

Preparing for an Out-of-Scope Appeal

A Guide for Out-of-Scope Employees

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Government
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Introduction

After a classification action has been finalized, you may feel that your job has been incorrectly evaluated. If your circumstance provides you with appeal rights you can submit an appeal which will result in a panel evaluating the level of the position, while considering both the Human Resource Consultant's and the employee's rationale for the ratings.

Out of scope employees are given the right to appeal under the *PSC Act*, Section 18.1. It is also important to reference the HR Manual, PS 503-5, for additional details regarding appeal rights.

How to Prepare

Appellants (employees who are appealing) can reference a number of documents to prepare for and understand the appeal process. The appellant would likely want to become familiar with the Management Class Plan, including Factors and Benchmarks, Authority and Procedures for Out of Scope Appeal Hearings, as well as other general information about the class plan. This information can be accessed on the Internet at <http://www.psc.gov.sk.ca/mcpclassplan/> or by contacting Human Resources.

If you have any questions related to the appeal process, how to prepare, or anything else appeal related, please contact the Human Resource Consultant to discuss.

Writing Rationale

What do I need to get started?

- The job description form and organization chart that were submitted for the classification review
- The classification decision letter
- Written rationale from the Human Resource Consultant (PSC)
- Access to the Management Class Plan, including Factors and Benchmarks. This information can be accessed on the Internet at <http://www.psc.gov.sk.ca/mcpclassplan/> or by contacting Human Resources.

Why do I need to prepare written rationale for the appeal hearing?

"Rationale" is a presentation of how typical job characteristics do, or do not, meet the level definition in a job evaluation factor. It explains how the examples of work meet the intent of the level definition and how they compare to benchmarks in the Management Class Plan.

Writing rationale is your opportunity to provide the Appeal Panel with your argument in your own words. When you and the Consultant leave the room and the Appeal Panel is deliberating, they will have the Consultant's written rationale and your written rationale to refer to rather than relying solely on their notes based on what you said in the hearing.

Good rationale is concise and descriptive. One page or less per factor is sufficient, to a maximum of 10 pages for the entire appeal. The most frequent mistake appellants make other than having no rationale is having too much. Make your point brief and concise so it does not get lost in a lot of detail. The Management Class Plan is a very conceptual plan, meaning that every job detail is not required when applying the ratings.

What should rationale include?

- **Background-** Briefly outline why the position assignment was submitted for classification review. Was there a change or changes to the job assignment that resulted in a classification review being submitted? If so, what were the changes?
- **Rationale-** Prepare written rationale for each factor appealed. Rationale should focus on one factor at a time.
- **Job Duties-** The plan is very conceptual, however it does help to provide context about the job as it relates to the work performed relative to the factor. An important thing to keep in mind is that the examples/description of work should relate back to the primary responsibilities on the job description form. The Appeal Panel will have a copy of the job description form and organization chart and will include all information received in their deliberations.
- **Benchmarks and Relativities-** Support your rationale by comparing to Benchmarks which demonstrate the higher level and explain how you believe your position is stronger than Benchmarks at the same level your position is currently rated. Benchmarks are examples of various kinds and levels of work. They do not represent all types of work; rather, they exist to represent the different levels in the factors. Therefore, you will not find a Benchmark identical to your whole job assignment. Use the Benchmarks as guides for comparing against the general aspects of your position. When comparing to the Benchmarks to validate a rating on any of the factors, you do a comparison factor by factor, not on a whole job basis. For example, you can look at one Benchmark for factor 1, another Benchmark for factor 2, and so on. For out of scope appeals, relativities (other jobs that exist across government) that are relevant can be raised and considered, however these come secondary to the class plan and benchmarks.
- **Sign Off-** While not required, you may want to have your out-of-scope supervisor sign off the rationale as being reflective of your job assignment. By signing (which may be actual signature, confirmation by email, etc.) the supervisor is not approving the level you are rationalizing, but is verifying that the examples are part of your job assignment. While your supervisor will likely be at the appeal hearing, there is always a chance they may not be able to make it, therefore having as much verified ahead of time is helpful and may eliminate the potential need for verification after the hearing.
- **Role Clarity-** Different positions are often responsible for different aspects of the same program. As a result it is important to ensure that the rationale makes the position's role clear (e.g., between peers and between managers and their staff). Please ensure that the roles and responsibilities provided are indeed those of the position and not of other positions, the branch or the ministry as a whole.

The Panel

Out of scope appeals are heard by the Public Service Commissioners. The Commissioners are appointed by the Lieutenant Governor in Council and are responsible to effectively carry out the provisions of *The Public Service Act, 1998*, and have all powers of commissioners appointed pursuant to *The Public Inquiries Act*. The Commissioners have received comprehensive training on the Management Classification Plan, are well-informed and have experience working with the factors, benchmarks, classification levels, etc.

What to expect at the Appeal Hearing

While formal appeal procedures are followed during an appeal hearing, the panel tries to ensure everyone is comfortable- remember, this is essentially just a meeting where you are trying to convey your assigned duties and opinions in regards to the rating of the position to others.

The panel may be seated together at the end of a table and may have you seated on one side, and the HR Consultant seated across from you. However the panel may also structure the room differently, as the room set up is not dictated. Regardless of the seating structure, when you are presenting, you would typically direct your presentation to the panel, as they are the ones in receipt of the information.

The chair of the panel is the leader at the appeal hearing, and is responsible to ensure the procedures are followed. If an issue arises the Chair will manage the issue in order to maintain professionalism in the room and the integrity of the appeal process.

What to Present at the Appeal Hearing

Delivering the message...

While it is important to make the reasoning behind your decision clear, it is also important to be concise. The appeal panel will have already received and read your appeal rationale. It is now your job to highlight the main aspects of your rationale and make very clear, brief points.

It is very important to be able to speak from bullet points and not read your rationale word for word. Again, the panel has already done this- they want to hear the main points of your argument.

Give Some Background...

The appeal panel will want to know some history on the position so they have the full picture (ex. previous ratings, what changed in the job resulting in the reclassification, etc.). You are expected to be able to provide this information, particularly if it hasn't been included in your appeal rationale. You will want to give a snapshot of your position in regards to how you view it in relation to the factor(s) you are appealing. You will summarize the key responsibilities in regards to what is relevant to the factor at hand that you are about to defend.

What to include/What not to include in your presentation...

Include Benchmarks that you believe are relevant, and explain how your position relates. Benchmarks are the primary basis for comparison; however relativities can also be raised and considered. Again, you will want to highlight the main points as opposed to reading everything they have been sent.

Appellants' briefs often contain "bias", including things that are not measured in the plan, consequence of error, etc. Consultants are trained to recognize bias, however employees are not. It is advisable that you attempt to understand bias as it relates to job evaluation, and try to steer clear of having bias in your presentation.

Job evaluation is about rating the position, not the person in a position. Often appellants will bring up how well they perform their duties. The class plan does not measure this, as performance is handled in other ways in the organization. It is important to recognize this too, so as to not include it in your presentation.

Questions you may be asked

The panel's role is to gather as much relevant information as possible. Often they have many questions about the job, most of which are directed towards the appellant in an effort to gather as much information about the job as possible. These questions are typically reflective of the factor being appealed, and may include things such as real work examples from your day to day responsibilities, authority in relation to other positions, etc.

While unlikely, if you are asked a question that for some reason you cannot answer, you can request to provide your answer shortly after the hearing.

At the appeal hearing, be prepared to answer questions from the Appeal Panel and the Consultant. They may be looking for clarification and explanation of statements you have made. For example, if you have used words in your rationale that are subject to varying interpretation (e.g., assists, coordinates, supports, participates, as required, may, prepares, helps, deals with, handles, etc.) the Appeal Panel will ask you to explain what you mean.

Things to keep in mind about your appeal

The appeal hearing is your opportunity to explain why you feel your position should be assigned a particular rating level, not a forum to "negotiate" a higher level (i.e., arguing for a two level move when you really think the position should be one level higher). Remember, the role of the Appeal Panel is to maintain the integrity of the class plan, not negotiate a middle ground between the level you believe is appropriate based on the assignment and the level the Consultant has assigned.

It is very important to ensure all of the documentation is in place for the appeal, particularly signatures on the job description. It is very important to ensure sign off occurs as this is considered evidence in the appeal.

The appellant or the consultant may call witnesses to the appeal. If you have asked someone to attend the hearing as your witness, be prepared to ask him/her questions to corroborate your rationale. Please remember the witness must be someone who has factual knowledge about your job assignment and is not there to give their opinion regarding the appropriate level of the position, but to answer questions put to them by you, the Appeal Panel, and/or the Consultant. Note: the out-of-scope manager is always invited as a witness.

You may also ask the Consultant questions to clarify statements they have made in their rationale.

Only responsibilities that were assigned to your position as of the effective date of the classification review can be considered at the appeal. The Appeal Panel will not consider any rationale or examples of work related to additional responsibilities assigned since that date. If there has been substantial change to your job

assignment since the review was submitted, the appropriate recourse would be to submit another request for review.

Observers may be in attendance, as appeals are public. Observers have no role other than to watch the appeal.

What happens after the Appeal Hearing?

The Appeal Panel deliberates over the material presented at the hearing. If they require additional information before making a decision on the factor(s), they or the PSC Consultant on their behalf, will ask the employee and/or manager to provide the information. Once the Appeal Panel has reached a decision, they will write rationale for that decision, and notify the employee of the decision in writing within 15 days after the hearing.

SAMPLE APPEAL BRIEF

APPELLANT(S):

MINISTRY:

WORKING TITLE:

POSITION NUMBER:

1. Please identify factors being appealed:

FACTORS APPEALED				
RATING OF FACTORS APPEALED:				

2. Background- what has changed in the job resulting in the classification review?

3. Factor Rationale

Note: Please complete separate rationale for each factor that is being appealed. Good rationale is concise and descriptive. One page or less per factor is sufficient, to a maximum of 10 pages for the entire appeal.

Level Appellant believes job should be rated:

How position meets the higher level definition:

Supporting Benchmarks and Relativities: