



*We speak up for fairness*

Northwest Territories Ombud

# Setting a Good Example

FAIRNESS IN HUMAN RESOURCES (RECORDS OF EMPLOYMENT)

Special Report 03-2022

## From the Ombud

Records of Employment (ROEs) are documents that employers have to give workers after they leave their position, or in some cases when they go on an extended leave. One of the most important uses of ROEs is to allow the person to apply for Employment Insurance (EI). Of course, anyone who is eligible for EI and is no longer getting paid will want to apply as soon as possible, and they need their ROE to do that.



Under federal government regulations, employers must provide ROEs within a specified time, usually 5 calendar days after the first day the employee's earnings are interrupted. This regulation applies to all kinds of employers, from the GNWT and other governments to small family-run businesses to large corporations to non-governmental organizations.

While many employers likely find the 5-day turnaround difficult, of all employers governments should be expected to set an example. Compliance with laws and legal requirements is one of the basic standards of administrative fairness. Public servants should be able to count on their employer to meet that standard.

The Department of Finance is currently responsible for issuing ROEs for public service employees, including the employees of most health and education authorities. Historically, the GNWT has fallen far short of meeting the 5-day timeline, which is documented in its own publicly available reports. The most recent numbers available, from the 2021-2022 fiscal year, indicate that only 39% of ROEs were issued within 5 business days, despite considerable efforts by officials over the last several years to make processes and workflows as efficient as possible.<sup>1</sup>

The report makes three recommendations aimed at ensuring Finance has enough resources and a plan to improve its turnaround time for ROEs and eventually bring itself into compliance with the federal regulations. The Minister's response on behalf of Finance indicates general agreement with the recommendations.

We will provide an update on Finance's progress in a future report.

Colette Langlois  
Ombud

November 2022

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<sup>1</sup> The GNWT reports based on a 5 business day standard. This is a longer turnaround time than the federal regulatory requirement, which is 5 *calendar* days, not 5 *business* days.

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## Introduction

The investigation that led to this report was “own-motion”. This means that it was started on the Ombud’s initiative and was not based on a specific complaint.

The Department of Finance (Finance) is responsible for preparing records of employment for public service employees, including employees of GNWT departments, as well as those of Aurora College, the Business Development and Investment Corporation, Housing NWT, and most health authorities and education authorities.

This investigation looked into whether Finance is in compliance with federal law on issuing records of employment within specified timeframes, and if not, whether Finance is taking appropriate steps to bring itself into compliance with the law.

In this report we provide background on records of employment and how Finance prepares them, present our analysis and findings, and provide recommendations to Finance.

## Principles of Administrative Fairness

The Ombud has a mandate to investigate “maladministration”, or “administrative unfairness”. Guidance on the principles of administrative fairness comes from the *Ombud Act*<sup>2</sup>, administrative law, and from standards that legislative ombuds have developed together.<sup>3</sup>

Standards of administrative fairness can be grouped into three categories: fair decisions (what was decided?); fair process (how was it decided?); and fair service (how was the person treated?).<sup>4</sup> This investigation considered a basic standard of administrative fairness that covers all three of these areas, which is that authorities meet legal requirements.

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<sup>2</sup> S.N.W.T. 2018, c. 19, ss. 33(1).

<sup>3</sup> See, e.g., Canadian Council of Parliamentary Ombudsman (2019). *Fairness by Design: An Administrative Fairness Self-Assessment Guide*. Available at [www.nwtombud.ca](http://www.nwtombud.ca).

<sup>4</sup> For more about administrative fairness, see [www.nwtombud.ca](http://www.nwtombud.ca).

## Background

### Records of Employment (ROEs)

A Record of Employment (ROE) is a document that employers are required to complete under the federal *Employment Insurance Regulations* SOR/96-332 (the Regulations) for any employee receiving insurable earnings who has an interruption in earnings. This happens whenever someone leaves their job permanently, and in some temporary leave situations.

The ROE contains details about the employee's work history with the employer, including when they started working, their insurable earnings and insurable hours, and the reason why they are no longer working.

The Government of Canada's Employment and Social Development website outlines the importance of ROEs as follows:

*A record of employment (ROE) provides information on employment history. It is the single most important document used by employees to apply for Employment Insurance (EI).*

*Service Canada uses the information on the ROE to determine whether a person is eligible to receive EI benefits, what the benefit amount will be, for how long the benefits will be paid and to ensure that no one misuses EI funds or receives benefits in error.<sup>5</sup>*

The website also stresses the importance of accurate ROEs because mistakes can lead to delays in processing EI claims. Employers cannot simply notify Service Canada of errors: they must instead file amended ROEs to correct any mistakes.

### Timelines

The timelines for issuing ROEs are set out in s. 19 of the Regulations. In most cases, ROEs are to be issued within 5 calendar days after the first day of the interruption of earnings.

Failure to issue ROEs on time could result in penalties under the federal *Employment Insurance Act*.<sup>6</sup> Courts have also awarded damages to employees for stress and inconvenience caused by delays in issuing ROEs.<sup>7</sup>

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<sup>5</sup> Retrieved from: <https://www.canada.ca/en/employment-social-development/programs/ei/ei-list/ei-roe.html>

<sup>6</sup> S.C. 1996, c. 23.

<sup>7</sup> See, e.g., *Ellis v. Artsmarketing Services Inc.* 2017 CanLii 51563 (ON SCSM).

## How Finance Produces ROEs

The primary responsibility for preparing ROEs is with the Payroll section of the Financial and Employee Shared Services (FESS) division. FESS falls within the Office of the Comptroller General.

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### How the GNWT Produces Payroll

The GNWT is on a two-week pay cycle, with a one week delay in pay. For example on the July 22, 2022 pay date, employees were paid for the period from July 2, 2022 to July 15, 2022. The Service Canada deadline in this example for an employee who quit between July 2 and July 15, 2022, would be July 20, 2022, which is five calendar days from the end of the employee's final pay period.

The GNWT's cut-off for payroll entries is the Friday of the week of the end of the pay period (July 15, in the above example). Payroll is processed on the following Monday (July 18). On the Tuesday (July 19), the payroll section corrects errors and follows up with employees and managers on any time entry issues. They then turn to preparing the ROEs, to which they allocate two full days.

The Payroll section as a whole, and individual positions, have a specific biweekly schedule to follow for their tasks. Everything must be planned out and carefully followed, because steps need to be completed in a certain order and on specific days to work with the Human Resources Information System (HRIS), which runs a series of processes on consecutive nights.

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### ROE Tasks and Responsibilities

The Payroll section includes a manager, senior finance officers (2), payroll specialists (5), payroll officers (3), and senior accounting clerks (9).

Senior finance officers run the query through the database to identify all the individuals who need ROEs, determine any priorities (e.g., people who have contacted the HelpDesk to ask that their ROE be issued as soon as possible so they can apply for EI, people who have been laid off, and people whose term positions are ending), assign ROEs to the Senior Accounting Clerks, and track their completion.

The HRIS system creates an ROE page for any employee with a termination date during the just completed pay period (July 2 to 15 in the above example), however it remains on hold until it is verified.

Senior accounting clerks do the majority of the calculations and entries for final pays and produce the ROEs. The verification process starts with a pay review for each employee, which includes:

- checking for unprocessed time;
- checking leave and compensatory time balances and manually calculating and entering any payouts the employee is due (for unused leave or compensatory

time) or amounts that need to be recovered from the employee (for leave taken but not yet earned);

- matching timesheet to paycheque data to ensure the employee has been paid correctly;
- ensuring deductions have been made correctly;
- ensuring this is done for all employee records if the employee has more than one record.

In completing the pay review step, senior accounting clerks need to ensure the correct collective or employee agreement terms are applied (e.g., Union of Northern Workers - UNW, NWT Teachers' Association - NWTTA, Excluded Employees - EE, etc.). Further, if an employee changes positions which results in a change to the agreement (e.g., UNW to EE) or pay group (e.g., relief to permanent employee) they belong to, senior accounting clerks need to ensure that the proper changes are applied on the correct date.

Once the pay review is complete, the senior accounting clerk compares their calculations to the system-generated ROE, makes any needed corrections, and adds any payouts that the employee will be receiving. They then take the ROE page off hold, and mark it as ready for submission.

The next step is carried out by the senior finance officers, who run a process to prepare the completed ROEs for loading to the Service Canada ROE site. This process starts with an error report. Once any errors are corrected, the senior finance officers upload the ROEs to the Service Canada website.

### *Exceptions*

Some ROEs have to be prepared and uploaded manually as they cannot be generated by HRIS. This includes all ROEs for teachers, for example, because Service Canada has provided special instructions for their ROEs which HRIS cannot accommodate.

## Investigation Scope and Process

### What we investigated

- Finance's compliance with and efforts to meet the timelines established in s. 19 of the Regulations for issuing ROEs.

### Investigation Process

We reviewed the federal *Employment Insurance Act* and Regulations, Government of Canada websites, Finance reports on human resources and the public service, job descriptions, and applicable case law. We also interviewed 4 Finance officials with responsibilities related to the preparation of ROEs.



## Analysis and Findings

Does Finance issue ROEs within the timeframes prescribed by federal regulation?

Finance reports the percentage of ROEs issued within 5 business days in annual reports titled *Human Resources Services: A Shared Responsibility, Key Performance Measures and Indicators*.<sup>8</sup> This is a standard the Department has set for itself that exceeds the regulatory timeframe of 5 calendar days by at least 2 days (or longer depending on timing of statutory holidays and mandatory leave days). The reported achievement rate for this standard for the last several years is as follows.<sup>9</sup>

2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
28%	18%	47%	82%	81%	61%	19%	26%	39%

While the achievement rate has improved since 2019-2020 from 19% to 39%, this is still a long way from 100%.

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### *Finding #1*

*The most recent available number (for the 2021-22 fiscal year) indicates that only 39% of ROEs were issued within the standard timeframes established by the Department, which themselves exceed federal regulatory timeframes by at least 2 days.*

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Is Finance taking appropriate steps to meet regulatory timeframes for ROEs?

All of the officials we interviewed were aware that Finance is not meeting its own standards or regulatory timeframes for ROEs and take this issue very seriously. They were also mindful of the importance of producing accurate ROEs, as having to reissue amended ROEs has a negative impact on both the individual who needs the ROE and

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<sup>8</sup> Available from the Finance website: <https://fin.gov.nt.ca>

<sup>9</sup> The most recent number was provided by a Finance official.

the Payroll section's workflow. Finance regularly receives complaints about late ROEs through the HR HelpDesk platform, over the phone, and via MLA offices.

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### Challenges to improving timelines

Meeting regulatory timelines would be impossible without significant changes to the GNWT's payroll system.

Officials identified a number of challenges to meeting Finance's own standard timeline of 5 business days.

#### *Increasing payroll workload volume*

From 2017-18 to 2021-22, the number of employees the payroll section was responsible for rose by 1,161 from 5,091 to 6,376, a 25% increase. Although some of most recent increases can be explained by COVID Secretariat operations and other pandemic related staffing, which have now ended, the remaining increase is still considerable. This affects all payroll tasks, including ROEs. The structure and number of positions in the payroll section has not changed over that period.

#### *Time required to prepare accurate ROEs*

Staff advised us that it takes from 45 minutes to 90 minutes to complete an accurate final pay review and ROE. The Payroll section completed 4,089 ROEs in 2020-21. Using an average of 60 minutes per ROE, this would require each of the 9 senior accounting clerk positions to spend 454 hours or approximately 65 work days (factoring in two fifteen-minute breaks in a 7.5 hour work day) on ROEs alone. Senior accounting clerk positions currently have two days per pay period to work on ROEs, which works out to approximately 52 work days per year. This leaves a shortfall, under ideal conditions, of 13 work days per position, or 117 work days overall. The actual shortfall is substantially higher due to vacancies, leave, onboarding and training of new staff, and compressed work schedules during some pay periods that fall over statutory holidays or mandatory leave days.

Staff advised us that they did not believe it was possible to streamline the process any further without sacrificing accuracy. They also observed that payroll staff were working at full speed and completing as large a volume of work as possible.

#### *Skill level needed to prepare accurate ROEs*

Officials described the preparation of final pay reviews and ROEs as a specialized and "intense" task that requires substantial training. Some staff noted that even employees with senior accounting clerk experience in other sections of Finance found ROE preparation challenging because of the specialized nature of the task and the high workload demand.

#### *Vacancies and turnover*

The section has struggled to keep all of 9 its senior accounting clerk positions filled. At the time we conducted our interviews, 3 of the 9 positions were vacant. One challenge officials identified is that while the senior accounting clerks in payroll have the same job

title and pay rate as senior accounting clerks in other sections of Finance, their work is significantly more complex and demanding. The current job descriptions indicate that their role is primarily data entry, which is not the case for the senior accounting clerks in payroll. Officials told us that some experienced staff have left for other positions because they did not feel staying in payroll was worth the extra demands and challenges.

#### *Inaccurate data entry by employees and supervisors*

The HRIS is a self-serve system: employees make their own entries, and supervisors approve them. Errors and oversights by employees and supervisors contribute to late ROEs. Two examples are supervisors failing to submit resignation acceptances on time and employees and supervisors failing to enter and/or approve leave before the termination date.

#### *Other complicating factors*

Other complicating factors over which the payroll section has no control include the overall number of positions it is responsible for, and especially the number of positions filled on a casual or term basis. Very short-term employment contracts (e.g., locum nurses with one-week terms) are especially hard to manage, because the term may already have ended by the time the employee has access to HRIS to enter their hours.

Another factor is the number of specific terms in collective and employment agreements that HRIS cannot process automatically, and which require manual entry and review by staff. Further, the agreements allow for employees to be advanced leave. If employment ends before the used leave credits are earned, the overpayment to the employee has to be calculated and processed before the ROE can be issued. Overpayments require that a senior accounting clerk prepare an “adjust card,” a letter to the employee, and an invoice which have to be reviewed and approved by both a senior finance officer and the section manager.

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#### Efforts to improve timelines

The Department has explored and continues to explore a number of avenues to improve its timelines for issuing ROEs. These efforts have contributed to a doubling of standard achievement rates since 2019-2020.

Specific measures taken include:

- Reviews by payroll management, staff and outside consultants to establish the most streamlined process possible for ROEs;
- Dedicating two full days per pay cycle for ROE completion by senior accounting clerks;
- Creation of templates, checklists, and step by step guides for senior accounting clerks;
- Assigning senior finance officers the responsibility of assigning ROE files, flagging priorities, and tracking completion (prior to this change ROE files were

assigned to senior accounting clerks based on alphabetic intervals and employee last names);

- Active efforts to fill vacancies, most recently through the new Indigenous Recruitment Program;
- Delaying less urgent tasks to focus on ROEs (which leads to backlog in other areas); and
- Offering overtime hours to existing staff.

Measures still under consideration include:

- Department-wide strategic efforts to streamline other processes which could free up more staff time for ROE preparation;
- Reallocating work tasks between positions;
- Continuing to monitor technological developments for potential new solutions;
- Hiring outside contractors to help clear backlog.

Officials agreed that due to the training and specialized knowledge requirements, hiring casuals to assist with ROE preparation was not feasible, except in a few exceptional cases when an individual with previous experience is available. Cross-training senior accounting clerks from other sections of Finance also has not worked for the same reasons.

During the period between 2016 and 2018, Finance experimented with eliminating the pay review step before generating ROEs. While this greatly improved the Department's initial standard achievement rate, which reached a peak of 82% in 2016-2017, it also led to a substantially greater number of errors requiring amended ROEs. This delayed affected employees' EI claims, and also created additional workload and complications for the Payroll section that continue to have impacts today.

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#### *Finding #2*

*Finance has made significant efforts and taken measures that have substantially improved timeframes for issuing ROEs, which has contributed to a substantially improved standard achievement rate of 39% for 2021-2022. While Finance continues to explore additional measures within its existing resources, 39% is still far short of 100% achievement of its own standard, let alone regulatory timeframes. It is unlikely that Finance will attain that standard without additional staff resources, especially in light of the increasing volume of employee/payroll files.*

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## Recommendations

1. It is recommended that by March 31, 2023 Finance review current staffing levels in the Payroll section to ensure it has sufficient personnel to prepare ROEs within its own standard timeframes.
2. It is recommended that by March 31, 2023 Finance review and re-evaluate the job descriptions of positions in the payroll section involved in preparing ROEs to ensure that they accurately reflect the scope, responsibilities, knowledge and skills required for the positions.
3. It is recommended that Finance begin considering long-term options that would eventually make compliance with federal regulations possible.

## Appendix A

### Response from Education, Culture & Employment



October 24, 2022

Ms. Colette Langlois  
Ombud  
Office of the Northwest Territories Ombud  
5-6 COURTOREILLE STREET  
HAY RIVER NT X0E 1G2

Dear Ms. Langlois:

**Report – Your file #OM 02-22**

Thank you for the opportunity to respond to the report's recommendations.

The Department of Finance agrees in general with the three recommendations you have provided and we will endeavor to meet the proposed timelines. Below I have outlined our specific response to each of the three recommendations.

- 1. It is recommended that by March 31, 2023 Finance review current staffing levels in the Payroll section to ensure it has sufficient personnel to prepare ROEs within its own standard timeframes.**

We will continue to review our staffing levels and continue to build capacity in our payroll unit. Building capacity and filling vacancies has been a priority for the division for all units. We agree that staffing levels must be sufficient to prepare ROEs within the standard timeframes and will continue to endeavor to meet this objective.

- 2. It is recommended that by March 31, 2023 Finance review and re-evaluate the job descriptions of positions in the payroll section involved in preparing ROEs to ensure that they accurately reflect the scope, responsibilities, knowledge and skills required for the positions.**

We agree that this is important work and has been part of the division's work plan. If, and when, we determine changes are required to job descriptions, it will likely take longer than March 31, 2023 to complete as there may be other impacts of this within the division and elsewhere and so these cannot always be done in isolation.

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**3. It is recommended that Finance begin considering long-term options that would eventually make compliance with federal regulations possible.**

We agree it is important to improve the overall results of transaction processing for records of employment. We will work towards meeting the timelines in federal regulations as quickly as possible and continue to keep it as a priority for the division and the department.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

Caroline Wawzonek  
Minister of Finance

- c. William MacKay  
Secretary to the Financial Management Board/Deputy Minister, Finance