



RCMP External
Review Committee

Comité externe
d'examen de la GRC

Adapting to New Realities

moving forward!

ANNUAL REPORT 2021-2022

Charles Randall Smith
Chairperson

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June 25, 2022

The Honourable Marco E. L. Mendicino, P.C., M.P.
Minister of Public Safety
269 Laurier Avenue West
Ottawa, Ontario
K1A 0P8

Dear Minister:

In accordance with Section 30 of the *Royal Canadian Mounted Police Act*, I am pleased to submit to you the annual report of the RCMP External Review Committee for fiscal year 2021-2022, so that it may be tabled in the House of Commons and in the Senate.

Yours truly,

A handwritten signature in blue ink that reads "Charles R. Smith".

Charles Randall Smith
Chairperson

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Message from the Chairperson



I am pleased to present the RCMP External Review Committee's (ERC) Annual Report for fiscal year 2021-2022. The past two years have presented government organizations with many unexpected challenges due to the COVID-19 pandemic. ERC employees showed both resilience and adaptability to ensure the ERC is able to deliver on its mandate. The ERC will continue to put the wellbeing and mental health of its employees at the forefront now more than ever, as the new reality has become the normality.

This year, the ERC has accomplished another achievement by issuing 70 Reports of Findings and Recommendations. I want to thank my legal and registry teams for their ongoing dedication and hard

work that made this possible. I want to particularly thank our new General Counsel who took the lead in refocusing the ERC towards attainable goals and strategies. This will position the ERC to be successful in meeting its service standards and in its strategies that have been implemented to address the backlog. As of April 1, 2022, all new cases referred to the ERC are no longer added to the backlog and are subject to the new service standards introduced in 2021 (as required by the *RCMP Act*, s. 28.1). The most important service standard relevant to RCMP members is that effective April 1, 2022, seventy-five percent (75%) of new cases coming to the ERC must be completed within 12 months of their receipt. This is a huge and major change from the past. Continuous program improvement remains a priority for the ERC. With this in mind, we strive for our work to be of value to all parties, regardless of the recommended outcome.

The ERC has implemented a hybrid workplace which continues to prove to be productive while supporting employees in an evolving work environment. The ERC's future staffing needs, succession planning and modernization of our processes and tools will be at the forefront of decision-making in order to attract, retain, support and empower a high-performing, diverse, healthy, safe and inclusive workforce.

At the ERC, we strive for improvements in all areas. In response to the Clerk's Call to Action on Anti-Racism, Equity, and Inclusion in the Federal Public Service, we have implemented a guide on diversity and inclusion as well as employee sessions on inclusion, diversity, equity and anti-racism

to enable our employees to be comfortable and knowledgeable with these topics. Moreover, by implementing ongoing employee surveys we have measured employee workplace experience and adjusted accordingly. This will continue to be part of our ongoing commitments and operational reality. I would like to thank our corporate services team and its executive leader for ongoing progress and results.

During 2021-2022, our agency made presentations to the National Police Federation and maintained open lines of communication to keep the membership apprised of developments and backlog strategies at the ERC. We also met with the RCMP. I value a continued mutual engagement in all of my outreach activities.

The ERC remains fully committed to its independent role of providing findings and recommendations which thoroughly address important employment, labour and conduct matters within the RCMP.

Respectfully,



Charles Randall Smith

Corporate Management and Achievements

Mental Health and Wellness of Employees and COVID-19 Pandemic Realities

The ERC's management commitment to employees' wellness, mental health and safety continues to be a priority for the organization. Ongoing communications about services available on mental health, work life balance and self-care continue to be a standing item including monthly wellness sessions on various health topics in an open forum. During the past year, the ERC ensured that all employees had access to various forums offering help and encouraged employees at every opportunity to seek advice, support and help if needed.

The ERC soon realized that the post-pandemic reality was becoming the normality for the Public Service and the rest of the world. Considering this new reality, the ERC adopted the hybrid model of work at the beginning of the second year of the pandemic to maintain our employees' work life balance attained differently in the last 2 years. Since the ERC was successful and productive on all fronts, we had no issue with remote working and accomplishing our goals virtually. In fact, the employee survey results showed that 85% of our employees preferred and wanted the flexibilities of a hybrid workforce. Being a micro-organization, the ERC has more flexibilities and will be able to define and adjust in how it can address employees' individual needs as we move forward in our operational reality.

Ongoing support and check-ins with our employees as well as with management will remain the norm at the ERC. Management continues to meet to discuss employee wellness and operational demands and strategies.

Financial and Human Resources Management

A key priority in 2021-2022 was to increase the ERC's resources with the additional permanent funding it received in the Fall of 2020-2021. The ERC increased its indeterminate full-time equivalents (FTE) complement to address the increasing number of cases received from the RCMP. The staffing, virtual onboarding and training of these new resources was highly successful. The ERC went from 8 to 24 employees. A staffing plan was actioned to get the expertise needed to fulfil our commitment to address the backlog of case files. The ERC is now implementing strategies that will restore program integrity.

Again this year, the ERC met all of its financial reporting requirements and ensured good and sound management of its financial resources.

The ERC developed and implemented a financial framework and risk assessment overview of its virtual process for all financial reporting and record keeping processes.

Diversity, Equity, Anti-Racism and Inclusion

The ERC, in its response to the Clerk's message, implemented a Diversity, Equity and Inclusion Guide which was presented at an all-staff meeting. Management's commitment is to work with employees on their awareness and education on ongoing diversity issues in the Public Service and in the world. A diversity expert was hired to meet with employees in an introductory session on self-awareness and to start the discussion so that it is one where employees feel comfortable to discuss openly. We have also looked at the language, format and style used in our reports of findings and recommendations to ensure that we do not demonstrate any unconscious bias.

We all know that these are topics that cannot all be addressed overnight, but it is part of the ERC's priorities to continue these sessions with employees and encourage reflections to start making a difference.

Technology Post-Pandemic

The ERC has ensured that IT equipment was updated and that employees' ergonomic needs were addressed so that every employee has the necessary ergonomic equipment to ensure their health and safety. Since employee productivity is directly linked to employee wellness, the ERC ensures that all equipment and accessories are within the accepted standardized margins and that they fit the employee. We have ongoing IT support through our MOU with Public Safety.

Occupational Health and Safety

As the ERC's number of employees increased to 24 in 2021-2022, we are now obligated by law to establish an occupational health and safety (OHS) committee and develop its supporting policy and/or guidelines. The ERC has hired an OHS expert to help ERC management in meeting its obligations in a timely manner. Training sessions to Corporate employees have begun and will continue into the next fiscal year until the ERC is satisfied that it meets the necessary requirements. The OHS aspect of working remotely in a hybrid model will also be addressed and reviewed in depth to ensure that further working at home safety is implemented.

ERC Role and Process

Purpose of the ERC

The ERC carries out independent, arms-length reviews of certain RCMP employment and labour relations matters involving RCMP members, including appeals of disciplinary decisions, certain types of administrative discharges and decisions regarding allegations of harassment, among others. As a quasi-judicial tribunal, the ERC applies the rule of law and supports transparency, fairness and impartiality in RCMP processes and decision-making. Once the ERC has reviewed a case, it issues findings and recommendations for a final decision to the Commissioner of the RCMP.

The ERC contributes to the RCMP decision-making processes in key human resource management matters, by enhancing the credibility, integrity and transparency of these processes.

Roles of ERC – Current Legislative Framework

The ERC's areas of operation fall under two legislative frameworks. The first is based on the current legislative framework that was established in November 2014 with the amendments to the *Royal Canadian Mounted Police Act*. Under that legislative framework, the ERC provides independent appellate reviews of decisions made by the RCMP management in the following matters:

1. Conduct decisions;
2. Harassment complaint decisions for complaints filed before January 1, 2021;
3. Stoppage of pay and allowances orders;
4. Certain categories of discharges and demotions (medical discharges, unsatisfactory performance, absence from duty without authorization and conflict of interest); and
5. Revocation of appointments.

Roles of ERC – Legacy Framework

In addition to areas under the current legislative framework, the ERC continues to receive and process certain types of cases that were initiated before November 2014. Over time, these cases will decrease and eventually be phased out as the last of them work their way through the system. These cases now fall into two categories:

1. Certain categories of Level II grievances; and
2. Disciplinary decisions.

At one point, the cases also included performance-related discharges and demotions, but the last of those cases was decided in March 2020.

When reviewing a Level II grievance, the ERC will perform a *de novo* analysis of the facts of the case. In the other cases, the ERC performs an appellate function; which means the ERC will review the decision to see if any reviewable error has been made.

Process Steps

Receipt of the Case File from the Office for the Coordination of Grievances and Appeals (OCGA)

Under both frameworks, the case record, which includes relevant material and submissions made by the parties, is sent to the Registrar of the ERC through the RCMP's Office for the OCGA.

Screening and Prioritization

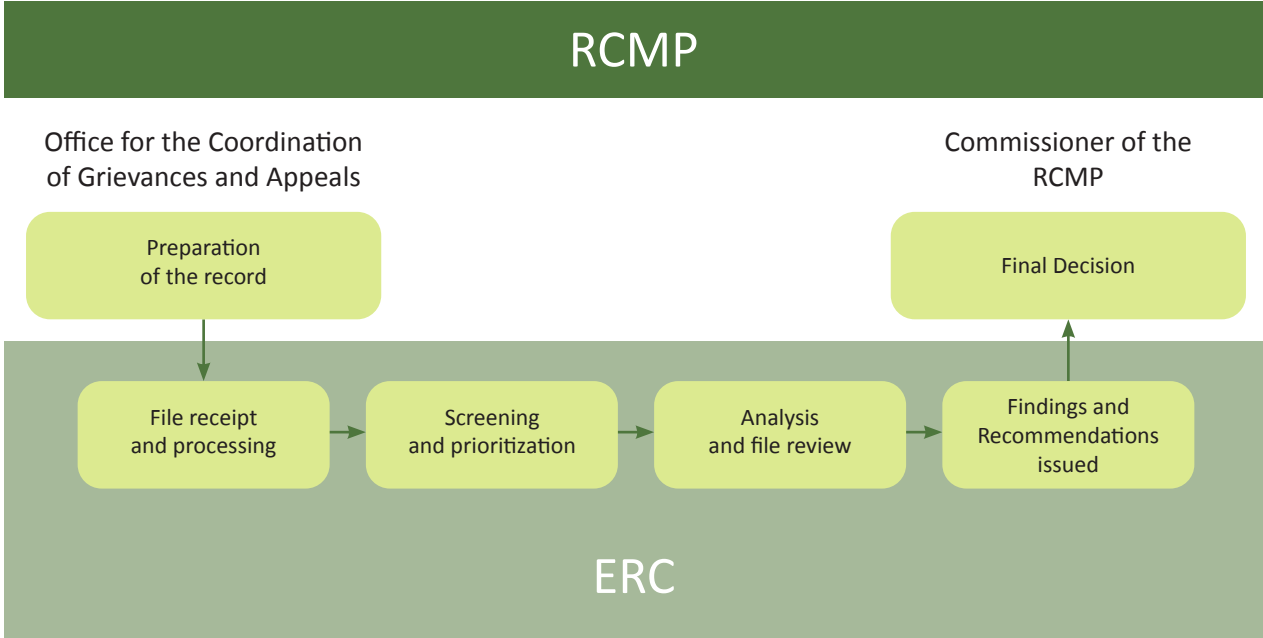
The record is then examined by ERC Counsel for completeness and prioritized on the basis of various factors, including the severity of the decision being grieved or appealed.

Analysis and Preparation of the Findings and Recommendations

The Chairperson, with the assistance of ERC Counsel, reviews the record as well as applicable laws, jurisprudence, regulations and policies, in order to prepare his Findings and Recommendations.

Findings and Recommendations Issued

A report with the Chairperson's Findings and Recommendations is provided to the Commissioner of the RCMP and to the parties involved. The Commissioner of the RCMP, or a delegate, is the final decision-maker in the RCMP process and must consider the ERC's Findings and Recommendations. The Commissioner or her delegate is not bound by any finding or recommendation. However, the Commissioner or her delegate is legally required to provide reasons in their decision if they deviate from the findings and recommendations of the ERC.



Service Standards

It is of the highest importance to the ERC to prepare complete, meaningful and objective findings and recommendations in cases under its review. Equally important is that the cases be dealt with in a timely manner. Due to its approved funding levels at the time to deal with the caseload, certain cases have not been answered in a timely manner.

Section 28.1 of the *RCMP Act* requires the ERC to establish and publish service standards with respect to the time required for the ERC to review appeals and grievances. It states that:

The Committee shall establish, and make public, service standards respecting the time limits within which it is to deal with grievances and appeal cases that are referred to it and specifying the circumstances under which those time limits do not apply or the circumstances under which they may be extended.

In April 2020, the ERC introduced two service standards that were phased in over a period of time. They are:

Prescreening Service Standard

Eighty-five percent of all files coming into the ERC will be prescreened within 30 days of receipt.

This step serves two purposes. The first purpose is to ensure that the case records referred to the ERC are complete and that there are no preliminary issues that would prevent the ERC from reviewing a case; such as a jurisdictional issue, missing documents or an outstanding preliminary issue. The second purpose is to ensure that cases be assessed as quickly as possible so that cases can be assigned for review in the proper sequence, priority being given to high-impact matters.

During the 2020-2021 fiscal year, the ERC met this service standard in 82% of cases referred. During the 2021-2022 fiscal year, 98% of cases referred to the ERC were prescreened within 30 days of receipt.

Findings and Recommendations Service Standard

Seventy-five percent of files referred to the ERC will be completed within 12 months.

The service standard contemplating the issuance of the Findings and Recommendations within 12 months came into effect on April 1, 2022. The ERC will report on this service standard in the 2022-2023 Annual Report.

Circumstances Under Which Time Limits do not Apply or may be Extended

The ERC will always strive to meet its service standards, but there are situations that are beyond its control that may cause delay. Section 28.1 of the *RCMP Act* requires the ERC to identify those circumstances. They typically include:

- The ERC has received incomplete documentation for the case to proceed.
- The parties are required to send further clarifications or submissions for the case to be properly assessed.
- The ERC has approved a party's request for an abeyance.

The ERC will make every effort to shorten these delays and any delay will be the exception, not the rule.

Backlog Reduction

The number of cases to be reviewed by the ERC grew significantly from 65 on March 31, 2015, to 402 on March 31, 2022. This increase arose following the modifications made to the *Royal Canadian Mounted Police Act* in 2014 and led to delays in the ERC's review of grievances and appeals. At the time that this increase in cases began, the ERC was staffed with only three legal counsel due to its approved funding levels. The ERC obtained additional permanent funding in the Fall of 2020 that allowed the organization to increase its legal team to 13 legal counsel. This enables the ERC to address files at a faster pace.

Reducing the backlog of cases is paramount to ensure that the ERC can provide Findings and Recommendations in a timely manner and safeguard fairness for the parties involved. To facilitate the reduction of the case backlog, the ERC has developed the following strategies:

- Continue the prescreening process to reduce delays caused by files with procedural issues or missing documents and review the priority to be assigned to a file.
- Implement a prioritization system to manage the ERC's response to the increase of incoming appeal files. The ERC prioritizes files based on multiple factors, including the severity of the decision being reviewed as well as the length of time the file has been active.
- Hire additional resources following influx of permanent funding to create an additional team of ERC legal counsel to increase the ERC's case review capacity.
- Compile a list of files that were referred to the ERC prior to 2019, and assign a team of ERC legal counsel dedicated to the review of these files on a priority basis.
- Assign a team of ERC legal counsel dedicated to the review of priority cases where a member has been discharged from the RCMP.
- Implement a service standard, effective April 1, 2022, that 75% of new incoming files will be completed within 12 months of intake.

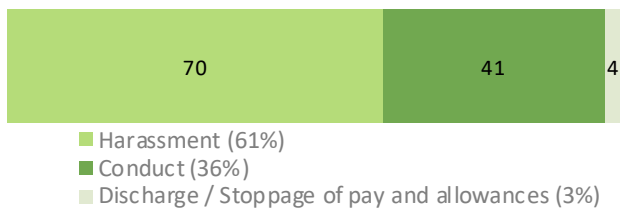
RCMP External Review Committee Year in Review 2021-2022

Files Received

The RCMP referred **138** cases to the ERC.

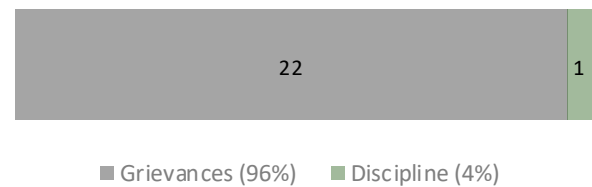
115

under the current *RCMP Act*



23

under the Legacy Legislation

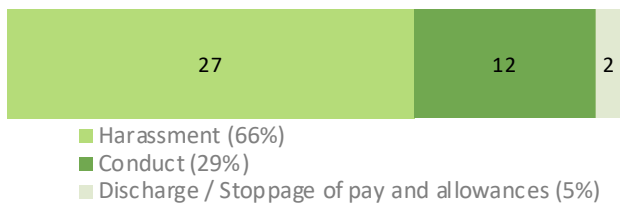


Files Completed

The ERC issued **70** Reports of Findings and Recommendations.

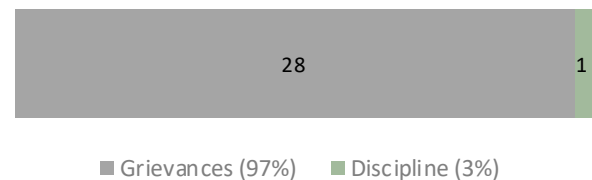
41

under the current *RCMP Act*



29

under the Legacy Legislation



(Note: 12 appeals were withdrawn before the ERC made its Findings and Recommendations.)

RCMP External Review Committee Year in Review 2021-2022

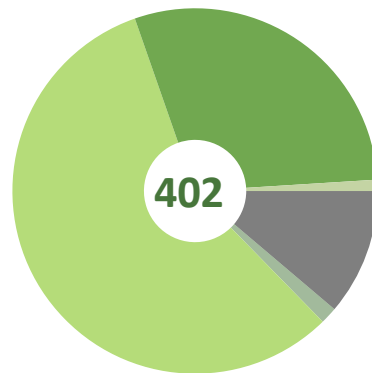
Service Standards

2021-2022 marks the first year that the ERC fully met its prescreen service standard*

The ERC met its prescreen service standard in **98%** of the cases it received.

*The standard introduced in April 2020 requires the ERC to pre-screen 85% of its files within 30 days of receipt.

Current ERC Case Load



- Legacy Grievances (45) 11%
- Legacy Discipline (6) 1%
- Harassment (229) 57%
- Conduct Appeals (118) 29%
- Admin. Discharge and Stoppage of Pay (4) 1%

Commissioner or the delegated adjudicator rendered decisions in **53** cases.

96%

Agreed with the ERC.

4%

Disagreed with the ERC.

2021-2022 – Case Highlights

Below are summaries of key issues arising from select ERC Findings and Recommendations.

Legacy Grievances

Legal Principle of Estoppel

The ERC reviewed several legacy grievances this year. Two of them involved applications of the legal principle of estoppel. This principle may be used to enforce a clear representation made by one party if another party acted on that representation, to their detriment.

In **G-737**, the ERC considered whether the Grievor was entitled to be paid meal expenses as a result of a representation that an RCMP official made to him. The Grievor served at an isolated post. He travelled to a town to visit his spouse and newborn child at a hospital. When the family returned to the isolated post, the Grievor submitted a claim for the family's meal expenses. The Respondent did not approve the claim. He explained that the Grievor had not provided meal receipts, contrary to policy.

The Grievor grieved the Respondent's decision. He argued that, before he travelled, a Human Resources Officer (HRO) had assured him that he would not need to provide meal receipts with his travel claim. The Grievor supported this argument with evidence.

The ERC recommended that the grievance be allowed. Although the Grievor was expected to be familiar with policy, the principle of estoppel applied in the circumstances. By assuring the Grievor that he would not need meal receipts to support a travel claim, the HRO made a clear representation on which the Grievor was meant to rely. The Grievor did rely on that representation, to his detriment, by spending money on meals and not keeping the receipts.

The ERC recommended that the RCMP pay the Grievor his family's meal expenses.

In **G-748**, the ERC considered whether the Grievor was entitled to receive a home improvement reimbursement that a relocation advisor indicated might be payable. The Grievor bought a home at his post, then renovated it. He was later transferred to another post, and had to list his home for sale at a loss. A third-party relocation advisor informed the Grievor that he may qualify for a capital improvements reimbursement under the Integrated Relocation Program. The advisor told the Grievor to complete the sale of his home and to provide his home improvement receipts. The Grievor did both. An advisor then informed the Grievor that he was ineligible to receive the reimbursement. The advisor explained that the Grievor's home had sold at a price above the eligibility cut-off for receiving the reimbursement, further to a relocation policy.

The Grievor grieved this decision. He argued that an advisor had led him to believe that he qualified for the reimbursement.

The ERC recommended that the grievance be denied. Unlike in **G-737**, the principle of estoppel did not apply in the circumstances. Although the advisor made a representation that was meant to be relied on, there was no indication that it caused the Grievor to suffer a detriment. The Grievor had already listed his home for sale when he received information from the advisor. Moreover, the advisor only indicated that the Grievor may possibly be entitled to receive a reimbursement. The advisor did not represent that the Grievor would receive a reimbursement.

Current Legislation Conduct Appeals

The ERC considered a range of issues that arose in conduct appeals this year. One issue involved the novel decision of conduct boards not to hold oral hearings. Another issue involved mental health concerns that can arise when conduct proceedings are ordered.

Foregoing Oral Hearings

The amended *RCMP Act* enables conduct boards to manage proceedings and make decisions more informally and promptly than past discipline boards. Although proceedings are still adversarial, conduct boards now receive evidence prior to a hearing, and may decide if an oral hearing is necessary. Nevertheless, boards are to respect principles of procedural fairness in making this decision. A member must have the opportunity to make full answer and defence.

In **C-047**, the ERC concluded that the Conduct Board's decision not to hold an oral hearing was procedurally unfair. The Appellant submitted a preliminary motion requiring a witness to appear before the Board, and a determination as to whether she was a "vulnerable person" in law. However, while the parties awaited a decision on these issues, the Board released a decision on the merits of the allegations.

The ERC recognized that the duty of fairness is flexible, that meaningful participation can occur in different ways in different situations, and that oral hearings are not always necessary. However, procedural fairness required that an oral hearing be held in this case. The Appellant had denied some of the allegations against him. The Conduct Authority Representative had raised the Appellant's credibility as an issue. Moreover, the parties were not invited to present final submissions on the merits. Without an oral hearing, neither party was properly heard.

The ERC recommended that the appeal be allowed and that a new hearing be ordered.

In **C-054**, the ERC reached a different conclusion. After the Appellant admitted the allegations, the Board received the parties' evidence and written submissions on the issue of conduct measures. The Board then announced that it would not hold an oral hearing because it had all the information it needed. The Board later directed the Appellant to resign or be dismissed. On appeal, the Appellant argued that the Board denied him procedural fairness by imposing conduct measures without holding an oral hearing.

The ERC concluded that the Conduct Board's foregoing of an oral hearing was not procedurally unfair. The ERC first found that the Appellant could not raise his procedural fairness argument on appeal because he had not raised it before the Board. The ERC then emphasized that the Board did not deny the Appellant procedural fairness. The Appellant was meaningfully heard through his written submissions and evidence. He had also informed the Board that his case was complete.

The ERC recommended that the appeal be partially upheld on a different ground.

Conduct Proceedings and Mental Health

The RCMP conduct process can be difficult for subject members. It can be even more difficult when a subject member already has a mental health condition(s).

C-048 involved a member whom the RCMP knew had suffered significant duty-related psychological trauma. This member twice removed reflective tape and/or decals from a police vehicle because he feared they made him a "visible target." He also lied to his supervisor, left a shift early and removed a supervisor's comments from two files. The RCMP asked the member to consent to a medical exam. He refused to do so. Instead of ordering a medical exam, the Conduct Authority launched a conduct proceeding in which the member faced five allegations.

During the Conduct Hearing, the member's psychiatrist gave evidence that the member was suffering from work-related mental health conditions that explained his conduct. The Conduct Board nonetheless found all the allegations to be established, but did not impose a dismissal. It imposed a reprimand, continued counselling, and a forfeiture of 10 days' pay. The Conduct Authority appealed these conduct measures. He asked for an order that the member resign or be dismissed.

The ERC recommended that the Conduct Authority's appeal be dismissed. It reasoned that the Board's decision was neither reached in a procedurally unfair manner, nor clearly unreasonable.

The ERC made further comments. It noted that, when a member suffers serious work-related trauma, the RCMP has a legal obligation to provide a supportive environment conducive to

helping the member recover. If a Conduct Authority orders a conduct proceeding against a member who is clearly suffering from work-related mental health issues, without first exploring an accommodation, “sanctuary trauma” may result. That is, the member could suffer further trauma from the workplace; the very place the member should be able to expect support.

The ERC observed that the RCMP may, and sometimes must, proceed with conduct processes and file appeals of conduct decisions. However, this case called for a more compassionate and considered approach. Although the member had to face the consequences of his actions, none of the authorities the Conduct Authority presented supported his dismissal. The possibility that the member could still be dismissed was troubling, in view of the mental health evidence.

The ERC proposed that the Commissioner consider contacting the member to acknowledge his work-related mental health issues, and to indicate that the RCMP will make efforts to help him.

Current Legislation Non-Conduct Appeals

One issue the ERC considered that arose in non-conduct appeals this year involved the sufficiency of reasons in decisions. Another issue involved the adequacy of information before decision-makers in harassment complaint processes.

Sufficiency of Reasons in Decisions

In **NC-081**, the ERC considered the appeal of a decision to make a Stoppage of Pay and Allowances Order (SPA0) against the Appellant, who the RCMP was investigating for allegedly falsifying a detachment custodian’s timesheets. The Appellant argued that the reasons in support of the decision were insufficient.

The ERC found that the Respondent’s reasons were not insufficient, despite being very brief. It is important to understand that a decision-maker may not be legally trained. Reasons need not be lengthy or legalistic. Rather, in this case, they had to provide a rational or tenable line of analysis in support of a finding that the criteria for an SPA0 were satisfied. The Respondent’s reasons met this standard. They displayed connections between the evidence and the conclusion that the Appellant was clearly involved in the alleged conduct. They addressed and dismissed the Appellant’s arguments that no one relied on the timesheets he allegedly falsified, and that the custodian had worked the required hours. They also explained the Respondent’s principal concern that the allegations pointed to a failure to ensure a proper handling of public money. As a result, the Respondent’s decision was not clearly unreasonable.

The ERC recommended that the appeal be dismissed.

The ERC came to a different conclusion in **NC-082**. This case involved the appeal of a decision to discharge the Appellant on the basis that the RCMP accommodated her disability to the point of undue hardship. The Respondent had to weigh opposing medical evidence. The Appellant's doctor believed the Appellant could return to work if she resumed therapy. The Health Services Officer (HSO) believed the Appellant could not return to any duties in the foreseeable future.

The Respondent summarized the facts and evidence. She then simply agreed with the HSO, and found that the Appellant had provided no new information to support a reconsideration of her fitness for duty.

The ERC concluded that the Respondent's reasons were insufficient. They did not address the Appellant's issues or concerns, or reveal a coherent and rational chain of analysis between the evidence and the conclusion. The Respondent needed to say why she preferred the HSO's evidence over the Appellant's doctor's evidence. It was necessary to examine and address the Appellant's doctor's evidence, and to explain why it did not necessitate a change to, or at least a questioning of the HSO's opinion. The Respondent's decision was in turn clearly unreasonable.

The ERC recommended that the appeal be allowed and that the Appellant be reinstated.

Information Before Decision-Makers in Harassment Complaints

The ERC reviewed appeals of decisions to dismiss uninvestigated harassment complaints.

In **NC-074** and **NC-078**, the ERC considered whether decision-makers had sufficient information before them to make decisions. Both Appellants filed harassment complaints alleging improper behaviours by Alleged Harassers. Both Appellants noted in their complaints that witnesses could offer helpful evidence. However, the Respondents chose not to order investigations. They then decided that the allegations set out in the complaints did not give rise to harassment.

The ERC found that the decisions to dismiss the complaints without investigations were clearly unreasonable. Both complaints alleged behaviour that could reasonably amount to harassment. The discretion not to investigate should be exercised sparingly; namely, when existing evidence offers a full account of relevant events. The information available to the Respondents basically consisted of the complaints, which did not provide a full story of what occurred. In each case, it was necessary to hold an investigation (including interviews of the Appellant, Alleged Harasser, and relevant witnesses) to fully understand the allegations and what had happened.

The ERC recommended that the appeals be allowed, and that the matters be sent back for new decisions by new decision-makers, with directions to order investigations into the complaints.

The appeals in **NC-071** and **NC-091** raised somewhat different issues. Both Appellants filed harassment complaints containing general allegations against Alleged Harassers whom they felt had harassed them. Both Appellants named witnesses. In both cases, the Alleged Harassers were allowed to present responses to the complaints. Yet neither Appellant was invited to give further details, or to address the Alleged Harassers' versions of events. The Respondents did not order investigations into the complaints. They concluded that there was enough information for them to find that the allegations against the Alleged Harassers did not represent harassment.

The ERC again found both decisions to be clearly unreasonable because neither was based on sufficiently complete information. The limited evidence did not provide full stories. The Respondents could have more meaningfully considered the complaints if investigators had spoken to witnesses, and obtained evidence, identified by the parties.

However, the ERC also found that the decisions were reached in procedurally unfair manners. There may be limited cases where an investigation is unnecessary (i.e., when sufficient information is before a decision-maker). However, if a decision-maker decides a harassment complaint without ordering an investigation, because they believe there is enough information before them, the process must still be fair. A complainant must receive an opportunity to fully explain their side of the story and respond to an alleged harasser's version of events, before a final decision is made. The Appellants' inability to expand on their complaints (e.g., by way of an interview or a statement), respond to the Alleged Harassers' versions of events, or address other documents, resulted in processes that were procedurally unfair.

The ERC found that the only appropriate remedies were for the RCMP to order investigations and make new decisions that meaningfully addressed the Appellants' complaints.

Website and Contact Information

Website

More information on the ERC including details about its mandate, service standards and its plan to reduce the backlog of cases can be found on the ERC's website: <https://www.erc-cee.gc.ca/>.

The ERC's website also has an index where you can search for summaries of all Findings and Recommendations of the current and previous Chairs of the ERC, as well as summaries of the decisions of the Commissioner of the RCMP.

Contact Information

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