

Final Audit Report: Employment Equity Audit

Canadian Human Rights Commission (CHRC)

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Introduction

The Commission works to protect and promote human rights in Canada and to foster an inclusive society where everyone is valued, respected and able to live free from discrimination. The Commission is responsible to manage both the Canadian Human Rights Act (CHRA) and the Employment Equity Act (EEA). Recently, Parliament entrusted the Commission to expand on this essential work, with new responsibilities under: the Pay Equity Act, the Accessible Canada Act, and the National Housing Strategy Act.

The purpose of the EEA is to achieve equality in the workplace so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability. The Act seeks to correct the conditions of disadvantage in employment experienced by women, people with disabilities, Indigenous and racialized people by giving effect to the principle that employment equity (EE) means more than treating people in the same way, but also requires special measures and the accommodation of differences.

There are nine legislative requirements under the EEA:

1. Collection of workforce information
2. Workforce analysis
3. Employment Systems Review (ESR)
4. Employment Equity plan (EE plan)
5. Implementation and monitoring of EE plan
6. Periodic review and revision of EE plan
7. Information about employment equity
8. Consultation & collaboration
9. Employment equity records

Under the EEA, the Commission ensures that federally regulated organizations comply with the requirements set out in the Act. The Commission conducts audits to determine if employers are meeting their legal obligations to offer equal employment opportunities to four designated groups under the Act.

In order to assess the Commission's compliance with the nine requirements of the EEA, CHRC has acquired the services of Samson to conduct an independent audit.

Audit Approach & Methodology

The audit included the collection and review of information on CHRC's employment equity program through a questionnaire completed by Human Resources. The audit team reviewed documentation and conducted interviews with key staff and managers to ensure that their views are incorporated into the analysis (see Appendix A for more details).

CHRC's Employment Equity Data Profile

In Summary

The Commission continues to have a strong representation of members from the designated groups when compared to the availability in the Canadian workforce. However, when looking at the representation rates by occupational category, special attention is required for women and indigenous people.

Table 1: Employment equity results at the Commission as of March 31, 2020¹

Designated Group Members	Workforce and representation rate at the CHRC ²		Availability rates ³		Gap
	Number	Percentage	Expected number	Percentage	
Women	149	70.3%	111	60.6%	+38
Indigenous Peoples	7	3.3%	7	3.7%	0
Persons with Disabilities	31	14.6%	17	9.1%	+14
Racialized people	39	18.4%	28	15.2%	+11

Table 2: Gap by occupational category and designated group members as of March 31, 2020¹

Occupational Category	Women	Indigenous people	Persons with disabilities	Racialized people
EX	0	0	0	0
EC	0	0	0	0
LP	0	0	0	0
LS ⁴	N/A	N/A	N/A	N/A
AS	0	-1	0	0
CS ⁴	N/A	N/A	N/A	N/A
FI	0	0	0	0
IS	0	0	0	0
PE	0	0	0	0
PG	0	0	0	0
PM	0	-1	0	0
CR	0	-1	0	0

¹ Totals may not equal the sum of components due to rounding.

² As of March 31, 2020, the CHRC had 212 employees. Students, casuals, terms for less than 3 months and temporary employees are not included.

³ Availability estimates are based on the 2016 Census of Canada for Women, Indigenous Peoples and Racialized people and from the 2017 Canadian Survey on Disability (CSD) for persons with disabilities.

⁴ Due to the small number of employees who occupy a position in that group, data is not being made available to protect confidentiality of the self-identification information.

Audit Findings

This section outlines the main findings of the audit by EEA requirement. It also lists high-level recommendations, if applicable, and specific items requiring remedial action. It is expected that the action plan be completed within twelve months, following the date of receipt of this report. However, it is encouraged that actions be implemented as soon as possible.

Although CHRC has a strong representation of members from the designated groups and continues to foster diversity and inclusion by performing various EE activities, the information gathered about the equity program appears to underline some opportunities for improvement. They include finalizing and implementing the Employment Equity Plan in consultation with employee representatives, conducting a review of employment systems, and putting in place formal processes to better meet the requirements of the Act.

During the audit, it was also noted that an Anti-Racism Action Plan was recently developed based on suggestions and input from employees and external stakeholders. The plan was built on commitments to being open, clear and accountable, advancing equity and inclusion, improving access to justice, and advocating to justice.

There is also an opportunity to leverage the work done for the Anti-Racism Action Plan by integrating its EE activities in the Employment Equity Plan.

Requirement #1: Collection of Workforce Information

The employer shall collect information on its workforce.

1.1. CHRC conducts a workforce self-identification survey.

At first login, MyGCHR prompts employees to complete the integrated Employment Equity Questionnaire. The option of completing an offline copy to be submitted to the Employment Equity Coordinator is also offered.

1.2. CHRC has made efforts to require employees to return/complete the questionnaire.

A standard paragraph is included in all letters of offer that states the requirement to complete the Employee Self-Identification Questionnaire when first logging into MyGCHR. In addition, employees must submit the Employment Equity questionnaire before they can use self-serve options, resulting in a 100% return rate for MyGCHR users. In addition, HR invites employees bi-annually to review and update their Employment Equity data, as required.

1.3. CHRC keeps the workforce survey results up to date.

Workforce survey results are captured in MyGCHR. New employees must complete the survey when first logging into My GCHR. Employees who wish to change their information may do so any time via their MyGCHR account. In addition, HR sends a bi-annual reminder to this effect.

Requirement #2: Workforce Analysis

The employer shall conduct an analysis of its workforce, in accordance with the regulations, in order to determine the degree of under-representation of persons in designated groups in each occupational group in that workforce.

2.1. A workforce analysis is completed using information collected from the workforce survey.

The analysis completed by CHRC determines the degree of under-representation of designated group members by comparing their representation in each occupational group against the Canadian workforce.

Although no significant gaps were identified, there is an opportunity to collect disaggregated data on racialized people to further highlight any gaps at the sub-group level. When collecting such data, it is important that confidentiality be maintained.

Recommendation

If feasible, establish a mechanism that enables the collection of disaggregated data on racialized people.

Requirement #3: Review of Employment Systems, Policies, and Practices

The employer shall conduct a review of its employment systems, policies and practices, in accordance with the regulations, in order to identify employment barriers against persons in designated groups that result from those systems, policies and practices.

3.1. CHRC did not conduct a review of its employment systems, policies, and practices.

The 2019-20 workforce analysis by occupational group identified minor gaps in representation for Women and Indigenous People. Since these were not substantial, CHRC did not conduct a review of its employment systems, policies, and practices. It was noted that a revision of internal policy instruments is currently underway and that consultations with a new Black, Indigenous, and Persons of Colour (BIPOC) Consultation Committee will become part of the review process.

An Employment Systems Review (ESR) is normally comprised of two parts. The first part is a review of policies and practices using a systemic discrimination lens. As such, human resources-related policies and forms as well as work practices with respect to hiring, promotions, assignments, training, mentoring/coaching, succession planning, discipline, termination and the accommodation process and practices must be reviewed to determine whether any employment barriers may exist for people in the designated groups. The second part of an ESR consists in consulting with employees in the designated groups in those occupational groups where they are significantly under-represented. Given that CHRC has no significant gaps in representation, CHRC may decide to only review systems, policies, and practices for potential employment barriers for people in the designated groups.

Interviews conducted by the audit team identified potential employment barriers faced by members of the designated groups:

- Location – Potential candidates may not be located in Ottawa. Having them move here is a challenge.
- Language requirements – Potential candidates may not speak both French and English.
- Lack of interest in government jobs – It was noted that indigenous people tend to have a negative attitude towards government. It can be a challenge to attract them.
- Lack of career development opportunities – It can be difficult to progress within CHRC, especially in entry-level positions. There appears to be some classification issues where gaps in position levels exist resulting in less opportunities to develop skills to progress.
- Unconscious bias – Barriers may continue to exist at the cultural and psychological level. There is a need for embracing differences.
- Lack of outreach to communities to further attract members of the designated groups.

The result of the ESR should be a written report that describes the methodology, identified barriers and the practices proposed to address these barriers. Because situations change over time, it is necessary to conduct a new organization wide ESR at least once every five years.

Item requiring remedial action

Produce a written ESR report. It should include the methodology used for the review of policies and practices, the methodology used for the consultation (format of the consultation, number of interviewees, occupational group in which they work, questions asked and summary of the findings), the employment barriers and the practices proposed to address these barriers.

Requirement #4: Employment Equity Plan

The employer shall prepare an employment equity plan.

4.1. CHRC has prepared a draft Employment Equity Action Plan for 2020-2024.

CHRC has prepared a draft Employment Equity Action Plan (EEAP) that includes short-term numerical goals to remove the small representation gap identified in the Workforce Analysis. It also includes long-term goals and activities for maintaining the strong representation of persons in designated groups. In addition, a timetable and designation of responsibility for the implementation of activities/actions to achieve employment equity goals is found in the plan.

As no ESR was conducted, measures to eliminate barriers were not detailed in the plan. Since CHRC does not have substantial gaps to address, objectives included in EEAP are purposefully high-level, recurring activities. It is important to note that gap analysis results may change with the future availability of disaggregated data. CHRC is encouraged to revisit the EEAP once disaggregated data becomes available and adapt it, as required, to address potential gaps. The intent is to maintain and increase representativeness within the workforce by continuing with best practices.

The Commission is committed to the duty to accommodate and has policies and procedures for accommodating employees.

Following CHRC's mandate in relation to the Accessible Canada Act, it anticipates attracting and recruiting an elevated ratio of persons with disabilities with varying severities (including visible and non-visible) in the Accessibility Unit compared to the Canadian workforce availability. It was noted that a workplace accessibility review was initiated in 2019. However, the review was delayed due to the COVID-19 pandemic. Therefore, results were not available at the time of this report. If the review identifies any barriers, CHRC should include measures in the plan to address them.

Although CHRC's EEAP has not been formally finalized and implemented, the audit team found that CHRC's EE activities have resulted in reasonable progress evidenced by the 2019-20 TBS Management Accountability Framework (MAF) which reports that CHRC is the only organization amongst small departments and agencies with an overall representation of designated groups' members equal or above labour market availability.

It was noted that an Anti-Racism Action Plan was recently developed based on suggestions and input from employees and external stakeholders. The plan was built on commitments to being open, clear and accountable, advancing equity and inclusion, improving access to justice, and advocating to justice. A senior member of the executive leadership team is leading the development and implementation of the plan.

The Anti-Racism Action Plan and its dashboard includes such action items as ensuring diverse hiring boards, implementing mandatory unconscious bias training, developing a mentorship initiative, establishing a national network of racialized stakeholders, publicly reporting on the Commission's anti-racism work, establishing the BIPOC committee, and executives regularly reporting on the progress of the plan.

As this plan also aims at advancing equity and inclusion, CHRC may want to include or reference it in its Employment Equity Plan. The action items included in the plan should be included as positive practices to be implemented in the short-term for the hiring, training, promotion and retention of members of the designated groups.

Item requiring remedial action

Finalize and implement the Employment Equity Plan for 2020-2024 and link activities from the Anti-Racism Action Plan and Dashboard as measures to achieve employment equity goals.

Requirement #5: Implementation and Monitoring of Employment Equity Plan

The employer shall ensure that its employment equity plan would, if implemented, constitute reasonable progress toward implementing employment equity as required by this Act. The employer shall also make all reasonable efforts to implement its employment equity plan and monitor implementation of its plan on a regular basis to assess whether reasonable progress toward implementing employment equity is being made.

5.1. CHRC does not currently monitor the implementation of its employment equity plan on a regular basis to assess whether reasonable progress is being made.

As no employment barriers were identified in the Draft EEAP for 2020-2024, CHRC may not assess related measures, nor goals achieved.

CHRC continues to carry out activities and best practices identified in the Draft EEAP, which should be finalized and shared with staff by Spring of 2021.

Per the Draft EEAP, branch Heads are held accountable for employment equity implementation within their sector. Fostering Diversity and Inclusion at the Commission was identified as a corporate objective in 2019-20 and was included in performance agreements at all levels:

- EX level objective: Fostering Diversity and Inclusion at the Commission. Performance is measured by assessed whether efforts to increase the diversity of the workforce continues and the inclusion of a broad range of voices and views in governance and decision-making are fostered.
- Managers, supervisors and employee objective: Ensure a healthy workplace for colleagues and clients.

Although CHRC continues to carry out various EE related activities, a formal process to monitor the Draft EEAP 2020-2024 is not currently in place.

Item requiring remedial action

As stated in the Draft EEAP, put in place a formal process for the Human Resources Division and new BIPOC committee to regularly monitor the implementation of the plan and assess its progress.

Requirement #6: Periodic Review of Employment Equity Plan

The employer shall, at least once during the period in respect of which the short-term numerical goals are established, review its employment equity plan and revise it.

6.1. No formal process is in place to periodically review the Employment Equity Plan.

The Draft EEAP 2020-2024 has not, to date, been updated as employment equity activities continued and no gaps in representation were identified.

Given there were no gaps in representation, and with other challenges, including small teams, lack of resources and competing priorities, less emphasis has been put on the employment equity program. The audit team found that activities related to EE best practices have continued, but there is an opportunity to improve the oversight on the employment equity plan.

Item requiring remedial action

Put in place a formal process for the Human Resources Division and new BIPOC committee to periodically review and revise the employment equity plan.

Requirement #7: Information to Workforce

The employer shall provide information to its employees explaining the purpose of employment equity and shall keep its employees informed about the measures the employer has undertaken or is planning to undertake to implement employment equity and the progress the employer has made in implementing employment equity.

7.1. CHRC provides information to its employees explaining the purpose of employment equity and informs them about the progress being made and certain measures being taken to implement EE.

It was noted that CHRC includes a paragraph on employment equity in letters of offer. Moreover, the EEAP and related policy instruments, the Anti-Racism Action Plan and Dashboard are available to all staff via the Commission's intranet.

Canada's School of Public Service (CSPS) newsletters and various offerings are shared weekly with all staff via MS Teams, as well as speeches and statements posted on an ad-hoc basis to the Commission's external website.

It was also noted that a mandatory training policy will be released in September 2021 and will include EE related training for all employees.

The audit team reviewed examples of various communications and activities. Additionally, it was noted that Town Halls are held frequently and provide employees the opportunity to ask senior management questions and have open discussions on all topics, including EE.

Since CHRC has always met their targets, historically there has not been an emphasis on communicating the progress made in implementing EE. However, CHRC's ongoing commitment to employment equity is found throughout communications from senior management and becomes evident through the mandate and business activities. Most recently, the Chief Commissioner communicated ongoing updates on the Anti-Racism initiative, including sharing the Anti-Racism Action Plan and Dashboard. The Dashboard captures specific activities and provides the updated status of each activity. These documents are available to all employees and senior management will continue to update on their progress.

Item requiring remedial action

Continue to inform and update employees on employment equity measures and progress.

Requirement #8: Consultation and Collaboration

The employer shall consult with its employees' representatives by inviting the representatives to provide their views concerning the assistance that the representatives could provide to the employer to facilitate the implementation of employment equity in its workplace, the communication to its employees of matters relating to employment equity; and the preparation, implementation, and revision of the employer's employment equity plan.

8.1. CHRC has not consulted or collaborated with employee representatives on matters relating to employment equity.

It was noted that employee representatives were not consulted when developing the Draft EEAP for 2020-2024. However, CHRC is planning to consult with the new BIPOC committee which will include visible minorities and aboriginal people going forward. Local and national bargaining representatives are informed through National Labour-Management Consultation Committee (NLMCC).

Item requiring remedial action

Going forward, consult and collaborate with the new BIPOC committee on employment equity matters including the preparation, implementation, and revision of the EEAP.

Requirement #9: Employment Equity Records

The employer shall, in accordance with the regulations, establish and maintain employment equity records in respect of the employer's workforce, the employer's employment equity plan and the implementation of employment equity by the employer.

9.1. CHRC establishes and maintains adequate employment equity records with the exception of an employment systems review.

The audit team found that all employee related records including designated group membership, occupational group classification, salary and increases, and promotions are kept up to date in MyGCHR, CHRC's HR record management system. A copy of the workforce survey questionnaire provided to employees is also kept in MyGCHR. Additionally, a word version of the questionnaire is maintained and available upon request. However, no records were found that describe the activities undertaken by CHRC in conducting its employment systems review.

Item requiring remedial action

See recommendation for requirement #3.

Other Opportunities for Improvement

The audit team conducted interviews with employees of the Commission and identified the following opportunities for improvement.

1. There is an opportunity to link the Anti-Racism Action Plan and Dashboard to Executive Performance Agreements.
2. There is an opportunity to include outreach activities to specific groups. Establish connections with communities and networks where the CHRC can attract members of the designated groups. Being more proactive to ensure CHRC is recognized as a career option.
3. There is an opportunity to explore ways to mitigate unconscious bias in the hiring process. The idea of anonymous applications was mentioned.
4. There is an opportunity to explore ways to offer more professional development opportunities to members of the designated groups.
5. Although the Commission has no significant gaps in representation, representation levels are not the only measure of employment equity success. There is an opportunity to regularly obtain feedback on employment equity from employees in the designated groups and to collect disaggregated data on racialized people.

It was noted that several of these opportunities are being partially addressed in the Anti-Racism Action Plan. For example, the plan includes but is not limited to:

- The establishment of a national network of racialized stakeholders.
- Executives regularly reporting on the progress of the plan.
- The hiring of an external facilitator to meet with Indigenous, Black and other racialized employees to gain their perspectives and views on institutional and structural barriers that may exist within the Commission, with the goal of instituting anti-racist organizational change.
- Providing mandatory unconscious/implicit bias training for Commissioners and staff. Ongoing training will be provided as needed to raise awareness and develop cultural competencies.
- The development of mentorship opportunities in consultation with the BIPOC consultation committee. Exploring the possibility of collaboration with other small agencies and human rights commissions to expand the number of mentors available to employees both at the CHRC and those agencies.
- Reaching out to relevant stakeholder communities when gaps exist in representation and no Indigenous, Black or other racialized employees apply.
- Advocating for the appointment of Indigenous, Black and other Racialized Commissioners.

Conclusion

Samson acknowledges the efforts being made by CHRC to ensure that it complies with the Employment Equity Act. However, Samson has identified opportunities where CHRC can improve to better meet and go beyond the requirements of the Act. CHRC has an opportunity to further establish itself as a leader in employment equity. This can only happen if CHRC has a clear understanding of the employment barriers that inhibit the designated groups, has a formal plan to address them, and has processes in place to monitor the implementation and success of the plan.

Management Action Plan

Below is the detailed management action plan for your organization. It presents items that require remedial action for each line of inquiry. Each item has its respective deadline. It is expected that the entire action plan will be completed within twelve months following the date of receipt of this report. However, it is encouraged that actions be implemented as soon as possible.

Requirement	Items requiring remedial action	Deadline
3. Review of Employment Systems, Policies, and Practices	Produce a written ESR report. It should include the methodology used for the review of policies and practices, the methodology used for the consultation (format of the consultation, number of interviewees, occupational group in which they work, questions asked and summary of the findings), the employment barriers and the practices proposed to address these barriers.	September 2021
4. Employment Equity Plan	Finalize and implement the Employment Equity Plan for 2020-2024 and link activities from the Anti-Racism Action Plan and Dashboard as measures to achieve employment equity goals.	March 2022
5. Implementation and Monitoring of Employment Equity Plan	As stated in the Draft EEAP, put in place a formal process for the Human Resources Division and new BIPOC committee to regularly monitor the implementation of the plan and assess its progress.	March 2022
6. Periodic Review of Employment Equity Plan	Put in place a formal process for the Human Resources Division and new BIPOC committee to periodically review and revise the employment equity plan.	March 2022
7. Information to Workforce	Continue to inform and update employees on employment equity measures and progress.	Ongoing
8. Consultation and Collaboration	Going forward, consult and collaborate with the new BIPOC committee on employment equity matters including the preparation, implementation, and revision of the EEAP.	Ongoing
9. Employment Equity Records	See recommendation for requirement #3.	March 2022

Signature of commitment to implement the management action plan:

By signing this document, CHRC gives its undertaking under section 25(1) of the EEA to remedy the items requiring remedial action set forth in the Management Action Plan within twelve months from receipt of this report. At that time, CHRC will provide evidence that the Items have been remedied.

 Head of the Organization

 Date

Appendix A: Audit Work Performed

The following documents were reviewed during the audit:

- CHRC Designated Groups Representation as of March 31, 2020
- Employment Equity Action Plan 2020-2024
- Anti-Racism Action Plan and Dashboard
- Employee Self-identification form
- MAF 2019-20 Comparative results report Small Departments and Agencies
- HHR Anti-Racism Statement
- Fall Dialogue Sessions (POLL)
- MyGCHR print screens
- Completed audit questionnaire
- Various internal communications related to employment equity
- Employment Equity Action Plan 2012-2016
- Employment Equity and Diversity Policy
- Accommodation Policy and Procedures
- Example of an indeterminate employment letter
- Request for Accommodation Form
- CHRC Staffing Policy
- Mental Health Policy

Interviews with the following were conducted:

- Senior Manager
- Hiring Manager
- HR Representative
- Racialized Employee
- Employee with Disabilities

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