

Status Update on Progress Toward Recommendations from the Ombudsperson Report – Oct 2, 2017

On April 7, 2017, [government responded](#)¹ to each of the 41 recommendations in the Ombudsperson's report *Misfire: The 2012 Ministry of Health Employment Terminations and Related Matters*. On the same day, government announced it had engaged the Hon. Thomas Cromwell to administer a reparation process and monitor the implementation of the recommendations over the following year. The Head of the Public Service offered an unqualified and comprehensive apology to all those adversely affected by public service conduct, and took accountability to act on the recommendations to ensure the events described in the Ombudsperson's report cannot happen again. The Public Service is committed to providing updates to both support the Hon. Thomas Cromwell in his monitoring role, and to track progress in support of the Ombudsperson's recommendation that the Public Service provide a written status report on the implementation of recommendations by April 30, 2018.

The following information serves as a status update on progress toward the Ombudsperson's recommendations.

Summary of Progress

In total, the Ombudsperson made 41 recommendations, some of which are multi-faceted and all of which have a deadline. The Public Service acknowledges that, while it will continue to work diligently toward implementing the recommendations, the delay in the transition of government has meant that the necessary work to bring forward new legislation, or amendments to existing legislation, for government's consideration prior to the introduction and consideration of the Legislative Assembly, has been delayed. As a result, the Public Service may not meet the March 31, 2018 legislative deadlines set out in the Ombudsperson's report.

Of the 41 recommendations:

- **22** are complete;
- **2** are partially complete, meaning one of the elements is complete and others are underway;
- **9** are underway; and
- **8** are not yet started.

¹ https://news.gov.bc.ca/files/Response_to_Ombudsperson_Report_Table_Apr_7_2017.pdf

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Report on Progress: Detailed Information by Recommendation

| Rec # | Status |
|-------------------------------|--|
| R1, R2, R3(a), R5, R14 | <p>Complete. All specified ex gratia payments were made by June 30, 2017.</p> |
| R3 (b) | <p>Partially complete. R3(b): Underway. The Hon. Thomas Cromwell is facilitating the process to reach agreement with the individuals to reverse the financial impact ... and remove disciplinary findings from their employment records. A letter addressing each of their individual circumstances was sent to the individuals in spring 2017 and has been provided to the Hon. Thomas Cromwell to evaluate the proposed redress.</p> |
| R4 | <p>Partially complete. R4(a)i: Complete. The compensation fund was established on July 17, 2017. R4(a)ii: Complete. The Ministry of HLTH sent letters to impacted individuals on May 12, 2017 seeking their consent to share their contact information with the Hon. Thomas Cromwell for the purposes of inviting them to participate in the reparation process. The Hon. Thomas Cromwell has contacted the individuals who provided their consent to advise them of the process to apply to access the fund and will review and make determinations in the coming weeks. In addition, the Hon. Thomas Cromwell took steps to identify other individuals who may be eligible but who were not initially identified.</p> <p>R4(b): By March 31, 2018 ex gratia payments, as recommended by the Hon. Thomas Cromwell, will be made.</p> |
| R6 | <p>Underway. The parties agreed to refer this matter to the Hon. Thomas Cromwell to be addressed; his terms of reference² were amended accordingly. The parties are in the midst of making their submissions for his consideration.</p> |
| R7 | <p>Complete. On April 6, 2017, the then Head of the Public Service, Kim Henderson, offered an unqualified and comprehensive apology to all who were adversely affected by the public service conduct as part of government's statement³ on receiving the Ombudsperson report.</p> |

² https://news.gov.bc.ca/files/REF_TOR.pdf

³ <https://news.gov.bc.ca/releases/2017PREM0042-001114>

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| | <p>On May 31, 2017 Kim Henderson, offered a public statement⁴ expanding on the apology and confirmed that the Public Service would be addressing the recommendations. The statement also confirmed the engagement of the Hon. Thomas Cromwell to monitor and oversee progress, and to facilitate and administer a reparation process for individuals impacted by the matters recounted in the Ombudsperson's report.</p> <p>Mr. Cromwell's appointment and his Terms of Reference underscore government's acknowledgement of its responsibility for the events described in the Ombudsperson's report, and for the harms caused to those adversely impacted by public service conduct.</p> |
| R8 | <p>Complete. Letters of apology were sent to the individuals. Any necessary follow up as requested by recipients is ongoing.</p> |
| R9 | <p>Not yet started. Work will start on R9 once the individuals to whom letters will be written have been identified through the process of implementing R4.</p> |
| R10 | <p>Not yet started. These letters relate to persons who received data demand letters, but excludes those persons falling under R4 who are to receive an apology letter under R9. The additional letters called for by this recommendation will be prepared once the identity of the people excluded from this recommendation has been ascertained.</p> |
| R11 | <p>Complete. In May 2017, individuals reviewed the contents of the boxes and items were returned.</p> |
| R12 | <p>Complete. The Office of the Comptroller General issued a public statement⁵ on June 29, 2017 confirming its response to R12 and R13.</p> |
| R13 | <p>Complete. Letters of apology have been sent confirming that the report has been withdrawn and that the report will not affect the ability of those individuals to work for or with government in the future should they wish to do so.</p> |
| R15 | <p>Complete. On July 17, the Ministry of Finance transferred \$500,000 to the University of Victoria to fund the endowment.</p> |

⁴ https://news.gov.bc.ca/files/Statement_from_Deputy_Minister_Kim_Henderson_May_31_2017.pdf

⁵ http://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/organizational-structure/public-service/public_statement_confirming_withdrawal_of_investigation_and_forensic_unit_report.pdf

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| | The University of Victoria, in consultation with Mr. MacIsaac's family, has developed Terms of Reference for consideration by the University of Victoria Senate in early October, 2017. Should the Senate approve the terms of the award; the first disbursement will take place in September 2018. |
| R16 | <p>Complete. The Ministry of Health has developed a nomination process and criteria for an award to recognize excellence in working with co-op students.</p> <p>In addition to the award in the Ministry of Health, the Public Service Agency has developed an award to recognize excellence across the Public Service. The Staff Award of Excellence: Supporting a Co-op Student Experience will recognize Public Service employees who have demonstrated excellence in training, mentoring and supporting a co-op student.</p> <p>The awards were announced to employees of the Ministry of Health on September 29 and to the Public Service on September 27, respectively.</p> |
| R17 | <p>Not yet started. Work on this recommendation is pending decisions on the broader approach to ethics stemming from this report, in particular R18 and R32.</p> |
| R18 | Not yet started. |
| R19 | Not yet started. |
| R20 | <p>Underway. Terms of reference, including a schedule of deliverables, are being drafted for the independent contract.</p> |
| R21 | <p>Complete.</p> <p>R21(a): The Comptroller General has implemented a professional development framework for investigators of the Investigation and Forensic Unit. The framework ensures investigators receive ongoing professional development in areas such as administrative and procedural fairness. Accordingly, investigators are attending courses at the Justice Institute of BC (and other training providers), a community of practice⁶ has been formed with other internal</p> |

⁶ Communities of Practice are voluntary, organized groups of employees with similar interests or roles who wish to deepen their knowledge and understanding by engaging regularly with each other to share ideas and solve common problems. These

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| | <p>investigative functions in the Public Service, and investigators continue their education by pursuing certificates, accreditations or other credentials.</p> <p>R21(b): The process to update the Policy and Procedures manual of the Investigation and Forensic Unit was initiated following the practice review by KPMG. The manual incorporates all recommendations from the KPMG report plus a review of best practice and CPA recommendations. The manual, which can be viewed here, requires investigators assess each phase of the investigative process against five administrative fairness principles. The results of the assessment provide documentary evidence that the principles of administrative fairness are applied throughout each investigation.</p> <p>R21(c) and (d) KPMG's practice review is informing a new process for investigative oversight which includes clearly identified points at which investigators must obtain approval from the Comptroller General before moving to the next investigative phase. To support this process, the Policy and Procedures manual provides tools and assessment criteria for each key decision of the investigation process. In addition, incidents of a certain level are guided by an oversight committee comprised of: the Comptroller General; the Deputy Minister of Finance; the ministry executive team in the implicated ministry; and the Deputy Minister of the Public Service Agency.</p> <p>Developing and implementing these procedures will ensure that the integrity of the investigative process is not compromised while, at the same time, there is appropriate oversight in place.</p> <p>The new process has been implemented and will be reviewed and updated as necessary to ensure ongoing relevance.</p> |
| R22 | <p>Complete. A report outlining progress toward implementing the recommendations in the KPMG report has been submitted to the Office of the Auditor General.</p> <p>It is recognized and understood the Auditor General is an independent Officer of the Legislature and as such will</p> |

communities foster innovation, establish and disseminate best practices, and often become the stewards of organizational knowledge across the organization.

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| | determine their own interest in receiving the information provided. |
| R23 | Underway. |
| R24 | Underway. The Ministry of Health has consulted with the Information and Privacy Commissioner. In consultation with the Ministry of Health, the Corporate Information and Records Management Branch is working on guidelines regarding the suspension of access to data to reflect concerns addressed in the Ombudsperson's Report. |
| R25 | Complete. The Policy on Termination for Just Cause for excluded and included staff, developed by the Public Service Agency and approved by the Head of the Public Service, was distributed by the Deputy Minister of the Public Service Agency to all deputy ministers and Public Service Agency executives on June 30, 2017. |
| R26 | Complete. On April 7, 2017 the Public Service ceased the practice of suspending excluded employees without pay pending an investigation. The policy change, and the date it took effect, was communicated by the Deputy Minister of the Public Service Agency to Deputy Ministers' Council members and inside the Public Service Agency. In addition, the Public Service Agency will be engaging a recognized employment law expert to review the <i>Public Service Act</i> and Regulations and make recommendations on the appropriate statutory framework for suspensions pending investigation in the Public Service. |
| R27 | Not yet started. |
| R28 | Complete. The policy is available on the government website . ⁷ The policy covers both R28 and R29. |
| R29 | Complete. The policy is available on the government website . ⁸ The policy covers both R28 and R29. |
| R30 | Complete. A report has been submitted to the Head of the Public Service. It includes recommendations and an assessment tool that for executive readiness that looks to increase the likelihood of a successful match. Report findings are based on focus groups with members of the BC Public Service executive and BC Public Service Agency staff, best |

⁷ <http://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/services-policies-for-government/information-management-technology/information-privacy/policy-communications-hr-matters.pdf>

⁸ <http://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/services-policies-for-government/information-management-technology/information-privacy/policy-communications-hr-matters.pdf>

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| | practice research and research on executive transitions in other jurisdictions. |
| R31 | <p>Underway. The Legal Services Branch and Head of the Public Service are working to develop these written protocols.</p> |
| R32 | <p>Underway. The Public Service Agency is working on a comprehensive approach to ethics management that includes not only the recommendations from the Ombudsperson, but also the issues raised by the Office of the Auditor General's ethics audit.</p> <p>The Public Service Agency, Ministry of Justice and the Head of the Public Service will prepare, for government's consideration, a request for legislation to address the recommendation. Legislation is subject to passage the Legislative Assembly of British Columbia.</p> |
| R33 | <p>Complete. The Ministry of Health has developed and launched a comprehensive organizational reconciliation program that includes the elements outlined by the Ombudsperson.</p> <p>From May through the beginning of October 2017, the ministry:</p> <ul style="list-style-type: none"> • Reviewed existing literature about creating a healthy workplace and reconciliation in the workplace; • Engaged with facilitators to plan employee sessions; • Reviewed data from previous employee sessions and Workforce Engagement Surveys; • Held divisional sessions with the deputy minister; • Is facilitating a number of in person employee engagement sessions across the entire ministry, including offering alternate channels for input (including online and anonymous suggestion boxes) to ensure employee voices are heard. <p>Next steps include:</p> <ul style="list-style-type: none"> • Organizing the information and data resulting from consultation sessions into themes; • Creating a cross ministry, cross function guiding coalition to guide and steer planning; • Broadening the ministry project team to lead action; • Bringing forward findings for review and prioritization to ministry employees through a facilitated open space session; • Developing an action plan to implement change, including near, medium and long term strategies; • Developing timelines and baseline measures to track progress; and |

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| | <ul style="list-style-type: none"> Monitoring, evaluating, tracking and reporting progress. |
| R34 | <p>Complete. The Ministry of Health has consulted with BC health researchers affiliated with drug therapy research and identified gaps in areas related to evidence-informed programs and decision-making in: pharmaceuticals; public health surveillance; health service; and high quality data analytics. The Ministry is creating a plan in each of these four areas.</p> <p>The Ministry also identified intangible gaps and impacts when it reached out to researchers and contractors. The Ministry acknowledges the value of the relationships and the role they played within rich and productive networks, and is working to rebuild trust with the research and contractor community.</p> <p>A plan to address the gaps identified is being developed in response to R35.</p> |
| R35 | <p>Underway. A plan to address gaps has been initiated based on the work completed for R34.</p> |
| R36 | <p>Not yet started. Options will be developed for approval in time to roll out the nomination period for the program in late February/early March.</p> |
| R37 | <p>Not yet started.</p> |
| R38 | <p>Underway.</p> |
| R39 | <p>Complete. A new investigative policy has been implemented and can be viewed here. Consultations and discussions with all Coroners Service staff at four Professional Development conferences held in May and June in Kelowna, Victoria, Burnaby and Prince George, helped inform this policy.</p> |
| R40 | <p>Complete. Government's response to the Ombudsperson was sent on April 7, 2017 and posted online.⁹</p> |
| R41 | <p>Underway. This document represents the Public Service's first update on progress toward addressing the Ombudsperson's recommendations.</p> |

⁹ https://news.gov.bc.ca/files/Response_to_Ombudsperson_Report_Table_Apr_7_2017.pdf