their public service counterparts. These results suggests that something is going on at DFAIT with respect to work load pressures that is not happening elsewhere in the public service. Clearly this has an impact on the employee's ability to create a healthy balance between his/her family (personal) life and work.



Question 13 questions the employees ability to get their assigned work done during regular working hours. The public service results suggest that this happens most often, approximately 60% of the time, compared with 32% of FS employees at DFAIT who agree with them. The rest of the employees at DFAIT also indicate a problem in this area. Forty-two percent believe this is the case or most often is the case. CIC was more in line with the general public service employee results.

What this shows is that DFAIT employees, in general, and the FS employees, in particular, have a real issue with getting their work done during regular business hours when compared with the public service in general. With only 32% of FS employees believing that they can get their work done during regular business hours, a critical problem emerges in trying to achieve a healthy balance between work and family (personal).

Questions 7 and 15 look at compensation for employees who work overtime hours. The public service all-employee results, the employee results for DFAIT and CIC, and the FS survey result, all show that the majority of employees believe that they can claim overtime for the overtime hours that they work (approximately 60%). The only variance was at CIC where approximately 40% felt that they could not claim overtime for the overtime hours worked. The answers to **Question 15** produced a similar, across the board, result when it comes to actually receiving overtime compensation. The public service employee result showed that 37% of the employees indicated that they always received compensation for working overtime. Thirty percent of the FS employees at DFAIT said this was their experience, 35% of the other DFAIT employees said that was their experience as well. The CIC general results showed that 44% of its employees felt this was always the case with 34% of the FS indicating a similar view.

These results could mean that even when you factor in those that indicated that they were “often” compensated for working overtime, a large number of employees in the public service in general, and an even larger number of employees at DFAIT and CIC, are either working overtime and not claiming overtime compensation, or employees are claiming overtime and their claims are being denied. Hopefully, the latter is not the case especially in those cases when the employees feel pressured by others to work extra hours. This also raises a question about the department’s overtime budget and the pressures to remain within budget as a factor for employees claiming or for managers not approving overtime compensation.

Question 14 asks a direct question with regard to an employee’s ability to balance family (personal) and workplace needs in their current job. The survey results for the public service in general reveal that 69% of the employees feel this is either always the case or is most often the case.

Judging from the responses received, for DFAIT employees in general, and FS employees at DFAIT, the department has a critical problem in this area. Fifty-two percent of the employees at DFAIT feel that they can achieve this work/family (personal) life balance either always or often. The FS officers at DFAIT indicated that this happened only 42% of the time. CIC’s overall response to this question mirrored the overall public service employee survey result. Approximately 70% of the employees believed this to be the case or was often the case. However, only 54% of the FS officers at CIC believed this to be the case which is significantly less often than the rest of the employees at CIC.

When you compare these results with the public service and DFAIT responses, the FS group in both departments have expressed a concern about this balance. DFAIT appears to have an even bigger problem in this area because its not just the FS employees who have expressed a concern. Half of the other employees at

DFAIT are saying this balance is not happening.

What is particularly disheartening about the DFAIT result is that this issue is not new to them. In fact, DFAIT commissioned a study on this issue from Ms. Linda Duxbury, a specialist in this area. Her report has been released for some time now, and included recommendations on how to address the issue. The bargaining agents have never been consulted on this work place issue and, judging from the employee responses, the department has either not implemented a work plan to address the concern or they have and it has not been affective. When you look at the combined analysis of the questions analyzed, we suggest the following points are indicia of a healthy work life balance:

- Pressure from others to work overtime.
- Belief that the employee can get their work done during regular hours.
- Knowledge that they can claim overtime.
- Percentage of those who have actually received overtime compensation.
- The employee’s own assessments.

DFAIT has a major problem on all of these factors with all of its employees not just the FS group. CIC needs to address this concern for the FS group as it is at variance with the CIC general survey results. While this is not “news” to DFAIT, it does highlight how badly DFAIT fared on this crucial issue with the rest of the public service where a healthy balance has been achieved in 70% of the cases.

Confidence and Trust in the Leadership in Human Resource Issues

It may be trite to say that in today’s work-life reality employees are highly motivated. Employees who do not feel satisfied with the work or are not sufficiently challenged by it will move on within five years of their appointment. It is also true that every employee wants to be respected, valued and supported by the organization



where they work. Every employee also wants to work in an environment where they have confidence and trust in the leadership. In our view, the public service employee survey has attempted to measure the employee's level of confidence in these key areas. PAFSO looked at **Questions 45, 52, 66, 83, 84, 85, 92 and 93** to assess the level of confidence and trust employees had in the leadership on Human Resource issues.

Question 45 asks the employee their level of satisfaction with the department supporting career development. The overall public service employee results indicated that a large percentage (40%) of employees didn't agree with the statement that "my department does a good job of supporting employee career development". DFAIT employees, in general, had an even higher percentage disagreeing with this statement (52%). However, the highest percentage of employees who disagreed with this statement came from the FS employees where 59% didn't buy into that statement.

The CIC all-employee results mirrored the overall public service results. Thirty-eight percent of respondents didn't agree that this was the case. However, an even higher number of FS officers at CIC (47%) didn't agree with the statement either.

We would suggest that these results indicate that there is an overall concern among employees at DFAIT that the department is not doing a good job of supporting career development. The problem is even worse when it comes to the FS group at DFAIT. The CIC results would indicate that the level of concern expressed by the FS employees at CIC is at variance with the view expressed by other employees at CIC or the public service in general. This would suggest that CIC is doing a good job in this area for the majority of its employees but needs to address a specific concern for the FS employees employed by them. From PAFSO's perspective, matters have only gotten worse at DFAIT since these survey results were announced in June

of 2005. Examples of how DFAIT has not supported employee career development for the FS group include:

1. A deployment process in December 2005 for FS vacancies at the FS-2 and FS-3 level open to all employees of the department; except the FS group who were prevented from competing for those levels. Even the FS employees who were acting or had acted at a higher level were denied the opportunity to advance within their own group.

The deployment process announced different linguistic profiles for the candidates lower than what it expected from its entry level recruits before they could be appointed. CBC vs. CCC, Imperative vs. non-imperative are examples of the double standard.

2. The recently announced FS-4 selection process open to all employees in the department. The FS-4 competition was supposed to be the last part of the FS conversion exercise. FS-2 employees under the old standard were converted to the new FS-3 level. No FS employees were converted to the new FS-4 level, it was supposed to be a competitive process among the FS group. Unlike DFAIT CIC treated the FS-4 competition as the last part of a conversion exercise as it was always understood to be, and restricted the selection process to FS employees.
3. DFAIT recently announced that it intended to run a combined competition/ deployment process to fill vacancies at the FS-2 and FS-3 levels. This process will allow employees from other occupational groups to transfer into the FS group at the working levels. FS employees meanwhile are expected to climb the ladder starting at the entry level and compete for positions at higher levels "you compete while others transfer".

4. The FS priority or preference for FS assignments was removed in the fall of 2003 by the ADM Human Resources allowing all employees of the department (rotational and non-rotational) to bid on FS assignments both at headquarters and abroad on an equal footing with FS officers.

Staffing/Assignment Initiatives – Their Impact on Career Development

The value of a entry level recruitment program open to all Canadians has been seriously undermined by these staffing initiatives and changes to the assignment process. FS employees recruited at the entry level, more often than not, produced employees who already had a wealth of experience, and who were willing to accept a reduction in the pay they were earning in the private sector or the public service to join Canada's Foreign Service. Now, we would expect these candidates will think twice before applying for a job in the FS when they can join at higher levels and higher salaries.

The DFAIT staffing/assignment initiatives show a complete disregard and respect for the staffing and assignment process that has been the practice for rotational employees who are appointed to level and assigned to pooled positions for their entire career. We would also suggest a deployment process should only be used in exceptional cases for any occupational groups. It was never intended to become a regular part of a staffing process. None of the DFAIT workplace initiatives were ever discussed with PAFSO. This is not about a closed shop or guild mentality as HR "professionals" as DFAIT have suggested. For the FS group it is about a fair and reasonable transparent process.

Question 52 asks if are you satisfied with your career progress within the public service. Very few employees in the public service survey disagreed, but only about 30% felt that they were significantly satisfied that this was the case. The public service survey results generally are in line with DFAIT and CIC employees where



approximately 30% were “significantly” satisfied. The only variance between these results and the FS group happened at DFAIT where only 18% indicated that they were “significantly” satisfied with their career progress. The reason for the variance, between the FS group and other employees at DFAIT, illustrates a disconnect between Human Resources (HR) and FS employees.

Question 66 asks employees about their experiences as a candidate in competitions during the past three years and whether or not the employee found that the competition was run in a fair manner. Forty-one percent of the employees in the public service thought this was the case. This result was consistent with the views expressed by the employees at DFAIT where 42% felt this was the case and at CIC where 45% of the employees felt this was the case. FS employees, both at DFAIT and CIC, do not share this view of fairness. Only 33% of the FS employees at DFAIT felt this was the case while an even smaller percentage of FS employees at CIC (26%) saw the selections process as run in a fair manner. The level of employee confidence and trust on this issue is significantly less than the rest of the public service which doesn’t have a high approval level either. We suspect that, had this question been directed at the DFAIT Assignment Process, it would have produced an even poorer confidence level among the FS group. This result suggests, that when a competition is conducted, very few FS employees (about a third or less), believe it will be run in a fair manner. PAFSO would note that this is another example of a workplace issue where DFAIT has refused to consult, meaningfully or otherwise, with the bargaining agent. We don’t see the same level of concern for FS employees at CIC because there have been relatively fewer competitions conducted at CIC.

Question 83 measures the level of comfort that an employee has in accessing a formal redress process. The question wanted to know if you felt you could access a formal redress process without

fear of reprisal. Regardless of how you look at the results of this question, agree or disagree, DFAIT employees, in general, and the FS employees at DFAIT, in particular, do not share the same level of trust with the rest of public service employees on this issue. Approximately 50% of public service employees believed this to be the case, whereas only 45% of the DFAIT employees believed this to be true. Only 40% of FS officers at DFAIT saw this to be true. The CIC all-employee results, including the FS group at CIC, were in line with the public service employee survey results.

None of these statistics show a very high approval rating for the level of trust that needs to be in place for an effective formal redress process. The DFAIT statistics show an even greater lack of trust or confidence in the employer on this issue.

The last set of questions we analyzed go to leadership, trust and confidence in senior management. **Question 84** asks if you believe that senior management would try to resolve the concerns raised in this survey. The public service overall result indicated that 40% of public service employees believed this would not be the case. Approximately 50% of the employees at DFAIT believed that senior management would not address their concerns, which is significantly higher than the rest of the public service. But FS employees at DFAIT were the least trustworthy. Sixty percent said that they mostly disagreed or strongly disagreed with this statement. FS employees at CIC and CIC employees, in general, did not show the same level of distrust with senior management’s resolve to address their concerns.

The approval rating for addressing employee concerns raised in the 2002 survey was tested at **Question 85**. The overall results for the answer to this question again revealed that there was not a lot of confidence in senior management from public service employees that senior management had made any progress toward resolving the issues raised in the 2002 Public Service Employee Survey. Only 32% of public service employees

felt this was the case. However, the level of confidence and trust at DFAIT was even worse. At DFAIT, only 27% of the employees felt this was true. Only 18% of FS employees at DFAIT agreed that was the case. CIC mirrored the public service result, except for the FS group, where approximately 17% of the FS employees believed this to be the case. Clearly, FS employees at DFAIT and CIC showed a significantly lower level of confidence that this was the case.

The government, in general, needs to do a better job of communicating with their employees about the steps that they have taken to address the concerns expressed by the employees who have taken the time to answer the questions posed in the survey. These communications should come from the central agencies for the overall survey results and the department for the department specific survey results. The FS responses to this question suggest that the level of mistrust is far greater than it is for other employees in the public service. For the FS group at DFAIT this is understandable because HR professionals are removing any incentives for an entry level recruitment program or for remaining in the FS group.

Unless the employees’ concerns expressed in the survey are taken seriously, the survey will lose its value as the employees will lose confidence in its purpose.

One of the pillars of the *Modernization Act* was the increased reliance on “meaningful consultation” and “co-development” as a forum for addressing workplace issues. **Question 92** asks employees to respond to the following statement: “Senior Management in my organization engages in meaningful consultation with my union on workplace issues”.

It’s disheartening to see that only 40% of the employees in the public service agree with this statement. It is even more disheartening to see that at DFAIT only 24% of the employees believe this statement. But only 18% of the FS employed at DFAIT share this belief. The results for CIC employees in general, including the



FS employees employed by CIC, reflect the overall results of the public service employee survey. What these results suggest is that a very large number of public service employees in general have seen little or no evidence that their employer is engaging in meaningful consultation with the union. This would appear to be the case in the central agencies (who should be setting the example) as well as in the departments. However, as bad as these results are for the public service in general, the results for DFAIT are even more revealing. Whether you look at this as a general concern for all employees at DFAIT, or a specific occupational group concern, the DFAIT result ranks with the poorest, if not the poorest, for all government departments.

The FS employee responses to this question, reflects the reality of PAFSO's relationship with the HR Branch at DFAIT over the past three and one-half years.

The last question we looked at in our analysis related to the relationship between the employees' union and senior management. The question was asked in the form of a statement: **Question 93. The relationship between my union and senior management in my organization is highly productive.**

Employees' knowledge of the health of the management/union relationship was tested by this question. The percentage of FS officers who believed that PAFSO had a highly productive relationship with senior management was a low 10% of the FS employees. Seventy-three percent knew this to be not true. But like the FS employees at DFAIT, only 15% of the other employees at DFAIT thought the statement posed in the question to be true. Compare these statistics with the public service employee survey result which indicates that approximately 30% of employees in the overall survey felt this to be true. CIC survey results mirrored the public service survey results. In the general public service employee survey there was a high percentage of employees who responded by saying "don't know" (42%). This response was consistent with

the general response for employees at DFAIT. Forty-one percent of DFAIT employees responded that they didn't know. But this was not the case for FS employees at DFAIT where only 15% of FS employees at DFAIT responded by saying that they didn't know. In other words, FS employees are very aware of what is happening in this regard. When compared with the results of Question 92 - "engaging in meaningful consultation with unions", Question 93 is further evidence that something is terribly wrong with DFAIT's relationship with the bargaining agents.

PAFSO SUMMARY

Family (Personal) / Work Life Balance

A good majority of employees in the public service, in general, believe that they are able to achieve a healthy balance between work and family (personal) life. This belief is somewhat supported by their answers to questions which would interfere or add pressure to the employee to achieve this balance. This result has not been mirrored for DFAIT employees, in general, or for the FS group, in particular. Both of these groups of employees have expressed a somewhat different view of their ability to balance work/family (personal) life issues. For example, only 42% of the FS group thought this was possible compared with approximately 70% of employees in the overall public service. At DFAIT, FS concern is supported by their answers and our analysis of their answers to questions that would impact on their ability to achieve a healthy balance. For FS employees at CIC the issue does not appear to be as critical. But FS employees at CIC, have expressed a concern on this work/family (personal) life balance issue which is at variance with other employees at CIC as well as the overall public service employee survey result.

The reasons for these variances could well boil down to the employee's impression that the focus and resulting pressure is on the work, whether it gets done during

the work day or by working extra hours with or without compensation. Time for the family or personal issues is of secondary importance. Who is to blame for this isn't really the issue. It's how to address the concern that has been identified that is important. Senior management needs to lead by example if employees are going to have confidence and trust that this balance is important to the department. Saying that it is important, is not good enough!

Trust and Confidence in Senior Management within the HR Branch

Our analysis suggests that there is a high level of concern expressed by employees in the overall public service employee survey with respect to trust, confidence and leadership issues. However, DFAIT has an even bigger problem in these areas when compared with either CIC or the public service as a whole. DFAIT results on the issues analysed rank DFAIT as among the poorest performers in the public service on these performance indicators. We suggest that the department's performance in these areas will influence an employee's decision to remain in the FS group or in the public service. The questions and answers that addressed the trust and confidence levels of employees for senior management in the HR Branch, suggest little or no confidence, or trust in key areas. The questions and answers reveal the employees' own experiences with HR as well as their perceptions with HR's unwillingness to fix problems or work with their unions including PAFSO. The overall expectation from the FS officer's perspective is that senior management will not act on their concerns. I guess we will just have to wait and see. ■



Public Service Employee Survey

Survey questions and answers used in our analysis:

Q4: I am familiar with the provisions of my collective agreement.

PS Survey	79% mostly or strongly agree 15% mostly or strongly disagree
DFAIT	76% mostly or strongly agree 15% mostly or strongly disagree
FS-DFAIT	79% mostly or strongly agree 20% mostly or strongly disagree
CIC	78% mostly or strongly agree 15% mostly or strongly disagree
FS-CIC	88% mostly or strongly agree 12% mostly or strongly disagree

Q 5: I am classified fairly compared with others doing similar work in my organization or elsewhere in the Public Service.

PS Survey	52% mostly or strongly agree 43% mostly or strongly disagree
DFAIT	48% mostly or strongly agree 49% mostly or strongly disagree
FS - DFAIT	41% mostly or strongly agree 55% mostly or strongly disagree
CIC	55% mostly or strongly agree 39% mostly or strongly disagree
FS - CIC	54% mostly or strongly agree 36% mostly or strongly disagree

Q 6: I feel pressured by others to work more than my regular hours.

PS Survey	22% mostly or strongly agree 71% mostly or strongly disagree
DFAIT	36% mostly or strongly agree 59% mostly or strongly disagree
FS - DFAIT	48% mostly or strongly agree 51% mostly or strongly disagree
CIC	18% mostly or strongly agree 75% mostly or strongly disagree
FS - CIC	34% mostly or strongly agree 66% mostly or strongly disagree

Q.7: I feel I can claim overtime compensation for the overtime hours that I work.

PS Survey	61% mostly or strongly agree 27% mostly or strongly disagree
DFAIT	64% mostly or strongly agree 24% mostly or strongly disagree
FS - DFAIT	69% mostly or strongly agree 27% mostly or strongly disagree
CIC	63% mostly or strongly agree 23% mostly or strongly disagree
FS - CIC	60% mostly or strongly agree 36% mostly or strongly disagree

Q.13: I can complete my assigned workload during my regular working hours.

PS Survey	16% always 43% often 25% sometimes 15% rarely or never
DFAIT	7% always 35% often 29% sometimes 29% rarely or never
FS - DFAIT	3% always 29% often 35% sometimes 33% rarely or never
CIC	18% always 40% often 25% sometimes 15% rarely or never
FS - CIC	6% always 44% often 25% sometimes 25% rarely or never

Q.14: I can balance my personal and family and work needs in my current job.

PS Survey	26% always 43% often 24% sometimes 7% rarely or never
DFAIT	14% always 38% often 33% sometimes 14% rarely or never
FS - DFAIT	6% always 36% often 40% sometimes

CIC	17% rarely or never 29% always 41% often 23% sometimes 6% rarely or never
FS - CIC	19% always 35% often 41% sometimes 5% rarely or never

Q.15: In the past year, I was compensated for the overtime worked (in money or in leave).

PS Survey	37% always 13% often 13% sometimes 16% rarely or never
DFAIT	35% always 19% often 14% sometimes 14% rarely or never
FS - DFAIT	30% always 33% often 20% sometimes 10% rarely or never
CIC	14% always 13% often 12% sometimes 9% rarely or never
FS - CIC	34% always 18% often 26% sometimes 14% rarely or never

Q.45: My department does a good job of supporting employee career development.

PS Survey	51% mostly or strongly agree 40% mostly or strongly disagree
DFAIT	42% mostly or strongly agree 52% mostly or strongly disagree
FS - DFAIT	35% mostly or strongly agree 59% mostly or strongly disagree
CIC	52% mostly or strongly agree 38% mostly or strongly disagree
FS - CIC	45% mostly or strongly agree 47% mostly or strongly disagree

Q.52: Overall, I am satisfied with my career progress within the Public Service.

PS Survey	8% not at all 14% minimally
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	45% moderately
	30% significantly
DFAIT	8% not at all
	15% minimally
	45% moderately
	30% significantly
FS - DFAIT	8% not at all
	16% minimally
	56% moderately
	18% significantly
CIC	9% not at all
	14% minimally
	41% moderately
	34% significantly
FS - CIC	5% not at all
	10% minimally
	48% moderately
	36% significantly

Q.66: When I was a candidate in competitions during the past three years I found that they were run in a fair manner.

PS Survey	41% mostly or strongly agree
	23% mostly or strongly disagree
DFAIT	42% mostly or strongly agree
	25% mostly or strongly disagree
FS - DFAIT	33% mostly or strongly agree
	36% mostly or strongly disagree
CIC	45% mostly or strongly agree
	24% mostly or strongly disagree
FS - CIC	26% mostly or strongly agree
	13% mostly or strongly disagree

Q.83: I feel I can initiate a formal redress process (grievance, right of appeal, health and safety, etc) without fear of reprisal.

PS Survey	49% mostly or strongly agree
	36% mostly or strongly disagree
DFAIT	45% mostly or strongly agree
	40% mostly or strongly disagree
FS - DFAIT	40% mostly or strongly agree
	44% mostly or strongly disagree
CIC	51% mostly or strongly agree
	36% mostly or strongly disagree
FS - CIC	56% mostly or strongly agree
	33% mostly or strongly disagree

Q. 84: I believe that senior management will try to resolve concerns raised in this survey.

PS Survey	47% mostly or strongly agree
	40% mostly or strongly disagree
	12% don't know
DFAIT	39% mostly or strongly agree
	49% mostly or strongly disagree
	12% don't know
FS - DFAIT	29% mostly or strongly agree
	60% mostly or strongly disagree
	12% don't know
CIC	51% mostly or strongly agree
	36% mostly or strongly disagree
	13% don't know
FS - CIC	49% mostly or strongly agree
	42% mostly or strongly disagree
	10% don't know

Q. 85: I believe that senior management has made progress toward resolving the issues raised in the 2002 Public Service Employee Survey.

PS Survey	32% mostly or strongly agree
	33% mostly or strongly disagree
	33% don't know
DFAIT	27% mostly or strongly agree
	37% mostly or strongly disagree
	36% don't know
FS - DFAIT	18% mostly or strongly agree
	38% mostly or strongly disagree
	42% don't know
CIC	32% mostly or strongly agree
	28% mostly or strongly disagree
	38% don't know
FS - CIC	17% mostly or strongly agree
	30% mostly or strongly disagree
	50% don't know

Q. 92: Senior Management in my organization engages in meaningful consultation with my union or workplace issues.

PS Survey	40% mostly or strongly agree
	19% mostly or strongly disagree
	36% don't know
DFAIT	24% mostly or strongly agree
	28% mostly or strongly disagree
	38% don't know
FS - DFAIT	18% mostly or strongly agree
	61% mostly or strongly disagree

	20% don't know
CIC	43% mostly or strongly agree
	15% mostly or strongly disagree
	37% don't know
FS - CIC	37% mostly or strongly agree
	36% mostly or strongly disagree
	25% don't know

Q. 93: The relationship between my union and senior management in my organization is highly productive.

PS Survey	29% mostly agree
	23% mostly disagree
	42% don't know
DFAIT	15% mostly agree
	33% mostly disagree
	42% don't know
FS - DFAIT	10% mostly agree
	73% mostly disagree
	15% don't know
CIC	30% mostly agree
	23% mostly disagree
	44% don't know
FS - CIC	22% mostly agree
	55% mostly disagree
	23% don't know

Q 99. Are you planning to leave the Public Service with in the next five years.

PS Survey	30% yes
	70% no
DFAIT	37% yes
	63% no
FS - DFAIT	41% yes
	59% no
CIC	27% yes
	73% no
FS - CIC	33% yes
	67% no

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