



Military Grievances
External Review Committee

Comité externe d'examen
des griefs militaires



Annual Report

Thorough Analysis | Independent Review

2019

Canada



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as represented by the Minister of National Defence, 2020

31 March 2020

The Honourable Harjit Sajjan
Minister of National Defence

National Defence Headquarters
MGen Georges R. Pearkes Building
101 Colonel By Drive
Ottawa, Ontario K1A 0K2

Dear Minister,

Pursuant to section 29.28(1) of the *National Defence Act*, I hereby submit the 2019 annual report on the activities of the Military Grievances External Review Committee for tabling in Parliament.

Yours truly,

A handwritten signature in blue ink that reads "Christine Guérette CPA, CGA". The signature is written in a cursive style.

Christine Guérette, CPA, CGA
Chairperson and Chief Executive Officer





MANDATE

The Military Grievances External Review Committee is an independent administrative tribunal reporting to Parliament through the Minister of National Defence.

The Committee reviews military grievances referred to it, pursuant to section 29 of the *National Defence Act*, and provides findings and recommendations to the Chief of the Defence Staff and the Canadian Armed Forces member who submitted the grievance.

TABLE OF CONTENTS

| | |
|---|-----------|
| Message from the Chair and Chief Executive Officer | 2 |
| 2019 at a glance | 4 |
| Our program: Independent review of military grievances | 4 |
| Spotlight | 8 |
| Systemic issues noted in 2019 | 10 |
| Corporate Achievements | 13 |
| Looking forward | 16 |
| About the Committee | 17 |
| Mandate | 17 |
| Structure | 18 |
| Grievance Process | 19 |
| Committee Members | 21 |
| Contact Us | 24 |



MESSAGE FROM THE CHAIR AND CHIEF EXECUTIVE OFFICER

The Military Grievances External Review Committee (the Committee) is in its second year of a three-year journey of renewal and structural improvement. It started in 2018 with significant staff change and organizational review, followed by an equally transformative and challenging 2019. Nevertheless, we are on track and the results affirm we are moving in the right direction.

The Committee received over 300 grievance referrals in 2019, which is far more than we typically receive. Combined with files carried over from 2018, this generated a significant backlog of files. Unlike 2015, when the Committee was aware that there would be an increase of grievance referrals, the number of files received in 2019 could not be predicted. Even so, the Committee rose to the challenge and successfully issued 174 findings and recommendations (F&R) reports, making it the third most productive year-to-date in the Committee's history.

We spent the better part of 2019 assessing our structures and processes. We refined our governance structure and operational framework, and put in place new processes in order to provide enhanced services to both our staff and external stakeholders. Altogether, these new approaches strengthen our ability to deal with the backlog of files and are charting the course to reducing the time it takes to review grievances referred to us.

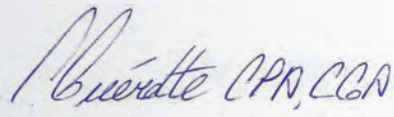
Our vision to establish a modern and agile administrative tribunal by 2022 remains firm.

The Committee is not only in the position of conducting thorough analysis and independent review of military grievance files referred to it, but also of bringing systemic issues to the attention of the Chief of the Defence Staff (CDS). If the Committee can be a part of effecting positive change, it will do it. If the Committee can put the spotlight on resolutions that address the gaps in policy and strengthen the CDS authority to address these types of grievances, it will do it.

Our vision to establish a modern and agile administrative tribunal by 2022 remains firm. Our priorities are centered on the three pillars — our people, our tools, our methods — which will allow the Committee to flourish in its mandate: to provide high quality, thorough, unbiased F&Rs to the CDS and to the Canadian Armed Forces (CAF) members who submitted a grievance.

I applaud the dedication and resilience of our Committee Members and employees. During a sustained period of change, our staff consistently met the challenges, united by their enthusiasm and belief in the Committee's mandate. The quality of their work is a testament to this.

I am proud to present the Committee's 2019 annual report. It is a chapter in the Committee's story as it works to set the foundation of our future as a model administrative tribunal.

A handwritten signature in blue ink that reads "Christine Guérette CPA, CGA". The signature is fluid and cursive.

Christine Guérette, CPA, CGA
Chairperson and Chief Executive Officer

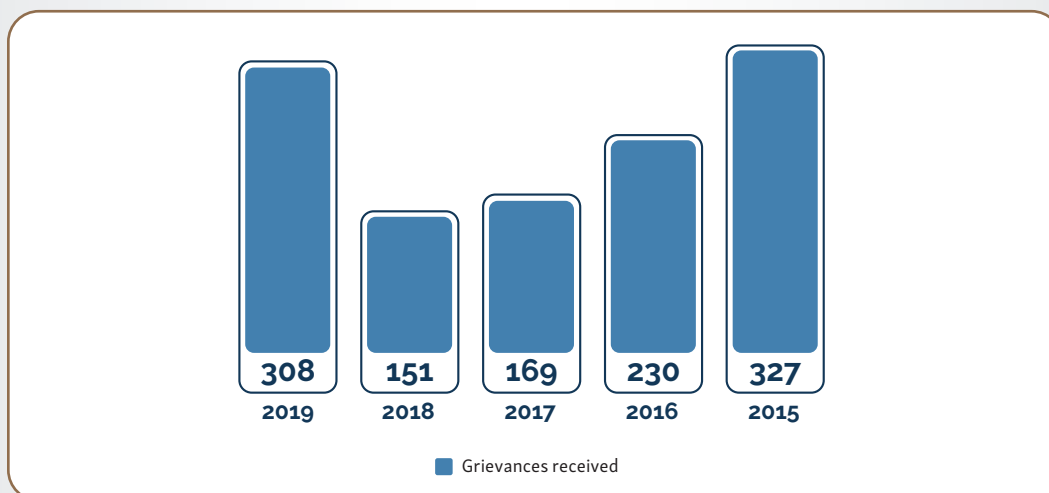
2019 AT A GLANCE

The Committee received an unusually high number of grievance referrals in 2019.

Our program: Independent review of military grievances

This section includes the number of grievances referred to the Committee by the CDS, the number of F&R reports we issued, and the average review time it took the Committee to complete the analysis of a grievance in 2019.

How many grievances did the Committee receive?

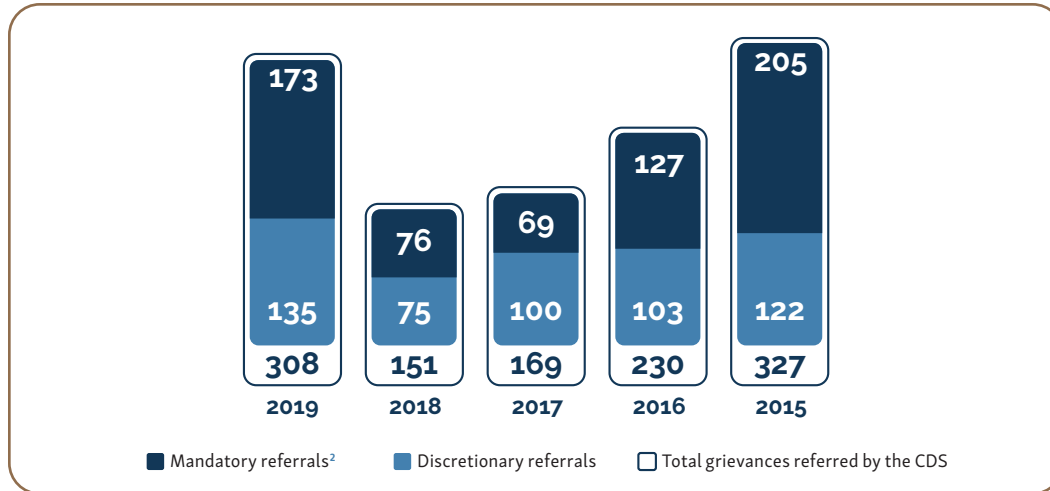


The Committee received an unusually high number of grievance referrals in 2019, doubling the intake we predicted in our 2018 annual report. At first glance, this past year appears to be an anomaly, given the Committee’s 10-year average is 193 referrals per year. However, it may be a sign that an increase in number of referrals will continue in 2020 and beyond.

What type of grievance referral does the Committee receive?

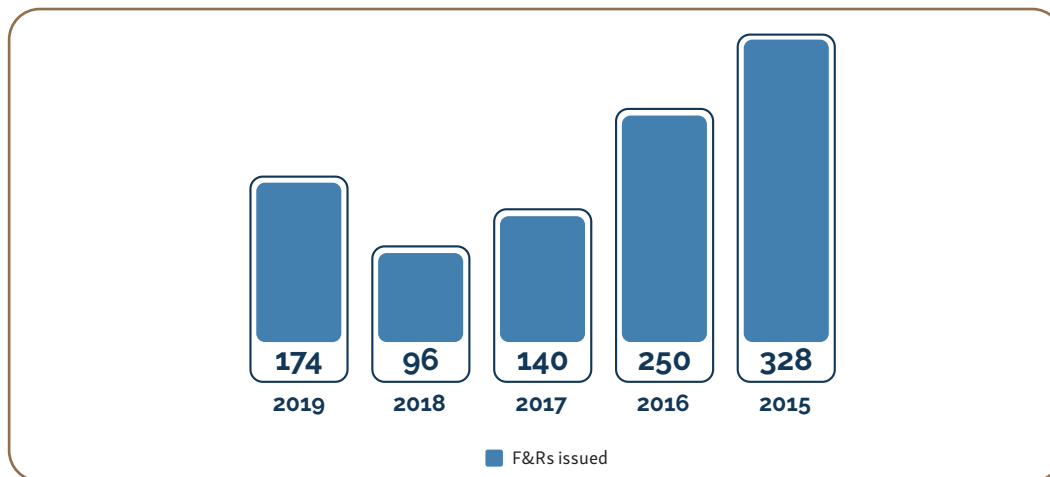
The *Queen's Regulations and Orders for the Canadian Forces* (QR&O) set out the types of grievance referrals that must be submitted to the Committee once they reach the Final Authority (FA) level.¹ The Committee refers to these grievances as mandatory referrals.

The QR&O also empowers the CDS to refer other grievances to the Committee when they wish to leverage the benefits of having a grievance reviewed externally. The Committee refers to these grievances as discretionary referrals.



The significant number of discretionary referrals is a testament to the benefit the Committee's F&R reports bring to the grievance process.

How many F&R reports has the Committee completed?

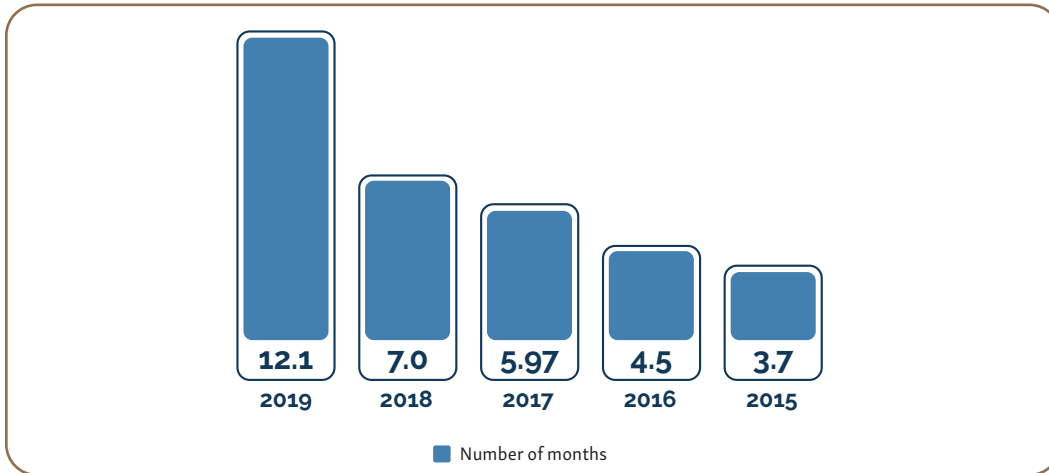


¹ Shall be referred to the Committee, "any grievance relating to one or more of the following matters:
 (a) administrative action resulting in the forfeiture of or deductions from pay and allowances, reversion to a lower rank or release from the Canadian Forces;
 (b) the application or interpretation of Canadian Forces policies relating to the expression of personal opinions, political activities, candidature for office, civil employment, conflict of interest and post-employment compliance measures, harassment or racist conduct;
 (c) pay, allowances and other financial benefits;
 (d) the entitlement to medical care or dental treatment;
 (e) any decision, act or omission of the Chief of the Defence Staff in respect of a particular officer or non-commissioned member."
 (QR&O, article 7.21)

² See note (1) for a list of the types of grievances that must be referred to the Committee.

The year 2019 proved to be especially productive as the Committee surpassed expectations by issuing more F&R reports than the previous two years. In fact, it is the third highest in the history of the Committee.

How long did it take the Committee to review a grievance completed in the year indicated?



NOTE: In previous annual reports, the statistics in this table represented the average amount of time it took to close all files that were both received and closed in that year. The statistics now show the average amount of time it took to close all files in the given year, regardless of the year referred.

In early 2018, the Committee faced a significant shortage of Committee Members, followed by a training period for the newly appointed Members. The Committee also experienced staff turnover in critical areas throughout 2018 and 2019, affecting the speed at which it could process grievance referrals.

We are optimistic that, as we restore optimal staffing levels and put into place a dedicated team to assist in completing additional F&R reports, the time required to complete grievance referrals will decrease. Additionally, Committee Members, now fully trained and experienced, are functioning at full capacity. This is a robust scenario, well-prepared to deal with the coming year in which the Committee is expecting higher than average referrals.



308

Grievances received

during the year



174

Findings and Recommendations

reports published during the year



150

Parliamentary enquiries

received and completed during the year

**WORKFORCE
FOR 2019**

43



full-time employees

\$6,170,670
Expenditures



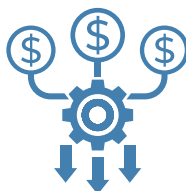
\$4,390,236

salaries, wages & other operating costs



\$606,856

contributions to employee benefit plans



\$1,173,578

for other operating expenses

Spotlight

Unintended consequence. Unforeseen situation. Unnoticed flaw or gap. It is of no surprise that the array of policies regulating the administration of the CAF members do not account for every possible circumstance. After all, the CAF is an organization of over 100,000 members, where each individual member experiences unique life and career situations. It nonetheless remains unfortunate that the occasional result is unfairness and undue hardship to CAF members and their families.

Over the past year, the Committee came across myriad situations where flaws or gaps in the existing policies were glaring. While the 'Systemic issues noted in 2019' section in this report provides an overview of problems of this type, one situation in particular typifies these flaws or gaps.

Meal Allowance Policy and Latvia

When the CAF commenced a mission in Latvia on short notice, the original intent was to post members there for a normal three-year tour of duty. However, as there was not yet a Status of forces Agreement in place with Latvia, this was not possible. The CAF then decided to send members to Latvia on a one-year prohibited posting; but there were some unintended consequences to single members because of this decision.

Under normal circumstances, single members on prohibited posting would be entitled to store their Household, Goods and Effects and then rent accommodation on the economy at destination where they would be able to purchase groceries and prepare their own meals. As such, the existing regulations do not allow for the provision of meal allowances to single members on prohibited postings.

However, in the Latvia deployment, due to the lack of a formal agreement between the two countries, CAF members were not permitted to rent accommodations on the local economy. Instead, the CAF rapidly secured hotel rooms with no kitchen facilities, which required member to purchase meals at their own expense, at local restaurants, resulting in significantly higher costs to the affected members.

The Committee found that this was inherently unfair to single members as the intent of the policies related to postings outside Canada is to ensure, as much as is possible, that members serving outside of Canada are neither better nor worse off than their counterparts serving within Canada. In this case, the members were significantly worse off due to the conditions of the posting, which were completely beyond their control.

This case demonstrates the need for Treasury Board regulations to include a degree of flexibility, thus enabling the CDS to address the unique situations that arise, at any time, given the nature of the CAF mandate.

In simply accepting these situations as unavoidable side effects, a message of futility is sent to CAF members. It is inefficient and unfair to require a member to submit a grievance, only for the FA, albeit sympathetic, to explain there is no authority or policy that can provide relief.

The Committee is cognizant there is no simple solution, however, one cannot avoid pondering such questions as: does the CDS need more flexible authority, is the 'ex-gratia' authority actually effective, should policies be amended, should legislation be amended? In the coming year, the *National Defence Act* is scheduled for review and the Committee believes these questions should be considered during that review.



Systemic issues noted in 2019

CLASS “C” RESERVISTS’ PAY: ENTITLEMENT TO PAY ON THE 31ST DAY OF A MONTH

The Committee has observed a long-standing issue concerning the pay of reservists on short term Class “C”. They do not receive pay for reserve service performed on the 31st day of any given month due to an interpretation of the relevant Treasury Board (TB) approved pay regulation (QR&O 203.06).

CANADIAN FORCES SUPERANNUATION ACT — REVIEW OF THE TERMS OF SERVICE OFFERED TO RE-ENROLLEES

The Canadian Forces Superannuation Act was amended March 1st, 2007, resulting in pension entitlements being de-linked from Terms of Service (ToS). The TB approved transitional rules to protect pension entitlements for members who were serving on certain ToS at the time the amended legislation came into force.

However, the ToS that were offered to re-enrollees prior to May 2005 (the date a new CAF ToS structure was implemented) resulted in an unjust scenario for these CAF members. They were not entitled to the pension benefits (an immediate unreduced annuity) that they expected at the completion of their ToS. The Committee also found that the affected CAF members had to submit grievances to the FA level to obtain resolution.



“I was very impressed with the amount of research that the committee included in the F&R. It was evident that the Committee had put in an appropriate amount of time to understand the grievance, in order to provide research-backed comments and feedback.” *(a grievor)*

"I would like to thank the group that worked on my grievance, and acknowledge their professionalism, thoroughness, and comments/critiques. They did a great job understanding the crux of the grievance and providing possible resolutions. I am pleased with the role they have played in my grievance process." *(a grievor)*



UPDATING OF THE EDUCATION REIMBURSEMENT POLICIES

In the review of a grievance concerning Educational Reimbursement (ER), the Committee found that significant changes made to the management of the ER program were not reflected in Canadian Forces Military Personnel Instruction (CF Mil Pers Instr) 17/04, Educational Reimbursement. As a result, the policy was not applied to reflect the change and issues relating to the maximum allowable reimbursement for given programs have arisen.





“This is an exceptionally well done F+R that greatly helped clarify the issues for me.” *(the Final Authority)*

DELAYED ARMY COMMUNICATIONS AND INFORMATION SYSTEMS SPECIALIST PAY REVIEW

In 2011, three separate occupations were amalgamated to form the Army Communications and Information Systems Specialist (ACISS) occupation. A pay review was to be conducted in order to determine whether the new occupation should receive specialist pay, as one of the three was classified as a specialist occupation.

In 2016, the pay review had still not been conducted and this resulted in confusion over the status of the new occupation. Some members were receiving specialist pay and others were not.

In 2019, the pay review had still not been undertaken. Although the Committee had attempted to bring clarity to the situation, it became evident the matter had not been resolved due to continued grievances related to this issue.

The delay in completing the ACISS pay review is having a marked impact on the morale of affected ACISS members and the branch as a whole, and is generating grievances.

Corporate Achievements

Governance

A review of the Committee's governance structure resulted in an improved model, including an Executive Committee supported by a new Management Committee (comprised of all managers with financial or human resources responsibilities). This new structure ensures that the Executive Committee receives advice and recommendations from managers on key strategic issues but also ensures the transparent flow of information at all levels within the Committee.

Innovation and continuous improvement

The adoption of change management and a continuous improvement philosophy generated a renewed commitment, amongst employee and management, to the systematic and continuous review of the organization's processes to ensure sustainable, optimal performance. Coupled with the implementation of a new telework directive, this supports the vision of an efficient, modern administrative tribunal.

Better information management

We adopted a rigorous information management strategy, including a significant file plan re-structuring. The result was a more efficient use of information resources, an improved information retrieval system and a robust protection of information resources used by the Committee.

Greener and leaner operational processes

As part of the Committee's commitment to creating a lean and green workplace, we implemented an updated version of our case management system that will generate a more efficient grievance review process. Several key business processes, such as our F&R report templates, and all operational template letters, are now digital and, as an added benefit, we streamlined the approval process. These initiatives not only support a mobile workforce, but also align with the organization's priority to become modern, digital-based and more environmentally conscious.

Workplace and mental health

Following the analysis of our latest Public Service Employee Survey results, the Committee is pleased to see that, as in previous years, the overwhelming majority of employees are proud of their work and enjoy working at the Committee. Throughout the year, we continued to promote a healthy work environment and further advanced our Mental Health Action Plan. We organized well-being activities and promoted physical activity during our monthly all-staff meetings. Employees know they have access to specialized conflict management resources and a safe, reliable and confidential space to help them through difficult situations.

“We are a small but mighty team. The Committee is fortunate to have committed, passionate employees. Driven by a sense of justice, they constantly and consistently maintain integrity in their independent review and thorough analysis of grievances.”

Christine Guérette, CPA, CGA
Chairperson and Chief Executive Officer



On June 14, 2019, the Committee celebrated the National Public Service Week by organizing a BBQ at Britannia Park for all its employees in recognition of their work throughout the year.



Stephanie King, Registrar
recipient of the Chairperson's Award

The Finance and Administration Team —
recipient of the Innovation Award

Corporate Awards and Events

Recognition is key to employee satisfaction and organizational productivity. In 2019, the Committee celebrated several employees.

Stephanie King, Registrar — recipient of the Chairperson's Award

Stephanie received the Chairperson's Award for her outstanding management and leadership skills, especially in delivering on several strategic initiatives including the rollout of WebCIMS 7 and the rapid publishing initiative. The award also recognized Stephanie's positive attitude, team player approach in the workplace and ability to provide senior leadership with viable options when dealing with any issue.

The Finance and Administration Team — recipient of the Innovation Award

The Finance and Administration Team, composed of Julie Plourde, Éric Gareau, Daniel Vaillant and Kaylah St-Pierre, were presented with the Innovation Award for their outstanding contribution to the implementation of the Systems Application and Products Enterprise (SAP) resource planning system and their engagement and collaboration in configuring a modern solution to meet the Committee's requirements.

Pauline Heyendal — recipient of the Bravo Award

Pauline received a Bravo Award in recognition of her excellent work in coordinating responses to the many Parliamentary questions received at the Committee in December 2019 within a short timeframe. It was her initiative and attention to detail that enabled the organization to respond within prescribed timelines.

LOOKING FORWARD

If the past is an indicator of the future, the Committee will continue to provide F&R reports that are valuable to the CDS and the grievor, helping the CAF decision process, regardless of agreement on the Committee's findings.

However, there is always room for growth and positive change. The Committee's goal is to function as a model center of excellence in the independent review of military grievances. We have a roadmap to get there and acknowledge that renewal and improvement require stamina and perseverance.

The Committee's focus is on its people, its infrastructure and its processes. In the short term, we will work to bring our operations team to full capability, optimize our military grievances review business processes, realign the Operations and Legal Service teams, establish an innovative communications program and stabilize the synergy between its workload and its people. Our long-term vision is to establish a mature and model organization. Above all, this includes working to reduce the time it takes to review grievances and providing staff with modern, agile and innovative tools and processes.

While the Committee cannot predict the number of grievance files that will be referred year after year, it is comprised of a dedicated team, focused on strengthening what is already a solid organizational foundation, and it will continue to serve.

The Committee celebrates its 20th anniversary in 2020. We are proud of our history; have our foot in the past and our eye to the future.

The Committee's focus is on its people, its infrastructure and its processes.



ABOUT THE COMMITTEE

Mandate

The Committee is an independent administrative tribunal reporting to Parliament through the Minister of National Defence. It reviews all military grievances referred to it by the CDS, as stipulated in the *National Defence Act* (NDA) and article 7.21 of the QR&O.

Section 29 of the NDA provides a statutory right for an officer or a non-commissioned member to grieve a decision, an act, or an omission in the administration of the affairs of the CAF. The importance of this broad right cannot be overestimated since it is, with certain narrow exceptions, the only formal complaint process available to CAF members.

Since beginning operations in 2000, the Committee has acted as the external and independent component of the CAF grievance process. It also has the statutory obligation to deal with all matters as informally and expeditiously as the circumstances permit.

Following its review of referred military grievances, the Committee provides its F&R reports to the CDS and the grievor. The CDS is the final decision-maker, and is not bound by the Committee's F&Rs. In any case where the Committee's F&Rs are not accepted, the CDS must provide the reasoning in writing.

Types³ of grievances referred to the Committee

1 Mandatory referrals are grievances relation to one or more of the following matters:

- administrative action resulting in the forfeiture of or deductions from pay and allowances, reversion to a lower rank or release from the Canadian Forces;
- the application or interpretation of Canadian Forces policies relating to the expression of personal opinions, political activities, candidature for office, civil employment, conflict of interest and post-employment compliance measures, harassment or racist conduct;
- pay, allowances and other financial benefits;
- the entitlement to medical care or dental treatment; and
- any decision, act or omission of the CDS in respect of a particular officer or non-commissioned member.

2 Discretionary referrals: The CDS has the discretion to refer any other grievance to the Committee.

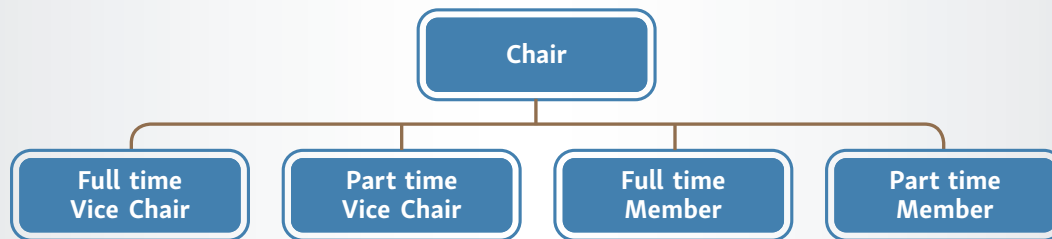
³ Article 7.21 of the QR&O sets out the types of grievances that must be referred to the Committee once they reach the final authority level.

Structure

The Committee consists of Committee Members appointed by the Governor in Council⁴ (GIC), who are responsible for reviewing grievances and issuing F&R reports.

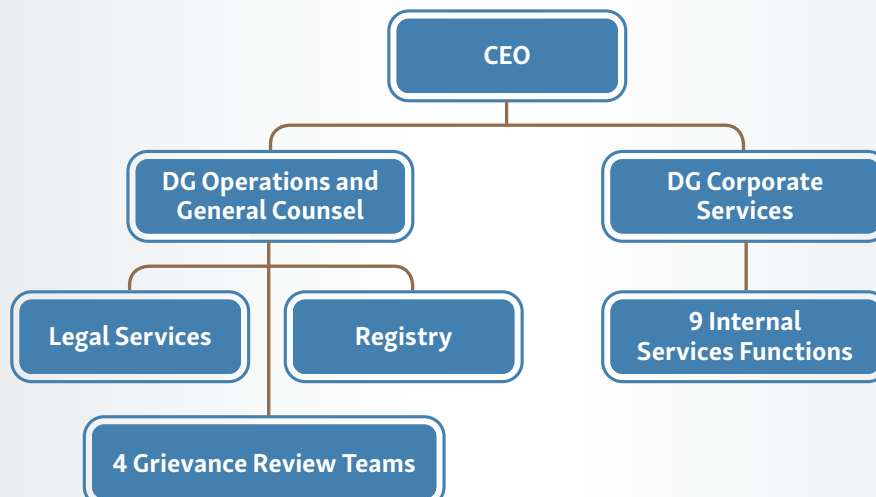
Under the NDA, the GIC must appoint a full-time Chairperson and at least two Vice-Chairpersons. In addition, the GIC can appoint any other Members that the Committee may require to carry out its functions. Appointments are for up to four years and can be renewed.

Committee Members



The Committee Members work with the support of a registrar, legal advisors, and grievance review officers who provide analysis and advice on a wide range of issues. The responsibilities of the Committee's internal services include administrative services, strategic planning, security, performance evaluation and reporting, human resources, finance, information management, information technology and communications.

Management Team



⁴ Information about GIC appointments can be found at <https://www.canada.ca/en/privy-council/topics/appointments/governor-council.html>

Grievance Process

Canadian Armed Forces Grievance Process

The CAF grievance process consists of two levels and begins with the grievor's commanding officer (CO).

Level I: Review by the Initial Authority (IA)

STEP
1

The grievor submits a grievance in writing to their CO.

STEP
2

The CO acts as the IA if they can grant the redress sought. Otherwise, the Canadian Forces Grievance Authority assigns an appropriate IA. Should the grievance relate to a personal action or decision of an officer who would otherwise be the IA, the grievance is forwarded directly to the next superior officer who is able to act as IA.

STEP
3

The IA renders a decision and, if the grievor is satisfied, the grievance process ends.

Level II: Review by the Final Authority (FA)

A grievor, who is dissatisfied with the IA's decision, is entitled to have their grievance reviewed by the FA, which is the CDS, or their delegate.

STEP
1

The grievor submits their grievance to the CDS for FA level consideration and determination.

STEP
2

Depending on the subject matter of the grievance, the CDS may be obligated to, or may at their discretion, refer it to the Committee. If the grievance is referred for consideration, the Committee conducts a review and provides its F&R report to the CDS and the grievor. Ultimately, the FA makes the final decision on the grievance.

Committee Grievance Process

The Committee's internal review process consists of three steps: grievance reception, review and the drafting of F&R reports.



Upon receipt of a grievance, the grievor is contacted and invited to submit additional comments or other documents relevant to their case.



The assigned Committee Member holds a case conference where the grievance is reviewed, and the issues are identified and dealt with. The Committee Member works with a team leader, a grievance officer and legal counsel. If necessary, additional documentation is obtained and added to the file, and subsequently disclosed to the grievor. Although rare, it is possible a hearing may be held.



The Committee Member issues a F&R report, which is then sent simultaneously to both the CDS and the grievor. At this point, the Committee no longer has jurisdiction over the grievance. The grievor receives a decision directly from the FA.

Committee Members



Christine Guérette

Christine Guérette, CPA, CGA, was appointed Chairperson and Chief Executive Officer of the Committee in June 2018, for a 4-year term. Before her appointment, Ms. Guérette had been serving as the Committee's Director-General, Corporate Services and Chief Financial Officer.

Prior to joining the Committee, Ms. Guérette held various senior executive positions in the federal public service: Chief Financial Officer at the Canadian Transportation Agency; Member of the Faculty at the Canada School of Public Service; and leadership positions at the Canadian International Development Agency (now Global Affairs Canada).

Ms. Guérette has led significant organizational transformation initiatives throughout her career, implementing modern, agile corporate governance principles and efficient accountability processes to enhance performance of organizations. Along the way, Ms. Guérette has built successful and meaningful relationships with colleagues, stakeholders, senior government officials, representatives of non-governmental and private sector organizations, and international partners.

Ms. Guérette holds a Bachelor of Science in Accounting from the Université du Québec à Hull and has been a member of the Quebec Order of Chartered Professional Accountants since 1994. She is currently a member of Treasury Board of Canada Secretariat Small Departments Audit Committee.

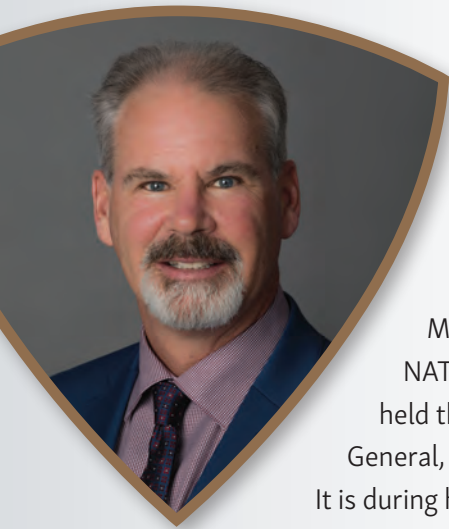


Dominic McAlea

Appointed as of March 28, 2018, Full-time Vice-Chairperson, Dominic McAlea will serve a 4-year term.

Mr. McAlea was a senior executive with the CAF, Department of Justice and Global Affairs Canada, serving as a Deputy Judge Advocate General in the CAF, and Canadian Defence Attaché to Afghanistan, in Kabul. His expertise includes strategic planning, development and implementation of policy, Federal legislation and regulations, criminal and civil accountability systems, and consensus-building nationally and internationally.

Mr. McAlea holds a Bachelor of Laws from the University of Windsor; Master of Laws in Public International Law from the London School of Economics and Political Science; and a Master of Philosophy in International Relations from the University of Cambridge.



François Malo

Appointed as of May 1, 2018, Part-time Vice-Chairperson, François Malo will serve a 3-year term.

Mr. Malo is a veteran of the CAF. He commanded combat missions during the NATO air campaign in former Yugoslavia, served as Commander in North Bay, held the positions of the Director of Space Development and was the Director General, Canadian Forces Grievance Authority in National Defence Headquarters. It is during his last tenure that Mr. Malo developed unique expertise and experience in the control and administration of the CAF.

Mr. Malo holds a Bachelor of Arts in Political Science, with a minor in Canadian History, from the University of Manitoba. He is also a graduate of Queen's University Public Executive Program and a certified tribunal member by the Council of Canadian Administrative Tribunals.



Nina Frid

Appointed as of February 5, 2018, Full-time Committee Member, Nina Frid will serve a 4-year term.

Ms. Frid has significant leadership experience with executive positions with the Canadian Food Inspection Agency, the Canadian Transportation Agency, and the Treasury Board of Canada Secretariat. She has extensive experience and training in alternative dispute resolution including mediations and arbitrations.

Ms. Frid graduated with a Master in Laws - Dispute Resolution from York University and a Masters of Business Administration from Carleton University. She also holds a certificate in Advanced Alternative Dispute Resolution, University of Windsor Law School, and a Bachelor-Honour in Economics, from the University of Marine Transportation, in St. Petersburg, Russia.



Eric Strong

Appointed as of December 14, 2017, Part-time Committee Member Eric Strong will serve a 3-year term.

Mr. Strong has over thirty years of experience in the CAF, Department of National Defence and the private sector. He has extensive knowledge of the CAF and its finance and personnel policies. Additionally, he has garnered broad experience working in a client-focused environment within the government.

Mr. Strong graduated from the Richard Ivey School of Business, Western University with a Masters of Business Administration. He also holds a Bachelor of Mechanical Engineering from Carleton University. Mr. Strong is an accredited Project Management Professional (PMP) from the Project Management Institute and a Certified Management Consultant (CMC) from the Canadian Association of Management Consultants.

CONTACT US

Military Grievances External Review Committee

60 Queen Street, 10th floor Ottawa, Ontario K1P 5Y7

Tel: 613-996-8529

Toll free: 1-877-276-4193

TTD: 1-877-986-1666

mgerc.information.ceegm@mgerc-ceegm.gc.ca

www.mgerc-ceegm.gc.ca



"I believe that your organization is of paramount importance in this grievance system, which is the only tool the military has to highlight the injustices and harms it suffers, in the hope of obtaining redress." *(a grievor)*