

IMPROVING CONDITIONS FOR TERM EMPLOYEES A KEY GOAL FOR PSAC

In recent years, there has been an increase in the number of term employees in the federal government. While PSAC welcomes a growing federal workforce and recognizes there are situations that call for term staffing, such as employees on leave, new projects created or sudden changes in workload, we are concerned with the rise in the use of term employment as opposed to staffing positions on an indeterminate basis.

Term employees, by their very nature, do not enjoy the same level of job security as their indeterminate coworkers. Over the past few years PSAC has sought to make several improvements in staffing policies and collective agreements to convert term employees to indeterminate status, thereby providing improved job security, and to put an end to other employer practices that leave terms feeling like second-class employees.

This *Issues* paper summarizes some of the gains we have made for term employees, while laying out some of the challenges we still face in order to improve working conditions and job security for these members. It also provides a small preview for our CCRA members, whose own joint study has yet to be released.¹

Forming a Joint Committee

During the last round of Treasury Board negotiations, PSAC won language in all four of our collective agreements that provided for the establishment of a joint committee to study the issue of term employment. In agreeing to the joint study, both the employer and the union acknowledged the need to explore the ways in which term employment is being used and the particular needs and concerns of term employees. Similarly, the union and CCRA also agreed to undertake a joint study of term employment, also with the intention of exploring the particular concerns of term employees at the Agency.

¹A joint study of term employees at the CCRA was also negotiated by PSAC as part of the PSAC-CCRA collective agreement signed in March 2002. That study is currently underway – watch the PSAC web site for details.

Early on, PSAC made the decision to ensure full participation of term employees in the process, appointing three term employees as part of our representation on the PSAC-TBS joint committee. The union representatives on the PSAC-CCRA joint committee also included representatives of UTE, CEUDA and three term employees. The work of both joint committees involved surveys of members and managers, and consultations across the country.

The PSAC-TBS Joint Term Study, completed in August 2002, produced 30 recommendations addressing the use, recruitment, retention and treatment of term employees. It recognized that term employment is a legitimate practice for the employer to meet special or short-term needs, and that term employees must be treated fairly in order to ensure that the Public Service is able to attract and retain the skilled workforce it needs for the future.

A key PSAC objective in the study was to achieve changes in the Treasury Board's *Long-Term Specified Employment Policy*, the employer policy that converts term employees to indeterminate status after five years of service. Indeterminate means employees hired without a specified termination date, which is sometimes referred to as "permanent" employment status. Only indeterminate employees are protected by the Workforce Adjustment appendices found in our Treasury Board and certain agency collective agreements.

Findings of the PSAC-TBS Joint Study

Term Employees in the Workplace

While term members were well aware of the difficulties they faced, Treasury Board agreed to the joint study because it had a growing concern about how term employment was being used. In some cases, managers were using terms to staff positions where there was clearly a continuing function, repeatedly renewing the term employees for short periods of time. Hiring employees on term was also seen as a simpler way of staffing, allowing for an extended probationary period for managers to "try before they buy". While this may have suited the employer, this instability was detrimental to the lives of our term membership.

Other issues came out during the study as well. While the majority of Canadian provincial governments offer term employment, most convert their term employees to indeterminate within two years or less. A majority of the study respondents, which included management, favoured a period of three years or less for indeterminate conversion.

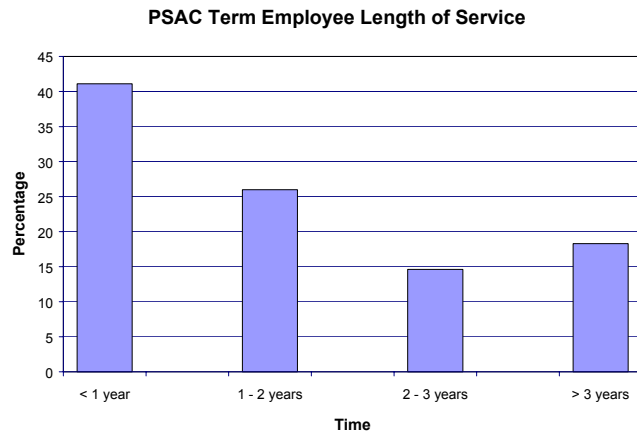
Generally, term employees perceived a lack of consideration and/or support for their aspirations in the workplace. In comparison to their indeterminate co-workers, term employees reported that they are not always considered for acting assignments or developmental opportunities because of their short tenure, and that performance evaluations of their work are often not done. They are frequently asked to re-qualify for

positions they have already held and notices of term extensions often came after the fact. They also reported that when their terms are not being renewed, there is little or no support for them.

A particular concern to PSAC was the perception of some term employees that there is a lack of support from their union, particularly in those departments that have large term populations. This perception is the unfortunate result of a Catch-22 situation that term employees can find themselves in. On the one hand, many members will not initiate grievances, fearing unhappy employers will not renew their terms. On the other hand, when term employees do launch grievances, it is often because their term has not been renewed, and in such cases there is little that the union can do because of Treasury Board policy. This underlines the need for on-going work on behalf of our term membership, as PSAC is committed to finding solutions to those problems that affect our term members.

PSAC-TBS Term Employee Profile

- Term employees represented 15% (24,082 out of 164,221) of federal public servants in March 2002;
- 73% of these term employees are PSAC members;
- Overall, term employees are younger than the indeterminate employee population, well educated, diverse and mainly concentrated in the administrative categories;
- The largest concentration of term employees in PSAC is in the CR group (Clerical and Regulatory) at Table 1;
- In 2001, 61% of term employees were women, 4.3% were Aboriginal, 3.5% were persons with disabilities and 7.7% were visible minorities;
- The majority of PSAC term employees (67.1%) had less than 2 years of service, as shown above.



Employment Projections

Presently, 61% of indeterminate appointments come from the term employee population, and this rises to 71% within the PSAC membership. Indeterminate departures of PSAC members is forecast to increase from 2,666 in 2001-02 to 3,298 in 2005-06. This supports the idea that people should be hired as indeterminate employees to begin with, as the vast majority end up there anyway.

The projections contained in the study indicate that unless term employees are staffed as indeterminate earlier in their terms, or unless external indeterminate recruitment increases, there will be a shortfall of approx. 802 indeterminate employees by 2006. This gap will only increase with time if not addressed.

Treasury Board responds: Highlights of the new Policy on Term Employment

Following the release of the joint study recommendations, it took a few months for Treasury Board to respond, but in December 2002 the new Term Employment Policy was released. Following are some selected highlights of the new policy:

- The policy comes into effect between April 1, 2003 and April 1, 2004 as determined by each department;
- A term employee that has been employed in the same department or agency as a term employee for three years without a break longer than sixty (60) calendar days must be appointed as an indeterminate employee;
- Whether term employees have their term renewed or not, or in the event of a lay-off, they will receive one-month's written notice;
- A department can suspend accumulation of time for term employees if it can demonstrate to Treasury Board in looking ahead 2-3 years that appointing terms to indeterminate status would result in a workforce adjustment for existing indeterminate employees;
- The policy applies to term employees working in departments or agencies where Treasury Board is the employer and who have been appointed under the *Public Service Employment Act* or related exclusion orders.

PSAC Response to the new Term Policy

The PSAC response to the new policy is generally positive, saying that it is a "step in the right direction." However, there are a number of concerns we have raised about the new policy, as it did not contain all the elements that we are seeking. One example is the implementation period – we sought a fast-tracked implementation, instead of the one year period that Treasury Board has given to departments.

Two other important areas of concern are:

- **Suspending Accumulation of Time towards Three Year Threshold**
As was mentioned earlier, departments and agencies are allowed to suspend the accumulation of time for the three-year threshold if it can prove that making term employees indeterminate would create a workforce adjustment situation. This is of some concern to us, as it is not yet clear what constitutes proof, when the union is notified and by whom, etc. We are watching this carefully to ensure it is not abused by departments, and will make Treasury Board aware of our concerns regarding this part of the policy.

- **Equity Groups**

Compared to the federal Public Service as a whole, there are greater proportions of women, visible minorities and Aboriginal people working as term employees. Federal government departments and agencies should maintain their commitments to employment equity, and ensure that those employees from designated groups are hired as indeterminate whenever possible, not just as term employees. This is an issue we will continue to monitor through the National Joint Council Joint Employment Equity Committee.

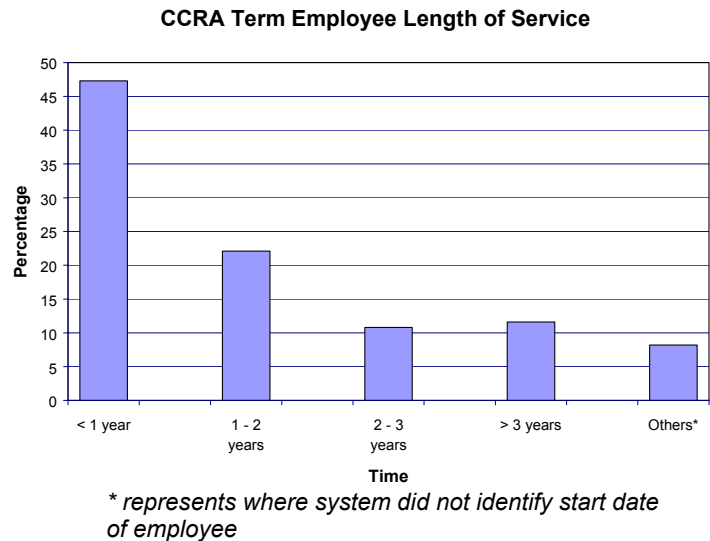
The PSAC-CCRA Joint Term Study

As noted earlier, the union and the CCRA embarked on a parallel process to study the term employment issue. The study has been completed, and the results are scheduled to be presented in Spring 2003. Once the findings of this study are known, PSAC will be in a position to comment on the recommendations put forward and any responses by the employer. Needless to say, we will be bringing the same care and attention to the issues raised by the CCRA Joint Report as we are with the TBS Joint Report.

In the meantime, here is a quick snapshot of the term employees at the CCRA:

PSAC-CCRA Term Employee Profile

- Term employees represented 22.5% (11,796 out of 52,398) of the CCRA population in April 2002;
- 70% of term employees worked in Assessment and Collection programs;
- 61.5% of Tax Centre employees are term employees, and the number of term employees peaks between the months of April and June when T1 processing is peaking;
- Nearly 15% of Customs employees across the country are term employees;
- In 2002, 74.5% of term employees were women, 5.5% were visible minorities, 2.7% were persons with disabilities and 1.5% were Aboriginal;
- The majority of term employees at CCRA (69.4%) had less than 2 years of continuous service as indicated above.



Improving Conditions for Term Employees at the Bargaining Table

In addition to the work of these two joint studies, PSAC has been working to improve conditions for term employees at the bargaining table. Two recent examples are found in the agreements with CCRA and Parks Canada:

Increments for Term Employees

Both Parks Canada and CCRA have language in their agreements that provide increments to term employees after 52 weeks of cumulative service. Previously, a term employee who was hired back several times over the course of several years would always start at step 1 of the pay grid. Under these new provisions, term employees could be hired back at the second, third or higher step. "Cumulative service" means all service, whether continuous or discontinuous, at the same occupational group or level. This is a demand that PSAC can pursue in the upcoming Treasury Board negotiations

Earning Vacation Leave

With Parks Canada, the PSAC was able to negotiate a further improvement for term employees in the area of vacation leave. The new language says that years of service for vacation leave will include all breaks in service between periods of student or term employment, as long as the break in service is not longer than one year.

This means that a person hired on a term basis every summer for the last 10 years will now earn vacation leave credits at the same rate as an indeterminate or seasonal employee with 10 years of service. Previously, only actual service, whether continuous or discontinuous, was used in the calculation of vacation leave credits. The clause also works retroactively, meaning that employees who are now indeterminate or seasonal can receive years-of-service credit for any breaks in employment they may have experienced as a term, again provided that the breaks in service were not longer than one year.

This new provision in our collective agreement with Parks Canada could be pursued in our negotiations with Treasury Board, CCRA and other separate employers. It will be of particular benefit to those in departments where recurring annual term employment is used to cover seasonal work.

Follow-Up

The changes heralded by the new TBS policy are encouraging, but most of the work of implementation is still ahead. During this time, your local and Component representatives will be monitoring Treasury Board departments closely to ensure the policy is implemented correctly, and that term employees are treated fairly. However, we can't do it alone – we need you to help. As members in the workplace, you have the firsthand knowledge of what is going on and how managers are putting the policy into practice. If you feel there is something the union should be aware of, please contact your local or Component representatives and let them know.

PSAC has heard the concerns of our term members, and remains committed to addressing their issues. There are still constraints on what the union can do for term employees in grievance situations, due to the policies and legislation that govern this type of employment. The best way for us to help term employees is to continue working to improve their job security, and see as many as possible join the ranks of our indeterminate membership.

To this end, we will continue pushing to achieve full implementation of all the Joint Study recommendations, to extend the policy to other federal employers, and look at improving other terms and conditions for term employees. We are committed to doing the same for our CCRA members once that joint study has been released. It is our goal to ensure that the days of term employees being treated like second-class employees are over.

We hope that this information is useful. For any comments or suggestions, please communicate with Kate Rogers or Shawn Vincent - negotiations section of PSAC in Ottawa.

References

PSAC/TBS Joint Term Study

http://www.psic.com/CB/Bargaining_2000/jointterm/index-e.htm

PSAC/TBS CCRA Term Study

<http://www.psic.com/CB/CCRA/launchweb-e.htm>

Treasury Board Term Employment Policy

http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/tb_856/tep-pep_e.asp