

No end in sight for Phoenix pay fiasco

The Chronicle Herald

Andrea Gunn

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The drawn-out Phoenix pay system fiasco has federal government employees at the end of their ropes — and their purse strings.

Anne Little, a Department of National Defence employee living in Halifax, finished 35 years of federal service in February and should have gotten a break on her paycheque of about \$200 since she no longer had to pay into her pension.

She had planned to use that money to pay off some debts so she could retire in a year and she and her husband, who has spent the last 10 years dealing with bladder cancer, could enjoy some much-needed leisure time together.

But for Little, that extra \$400 a month never came.

“That was my plan, but unfortunately Phoenix doesn’t care about my plan,” she said.

“We really want to travel and do little things that we haven’t had time for. Those are the things that are going to be pushed back.”

Little estimates she is owed around \$2,400 so far, and said she’s tried everything to get some answers on her file — repeatedly calling Phoenix, writing her MP Andy Fillmore, and even writing the prime minister.

She’s gotten some sympathetic responses and promises to look into her file, but no solutions.

“Still I go in and check my compensation web every second day and there’s nothing there,” she said.

“I don’t feel I should have to beg for money that’s legally owed to me.”

Little said in her department, people are even refusing to log their overtime hours in the system out of fear of getting their paycheques tangled up in the web of errors plaguing the system.

“I’m actually gobsmacked no one has just walked off the job, and I think that if we did they’d have to do something,” she said.

Donna Henderson, another DND employee, who lives in Ottawa, has a similar story. Her issues with Phoenix started immediately after the system was launched back in February of 2016.

Her first paycheque on the new system only paid her for a single hour when she should have been paid for 75.

“I let it slide thinking it would be corrected immediately. Next pay I received zero for pay,” she said.

It took six weeks for her to finally get paid, but because that six weeks’ pay was sent to her in one lump sum, it put her into a higher tax bracket, causing her to receive \$1,000 less than she would have if her pay had been deposited in three separate transactions.

Then, this past January, Henderson said a clerical error that swapped her place of employment from Ontario to Quebec created havoc. She said Phoenix deducted taxes from both provinces and for some reason began deducting CPP again, although she has been collecting CPP, not contributing, for several years.

Henderson doesn’t need more stress.

Her husband is terminally ill with lung cancer and has been on life support three times since December.

“Right now I am only carrying Level One hospital insurance. This means if you go to the hospital you have to go on a ward or pay \$225 per day of your hospital stay. I can’t even get my insurance increased from Level One to Level Two as the payment has to go through Phoenix,” she said.

Desperate to get paid the money she was owed, Henderson said she has made numerous attempts to contact to Phoenix, her MP, the prime minister’s office, and her union.

“If you phone the pay centre you are blocked from speaking to a pay specialist,” she said.

“They basically tell employees that someone will get back to them and that never happens.”

She said her emails and calls to her MP and the prime minister have been returned with “touchy feely” responses, but she doubts they’re even getting read.

Finally, Henderson said, she had a friend and employee at the Phoenix pay centre fix her issue in about 15 minutes at the risk of losing her own job.

“It is totally ridiculous how we are being treated ... There are thousands and thousands of employees with pay issues. They are afraid to speak up for fear of reprisal from the department.”

Henderson said she knows of employees coming back from maternity leave who are not put back on the payroll, summer students who haven’t been paid at all, causing them to lose their apartments and struggle with tuition, and employees that are not able to pay their taxes and are in jeopardy of losing their homes.

Henderson’s son, another DND employee, is also having pay issues and is owed money from his employer.

“This has been going on for too long and there is no end in sight,” she said.

Responding to a media request from The Chronicle Herald, Public Services and Procurement Canada, the department handling the Phoenix file, said the department doesn't break out data on affected cases by province, but said as of early June there were approximately 265,000 transactions outstanding at the Public Service Pay Centre. This total takes into account pending pay transactions minus the usual transactions that are processed within a single month.

The last update by government to the public on the issue was in June when that figure was released.

In May, PIPSC, the the union representing more than 50,000 federal employees, filed two policy grievances against the federal government in addition to the hundreds of individual grievances. PSAC, another union representing public servants, along with a number of smaller unions, had initially filed a lawsuit against the federal government via the Treasury Board, but agreed in December to put it on hold.

Also in May, the government announced it would spend \$142 million over two years to hire 200 additional temporary workers to try and resolve issues for the tens of thousands of public servants that have had their paycheques affected. This brought the total amount spent by the federal government to fix the Phoenix system fiasco higher than the original cost to implement it.

Nova Scotia MP and Treasury Board president Scott Brison is one of six named to a ministerial working group formed in April to address Phoenix pay issues. The Chronicle Herald was unable to schedule an interview with him to discuss Phoenix.

In an emailed response, a spokesperson from Public Services and Procurement Canada said the pay issues currently being experienced by public servants are unacceptable and that the department is working collaboratively at all levels to resolve them.

“Ensuring all employees are paid the money that they have earned remains our priority. We are making the investments necessary and working tirelessly to ensure that pay issues are resolved as quickly as possible.”

Ottawa rejecting many expense claims from public servants with Phoenix payroll problems

One unpaid employee asked for \$1,042 to cover interest charges and was paid back \$6.76

CBC News

Ashley Burke

July 26, 2017

Federal government officials promised they would reimburse public servants for out-of-pocket expenses directly caused by Phoenix payroll woes, but the government is denying much of what's being claimed by employees, documents show.

Given the magnitude of the Phoenix payroll problem, the Treasury Board of Canada Secretariat created a process last September to pay back workers for expenses such as interest charges on credit cards, bank penalties from insufficient funds and fees for withdrawing investments early.

Documents obtained under the Access to Information Act show that over an eight-month period between September and April, civil servants submitted more than 460 expense claims totalling more than \$430,000.

Less than \$44,000 had been reimbursed by the government, about 10 per cent of the amount public servants had asked for, records show.

CBC News has not been able to determine the exact reasons why the claims have been rejected.

The Treasury Board of Canada Secretariat (TBS) said some of the claims have been denied because workers wanted to be reimbursed for outstanding balances on credit cards, car payments, and medical or dental fees. Other claims were rejected because workers requested reimbursement for missing out on investment opportunities. In some cases, claims for interest on credit cards or lines of credits exceeded the net amount owed to the employee.

"For example, if an employee is owed \$1,000 but submits a claim for interest on a credit card balance of \$5,000, only a partial payment on that claim will be made based on the \$1,000 the employee is owed," wrote the Treasury Board in a statement to CBC News.

The most common claims approved or partially reimbursed are for accrued interest charges, banking fees and accounting fees, according to TBS. Claims for late payment charges, penalty fees and private insurance premiums have also been paid, it said.

Cases vary

Emmanuelle Tremblay, president of the Canadian Association of Professional Employees, said she wants the government to fully explain why some workers are only receiving a fraction of the money they requested.

"If the employer's basically turning around and saying, 'You know what, I'm going to be cherry picking what I reimburse and what I don't reimburse,' — it's unfathomable," she said. "Wow, what a slap in the face this represents for our members."

The record of claims obtained by CBC News reveals reimbursements varied dramatically from one case to another.

A Parks Canada worker who wasn't getting paid asked for more than \$1,042 to cover interest charges. But the government only partially approved this request and paid back \$6.76, according to the claims log.

In another case, an Environment and Climate Change Canada employee submitted a claim for close to \$7,000. It was to cover banking fees, penalties and interest charges that resulted from not

being paid properly, according to the claim. The government denied the request entirely, according to the documents.

A Health Canada worker in a similar situation was reimbursed for the full amount that was claimed, \$528.

The Treasury Board said claims cannot be compared to each other, and are assessed individually on their own merits. Considerations include how much pay workers were shortchanged, whether or not they received an emergency salary advance, and whether or not their claim was based on debt exceeding what they were owed in missing pay.

Officials also try to provide the benefit of the doubt and help workers find ways to verify claims when documents are not provided, TBS added.

'It's pretty discouraging'

For public servants in the process of filing claims, it's raising concerns.

"I'm shocked," said public servant Caroline Guay who is working closely with her bank to submit a claim. "It's pretty discouraging to see that 90 per cent of this is not being addressed."

Guay has racked up "a massive amount of debt" during her 15 months dealing with Phoenix pay problems. Some months she was shortchanged up to \$700 a paycheque, which forced Guay to dip into her line of credit that was supposed to be for renovations on her home. She also increased the limit on her credit cards and paid extra interest.

Today she's expecting to finally see her first accurate pay cheque. She's "delighted," but said there is still a "Phoenix cloud" hanging over her that she wants to be compensated for so she can get out of a financial hole.

"We know we're not going to get compensation for the anxiety and stress, but it would be nice if they would just cover the interest we've had to incur because of debt," said Guay.

Half of claims fully reimbursed

In response to a request for more information, the Treasury Board of Canada Secretariat provided CBC News with an updated number about how many cases have been handled.

As of June 26, nearly 1,000 claims have been filed for out-of-pocket expenses as a result of the Phoenix pay system.

Fully paid: 52 per cent.

Partially reimbursed: 32 per cent.

Fully denied: 12 per cent.

In progress: 4 per cent.

'There are criteria'

Treasury Board president Scott Brison said "it is our desire and intention to help" with out-of-pocket expenses caused by Phoenix.

"There are criteria that have to be met to qualify," Brison told CBC in Nova Scotia. "We believe those criteria are fair."

The criteria include proving that Phoenix is responsible for losses. Claims before Phoenix was implemented are not eligible. Emergency salary advances also may affect cases. The department said each claim is assessed on its own merits.

"It is completely unacceptable for public servants to either be paid inaccurately or not on time," said Brison. "We are frustrated and we will fix the Phoenix pay system. It has been one of the most difficult, IT systems issues that any government has had to deal with."

Immigration: le système de détention est légal, mais pas appliqué parfaitement

La Presse Canadienne

26 juillet 2017

Le juge Simon Fothergill a statué qu'il y avait déjà des mécanismes dans la loi pour permettre aux détenus de contester la raison de leur détention et leurs conditions, ce qui rend le système constitutionnel.

Dans sa décision rendue mardi, le juge Fothergill a constaté que ces normes n'étaient cependant pas respectées en tout temps. Selon lui, les problèmes proviennent de l'administration du système, et non du système lui-même.

La contestation constitutionnelle avait été déposée par Alvin Brown, un Jamaïcain qui est resté détenu pendant cinq ans avant d'être déporté l'année dernière.

Le père de six enfants et ceux qui l'appuyaient arguaient que ces étrangers qui ne peuvent être déportés immédiatement pour une série de raisons sont soumis à un traitement inhabituel et cruel, soulignant qu'ils pouvaient passer des années en prison sans connaître la date de leur libération.

M. Brown voulait que le tribunal déclare inconstitutionnelle une détention dépassant les six mois avant la déportation et demandait d'imposer un « plafond strict » de 18 mois de détention.

Le juge Fothergill a suggéré qu'un tribunal de plus haute instance détermine si la Charte canadienne des droits et libertés dicterait une limite de temps pour la détention, et a accepté que le dossier soit porté en appel.

Une bataille à long terme

L'avocat de M. Brown, Jared Will, dit avoir été déçu par la décision de la cour.

L'organisation End Immigration Detention Network, qui était l'une des parties dans cette affaire, a dit être prête à continuer la bataille judiciaire.

«C'est seulement une autre étape, nous étions là pour le long terme», a affirmé l'avocate du groupe, Swathi Sekhar. «Entretemps, des gens continuent d'être détenus indéfiniment alors c'est important, aujourd'hui plus que jamais, maintenant que ce sujet est mis en lumière, que la population ouvre les yeux et fasse pression sur le gouvernement pour que ça change.»

M. Brown est arrivé au Canada lorsqu'il était enfant, il y a plus de 30 ans, et s'était fait retirer sa résidence permanente en raison d'une série de condamnations, liées notamment à la drogue et aux armes.

Il avait été libéré au début de 2011, mais les agents douaniers l'avaient arrêté quelques mois plus tard parce qu'il avait violé ses conditions.

La Jamaïque avait toutefois refusé pendant un certain temps de fournir des documents de voyage pour M. Brown, et celui-ci est demeuré détenu à un établissement à sécurité maximale.

Il a finalement été déporté en septembre.

Hundreds of thousands of Phoenix cases still outstanding

Pay centre reduced cases by 18,000 cases last month but backlog still sits at 228,000

CBC News

July 27, 2017

As hundreds of thousands of Phoenix-related cases sit waiting to be resolved, the federal government is struggling to clear the backlog as new cases keep flooding in.

According to numbers released Thursday by Public Services and Procurement Canada (PSPC), its pay centre in Miramichi, N.B., processed 89,000 between June 29 and July 26.

The pay centre, however, also received 71,000 new cases during that period — so the net reduction of cases related to the civil servant pay system was only about 18,000.

That means that as of July 26, there were still roughly 228,000 outstanding Phoenix cases requiring resolution, PSPC said in its update.

At the beginning of June, there were 265,000 cases needing help.

Since the federal government launched the consolidated pay system in February 2016, tens of thousands of public servants have found errors on their paycheques.

Federal workers, retirees, students and employees on leave have reported being overpaid, underpaid or not paid at all.

PSPC is promising to issue monthly updates on how quickly the pay centre is processing the backlog of outstanding Phoenix cases. Their numbers have been rounded for the sake of clarity, the department said.

The government has estimated it will cost more than \$400 million to fix the troubled pay system.

Justice Canada to overhaul litigation management software

CBA

Justin Ling

July 27, 2017

The federal Justice Department is on track for a big software update.

It posted a request for information this week, seeking software developers to propose a new solution for their litigation management programs.

That new software, which will replace the current tools, would be designed to search, tag, and preserve documents in various government systems and mark them as relevant for ongoing litigation. The ideal legislation would also be able to archive and crawl webpages, monitor sites for changes, store legal research on the issue, and centralize all relevant information on a chosen case.

The new software would be used to manage workflow and discovery for the 2,000 employees of Justice dealing with some 42,000 litigation cases each year.

The aim is to get the new software online by April, 2020.

The request for information notes that the department has a pretty particular need for a heavy-duty program that can manage scores of documents in a workable way — the department figures a case could range anywhere from 500 to over one million documents.

And considering that Justice is often dealing with other departments on litigation, the transfer of information can be less-than-satisfactory.

“In the current state, client departments that deal with [Justice] on a litigation matter do not benefit from direct connectivity between their own network and [Justice], and documents are typically not electronically exchanged other than by email,” the request for proposals reads. This software will, if the department gets what it is looking for, change that.

The new anticipated new software might not be flashy, but it is a part of an overhaul at Justice — and one that is being mirrored government-wide.

Justice Canada already announced last year that it would also be creating a new case management system that would handle all of the department’s ongoing files. The litigation management software will, they hope, plug right into that.

Technological updates have been causing some anxiousness in Ottawa as of late. An effort to update the pay management system for government employees — dubbed “Phoenix” — went south, as the buggy system has struggled to issue pay cheques to hundreds of thousands of federal employees.

Efforts to centralize departmental servers with Shared Services Canada has similarly been difficult, with the Supreme Court threatening legal action, should it be forced to move its servers under the purview of the executive — a threat that proved effective, as the government opted to let the top court decide for themselves what to do with their computer systems.

Ready for robot lawyers? How students can prepare for the future of law

From algorithms and artificial intelligence to smart contracts, technology will transform the legal profession.

Rachel Hall

The Guardian

July 31st, 2017

There was a time when law firm trainees were essentially glorified administrators. They filled their days with photocopying, pagination and trawling through documents. Now, computers do those mundane tasks much faster and without complaint. As law firms increasingly resemble tech companies, it’s up to law students to keep up with the pace of change – and to prove that trainees still have a role.

Understanding the impact of artificial intelligence and machine learning on legal services could set applicants apart when competing for legal training contracts, says Christina Blacklaws, director of innovation at Cripps LLP.

Students will have to put some of the work in themselves, though. Blacklaws thinks law degrees have fallen behind when it comes to equipping graduates with the skills they need. “Some universities are grappling with these issues, but I think they’re in the minority,” she says. “Most universities continue to teach a traditional curriculum, which was fine up until a few years ago, but might not properly prepare young people.”

This isn’t a problem limited to law. Graduates in most subjects are likely to find themselves working more with computers, algorithms and automated systems than their predecessors, and, relative to their peers, budding lawyers need not panic yet. A 2013 study on the future of employment (pdf) examined the risk of algorithms replacing different jobs over the next 20 years, and calculated that lawyers had only a 3.5% chance of losing out to robots. This compares with 94% for paralegals.

The reason is that algorithms are good at making decisions that are more or less binary – judges, for instance, have a 40% chance of replacement. According to Andrew Murray, a professor of technology law at the London School of Economics, lawyers must give advice which presents a number of views taking account of complex issues, and “that’s more difficult to programme”.

Some aspects of lawyers' jobs are more vulnerable to change than others. While algorithms are effective at processing data, they're weaker in areas requiring emotional intelligence and human judgment. Complex areas of statutory law, like tax, will benefit from technology's superior processing skills – but humans will probably always be better at negotiating deals, mediating disputes, or making ethical judgments.

If they won't replace lawyers entirely, however, algorithms will certainly shape legal work of the future. Day-to-day laws and rules will increasingly be enforced through algorithmic regulation, which uses an automated system to police everything from dangerous driving to market fraud.

“This changes the role of the lawyer,” Murray says. “An algorithmically-regulated self-driving car would theoretically be unable to speed or to breach dangerous driving laws. This means we will reduce towards zero criminal prosecutions for driving.”

Murray envisages the lawyers of the future as setting rather than enforcing the rules, working together with programmers to ensure the algorithms are properly written.

Technology is also likely to transform dispute resolution. The physical courtroom where all parties congregate will be replaced with virtual courts. Ebay's resolution centre, although not legally binding, already uses online platforms to resolve consumer protection disputes. Murray thinks that algorithms will replace judges in some cases, with documents written in machine-readable code, such as self-enforcing smart contracts. The lawyer will move from litigating the dispute to programming smart contracts from the outset.

Law students looking to take advantage of these changes might consider an internship with large tech companies such as Facebook or Google, Murray suggests: “It shows an awareness of a developing client base.” They should also inform themselves about future clients in emerging areas such as virtual reality, robotics and artificial intelligence.

Students might also look to media companies, where the shift online has spawned new legal dilemmas. Ian Walden, professor of media law at Queen Mary University of London, explains that what was once a “relatively clean subject” has been blurred by the rise of social media and services that span multiple regulatory areas, such as Netflix – which can be classified as both broadcaster and online programme service – and YouTube, which offers both user-generated content and broadcasted programmes. Much of Walden's work as a solicitor involves determining which regulatory regime applies to new services.

Media law is being further shaped by new approaches to privacy. “What we may have considered private 20 years ago wouldn't be now, because it would be regularly disclosed on a public-facing website,” Walden says.

Data protection is superseding privacy as the central area of media law, with a raft of new EU rules coming into force in 2018. This includes a new right to be forgotten, which Walden notes is

“of considerable concern to media outlets”. The BBC has set up a new department to deal with requests for information to be taken down.

Walden suggests that students interested in these emerging areas should seek out law courses with modules on media, internet, cyberspace and data protection. Advertising is another area he recommends, since it’s a critical online revenue stream.

But law students should remember that a degree is an academic, rather than vocational, programme. Murray advises against selecting modules solely on the basis that they might be useful down the line, and suggests students wait until they undertake vocational training in their Legal Practice Course (LPC).

“The best route to getting a training contract is to have a really good academic background,” he says. “Study things you’re interested in – whether it’s family or commercial law – because I believe that’s how you’ll perform best.”

The crucial thing law students can do is manage expectations. Their workplaces are unlikely to resemble the courtroom dramas they watched on television growing up. “Students shouldn’t be seduced by the Rumpole of the Bailey-type concept of law,” Blacklaws says. “Young people need to expose themselves to the current practice of law, which is evolving so rapidly. The legal profession is very different to how it was five years ago, let alone 10 or 20.”