

**Nova Scotia Office of the Ombudsman**  
**2023-2024 Annual Report**



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Ombudsman Annual Report 2023-2024  
Office of the Ombudsman  
November 2024

November 28, 2024

In accordance with subsection 24(1) of the *Ombudsman Act*, chapter 327 of the Revised Statutes of Nova Scotia, 1989, and section 28, subsections (1) and (2) of the *Public Interest Disclosure of Wrongdoing Act*, Chapter 42 of the Acts of 2010, I present, through the House of Assembly, the annual report on the exercise of my functions under these acts for the fiscal year ending March 31, 2024.

Respectfully,

A handwritten signature in blue ink, appearing to read 'CBrennan', with a stylized flourish at the end.

Christine Brennan  
Ombudsman



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## ABOUT THE OFFICE

### Mission

Promote the principles of fairness, integrity, and good governance.

### Role and Mandate

Ensure government decisions and processes are fair, consistent, and transparent. Our mandate applies to individuals who receive services from, or are impacted by, provincial and municipal government.

Provincial government employees and members of the public have an avenue to submit allegations of government wrongdoing to the Ombudsman under the *Public Interest Disclosure of Wrongdoing Act (PIDWA)*.

### Administration

The **Office Manager** fulfills administrative and business functions and is a member of the Occupational Health and Safety Legislative Committee.

The **Complaint and Assessment Analyst** provides initial intake, assessment, and referrals, and creates records of all inquiries.

The **Records Analyst** manages the Office's program of records control and retention, adhering to provincial STAR/STOR standards.

**Managers** and the **Deputy Ombudsman** supervise staff, oversee investigations and business operations, and provide advice to the Ombudsman.

### Investigation and Complaint Services (I&CS)

**Ombudsman Representatives** conduct investigations, including Own-Motion and systemic reviews.

The unit addresses departmental services, adult corrections, municipal services, and many other inquiries and complaints.

Staff also provide regular outreach visits to Persons in Custody and staff in provincial correctional facilities to advise of our services and discuss complaints in person.

### Youth and Seniors Services (Y&SS)

Ombudsman Representatives review, investigate, and report on the concerns of children, youth, parents, guardians, and staff in relation to all provincial and municipal government child and youth serving programs and systems services; with an enhanced outreach to those living and working in provincial child and youth residential care and custodial facilities.

Ombudsman Representatives examine issues and complaints affecting senior citizens, particularly those who reside in provincially licensed long-term care (LTC) facilities.

Staff also provide regular outreach visits to Child and Youth Caring Programs (CYCPs), Wood Street Centre Campus, the Nova Scotia Youth Centre (Waterville), and the Cape Breton Youth Detention Facility (Glace Bay).

The Ombudsman is an executive member of the Canadian Council of Child and Youth Advocates (CCCYA).

## Human Resources

The Office of the Ombudsman is committed to providing a workplace that is free of discrimination and promotes equality of opportunity for all persons seeking employment with the Office.

The Office has a staff of 17 full-time positions, including that of Ombudsman, carrying out many investigations, including those of a more significant and in-depth nature during the course of the year.

Office of the Ombudsman staff sit on the following committees:

- Pride Nova Scotia Government Employee Network
- Nova Scotia Disability Employee Network
- Child Death Review Community of Practice

## Training and Professional Development

This year our staff participated in the following training and development opportunities:

### Internal Government and Public Service Commission Training

- Management and Leadership Development Programs
- Respectful Workplace
- Diversity, Inclusion & Employment Equity
- Privacy & Access Awareness
- First Aid/CPR & OHS
- Mental Health First Aid
- Managing Unreasonable Conduct by a Complainant

### External Training

- Participation in programs conducted by the National Centre for Truth and Reconciliation
- Staff presentation at the International Summer Course on the Rights of the Child 'Ombudsman Youth Council: A Platform for Youth Voice in NS'
- Collaboration with UK Parliamentary Health Services Ombudsman – Outreach and Increasing Youth Engagement
- Staff participation in the International Community of Practice inaugural meeting
- Conducting presentations to NSCC Child and Youth Care Program
- Participation in other Provincial Webinars & Presentations, with the:
  - Office of Workplace Mental Health
  - Canadian Council of Parliamentary Ombudsman
  - Nova Scotia College of Social workers
  - Other Provincial Ombudsman Offices

## Finances

The Office of the Ombudsman's 2023-2024 Budget is shown in Figure 1.

Figure 1

<b>BUDGET</b>	<b>EST</b>	\$2,167,000
	<b>ACT</b>	\$1,956,900
<b>NET PROGRAM EXPENSES</b>	<b>EST</b>	\$260,000
	<b>ACT</b>	\$226,600
<b>SALARIES AND BENEFITS</b>	<b>EST</b>	\$1,979,000
	<b>ACT</b>	\$1,865,700
<b>LESS CHARGEABLES</b>	<b>EST</b>	-\$72,000
	<b>ACT</b>	-\$135,500
<b>STAFF (FTE's)</b>	<b>EST</b>	17
	<b>ACT</b>	16.97

## Implementation of Recommendations

As part of our specialised youth services, our Office receives annual reports from the Department of Community Services on the Therapeutic Quiet Room (TQR) usage at Wood Street Centre, Secure Care and Long-Term Treatment programs. In February of 2018, we received a copy of the annual review of the TQR at Wood Street Centre Secure Care and Long-Term Treatment, which listed all usages of the TQR within the 2017 calendar year. As part of our review of TQR usage at Wood Street Center Secure Care, TQR usage reports as well as relevant policies were examined. Specifically, the Secure Isolation which required Critical Incident reports to be completed and forwarded to the Facility Manager and then sent to the Director of Child Welfare and Residential Services for review when a placement in TQR exceeded three hours.

The February 2018 review by Ombudsman Representatives of the 2017-2018 Wood Street Center Secure Care TQR Annual Report identified the following areas of concern:

- Documentation indicated that one youth was placed in the TQR 164 times in a seven-month period, totalling 287 hours and 46 minutes, accounting for 51.9% of the total usage of the TQR at Wood Street Centre Secure Care.
- Another youth was documented as spending over 20 hours in the TQR in relation to one incident.
- Documentation reflected that other youth residing at Wood Street Centre Secure Care were spending up to a total of eight hours in the TQR within a day. While this time was spread amongst numerous placements that did not exceed three hours at one time, it identified the need for a cumulative time standard.

In subsequent meetings and discussions with the Department of Community Services, the following were recommended and accepted:

1. TQR usages which exceed three hours in length will be reported to the Office of the Ombudsman, in addition to the other individuals notified as per the Secure Isolation Policy.
2. Consideration of implementing a cumulative time limit for TQR placements which trigger reporting, as per the Secure Isolation Policy.

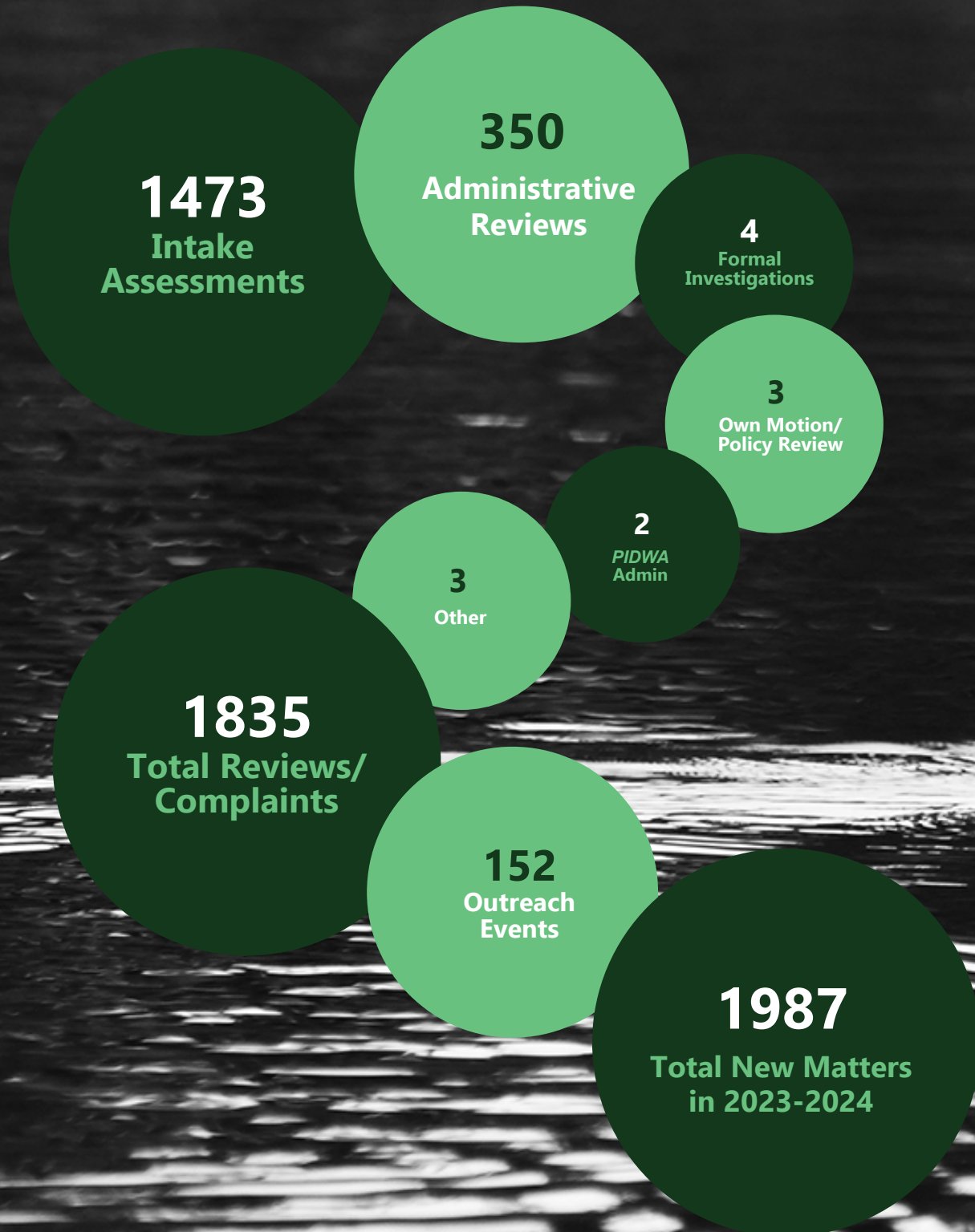
An update provided in June 2019 indicated that the Department would be conducting a program review of the usage of TQR, scheduled for completion by September 2019. In May 2020, our Office was informed that a draft of an action plan was “nearly finalized.” After numerous follow ups and requests for meetings, and the ongoing impact of the COVID-19 pandemic, the finalized document was provided in March 2023.

Upon reviewing the TQR Review Report and the associated action plan, it appeared that neither of the recommendations issued by this Office were actioned. A meeting was held between the Ombudsman Representative involved in this file and two Directors of the Department in June 2023. It was acknowledged during this meeting that the recommendations issued by this Office in 2018 were reasonable and important to be implemented. In October 2023, the Department confirmed the implementation of the following, effective immediately:

1. The Office of the Ombudsman will receive notification by email for any TQR placements that are three hours or more for any single seclusion.
2. The Office of the Ombudsman will be notified by email at the end of each month of any accumulative time for a youth in the TQR within a 24-hour period which equals three or more hours.

## Reviews/Complaints/Meetings

Figure 2



## Results of Complaints and Inquiries

Figure 3

966

**Assistance Rendered:** When this Office makes efforts to assist the complainant, but the matter has not progressed to the formal stages of investigation

41

**Resolved:** Through significant effort by this Office the complainant's concerns are addressed, and reasonable resolution has been reached (e.g. Formal Recommendations are issued to address the concern)

23

**Properly Implemented:** Review / Investigation of the complaint is undertaken, and it is determined that the respondent has followed policy and procedures

103

**Discontinued by Complainant (Withdrawn):** When a complainant decides to disengage from the investigation of the complaint

16

**Discontinued by Ombudsman:** When the Ombudsman, or their designate, determines a complaint will not be investigated (e.g. when a complaint is malicious or vexatious in nature or a complainant is seeking reinvestigation of a matter that was already addressed by this Office)

618

**Non-Jurisdictional:**

- Court or Tribunal
- Elected Officials
- Federal
- Private Matter
- Self-regulating body

69

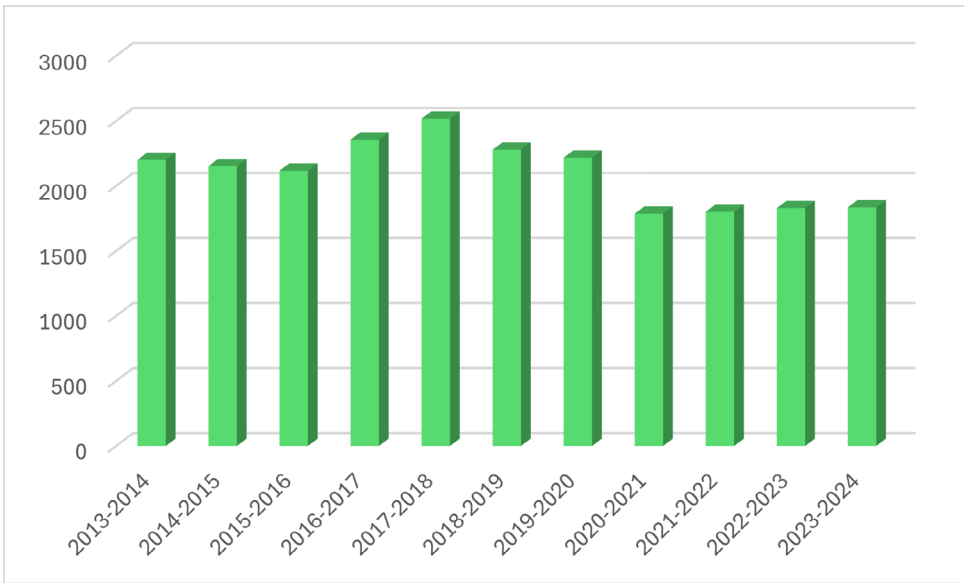
**Outcome Undetermined:** File remains ongoing into the following fiscal year

# 1836 Total

# Key Facts and Figures

In 2023-2024, the Office handled 1836 complaints, inquiries, and youth contacts. To see how that compares with the last ten years see figure 4.

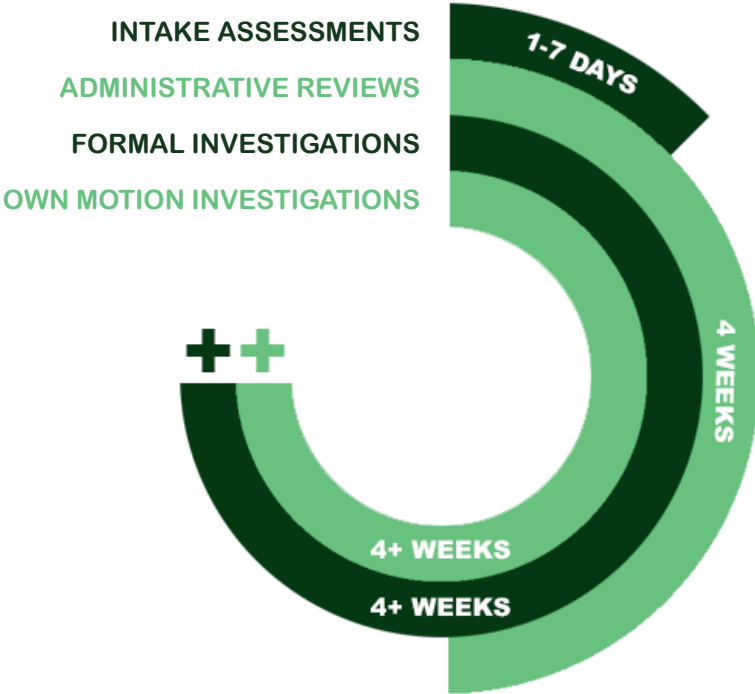
Figure 4



## Resolution Timelines

Most files are resolved by Ombudsman Representatives in one to seven days. Figure 5 demonstrates the timeframes in which the various categories of complaints/investigations are concluded by this Office. These are general timeframes. Some matters may take more or less time depending on the complexity of the issue. Many Intake Assessments are resolved on first contact with the Complaint and Assessment Analyst.

Figure 5



## Jurisdictional and Non-Jurisdictional Complaints

All inquiries and complaints are assessed to determine whether they fall under one of two acts, the *Ombudsman Act* or the *Public Interest Disclosure of Wrongdoing Act (PIDWA)*. In addition to those which fall under the jurisdiction of both acts, matters that do not fall under either act are considered for avenues of appeal or referral information that can be provided to the individual contacting the Office. Thirty percent of matters addressed by the Office in the year under review were non-jurisdictional. This calculation excludes visits with youth in care and custody.

Whenever possible, there are many organizations such as federal and private industry ombudsman, legal assistance organizations, and other oversight bodies to whom we may refer complainants. This service is not a technical component of our mandate however, over several years it was determined that assisting the public in this way was found to be helpful to those contacting the Office, as well as it enables Ombudsman Representatives to identify areas that may require additional education on our role and mandate.

Non-jurisdictional complaints are broken into the following categories:

**Self-regulating body** – When the Office receives a complaint regarding a professional governed by a self-regulating body or about the services of a self-regulating body (e.g. complaints about lawyers)

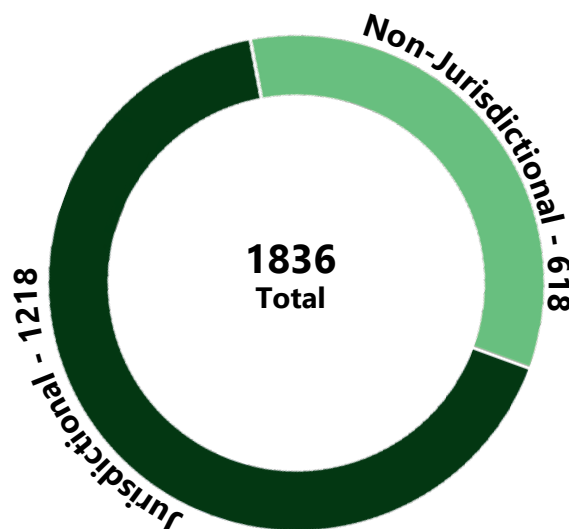
**Private** – When the Office receives a complaint regarding a dispute between private individuals or a complaint about a private corporation (e.g. a complaint about a cellphone bill)

**Federal** – When the Office receives a complaint regarding the Government of Canada (e.g. a complaint about the Canada Revenue Agency)

**Elected Official** – When the Office receives a complaint regarding the decisions of an elected official(s) (e.g. a complainant disagrees with the decision made by a municipal council)

**Court or Tribunal** – When the Office receives a complaint regarding the decisions of a judge(s) or a tribunal (e.g. a complainant disagrees with the result of a custody hearing)

Figure 6



# Communication with Caseworker - Wood Street Centre – Long Term Treatment

Our Office received a complaint from a youth resident, who alleged their Caseworker had not adhered to communication protocols outlined in the intake package at Wood Street Centre, Long-Term Treatment (LTT). Upon initial review, one of the forms in the intake package stated that the Caseworker was required to contact the youth weekly.

Upon speaking with the Caseworker, an Ombudsman Representative was informed that they had remained in consistent contact with the youth, as required under the Department of Community Services standard minimum contact of once per month. This was confirmed by the Casework Supervisor, who explained that the Caseworker had been interacting beyond the minimum with the Complainant.

The Director of Child and Youth Care Programs (CYCPs) acknowledged that the form referred to by the youth resident is included in the intake package for both Wood Street Centre Secure Care and LTT. Department standards outline one contact per week when a child or youth is under a secure care order, however, this was not the case for LTT where the same form was also being used. The Office of the Ombudsman recommended that the form either be amended or removed from usage at Wood Street Centre LTT, as it appeared to set an expectation of weekly contact which is not mandated by the Department. Through continued discussion, it was decided that the form would state that "When possible, weekly communication with resident is recommended..." as the benefit of consistent contact was noted and should be pursued when the Caseworker is able to accommodate. The form was then edited to reflect these changes which the youth resident appreciated.

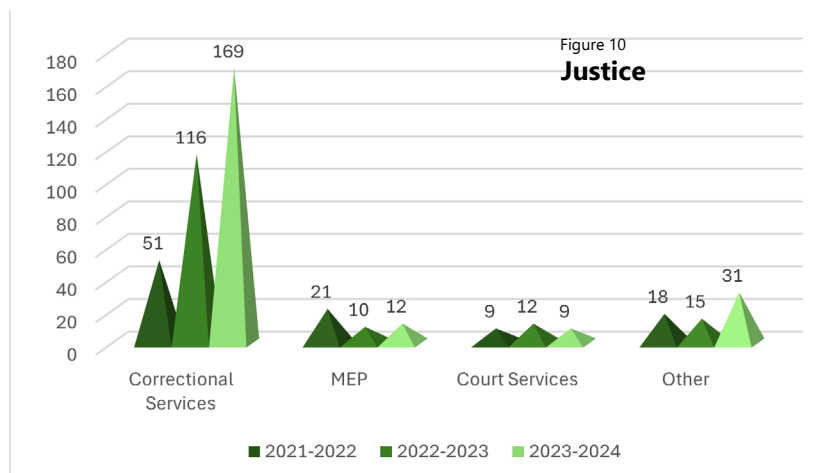
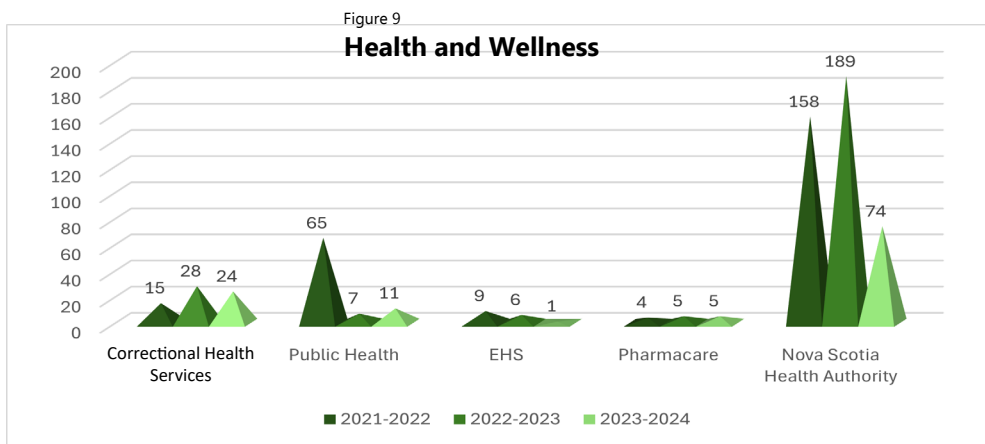
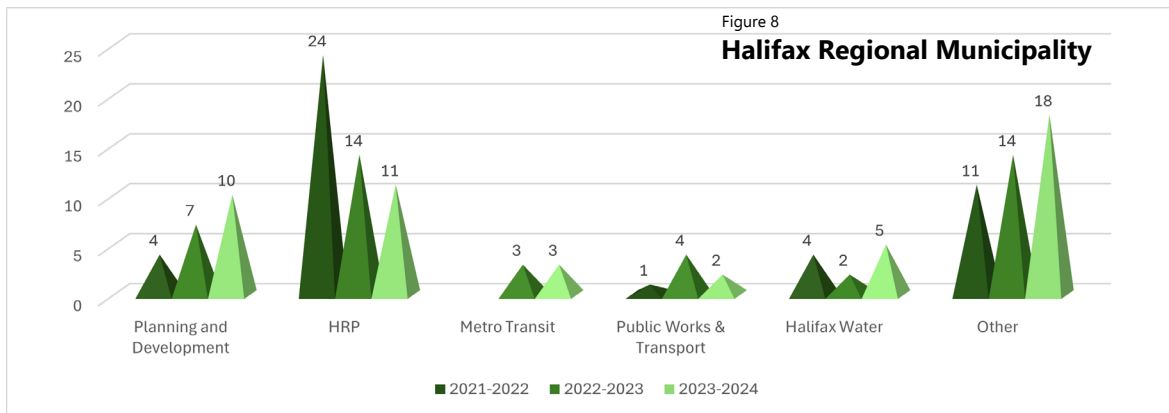
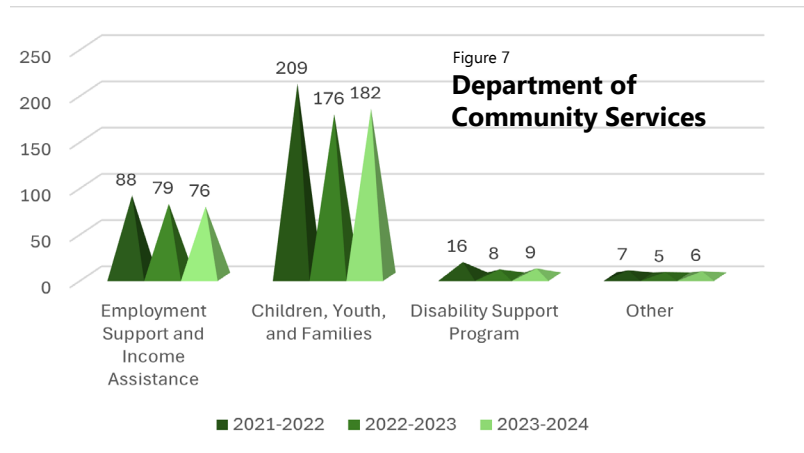
## Where Complaints Originate

Government services are broad and can be multi-layered and complex. For each one of those services there is legislation, policy, and procedures that must be understood, adhered to, and implemented. If you think about how much government impacts your day to day life, from healthcare and education to roads and infrastructure, you will begin to see the broad mandate of the Office of the Ombudsman. Complaints can originate from any program or service, or multiple agencies, and can be related to several diverse and sometimes overlapping pieces of policy. Matters may also be referred to the Ombudsman for investigation by a committee of the House of Assembly, including complaints stemming from the House of Assembly Policy on the Prevention and Resolution of Harassment in the Workplace.

In addition to complaints under the *Ombudsman Act*, the *Public Interest Disclosure of Wrongdoing Act (PIDWA)*, and matters referred by the House, the Office receives complaints that do not fall within our jurisdiction. In all cases, the variety of matters brought to this Office each year require staff at the Office of the Ombudsman to quickly adapt by researching and reviewing legislation, policy, and procedure from the spectrum of provincial and municipal government services.

This Office recognizes that receiving a complaint does not necessarily mean it is with merit in every instance. Nor does the number of complaints regarding a public body speak to the quality of programs and services it delivers. By their nature, the public bodies accessed more frequently by citizens, or who interact with a significant portion of the population, tend to generate the greatest number of complaints. Typically, these are the larger departments that come to mind when thinking about government, including departments and agencies serving vulnerable people or those in distress. Thus, it is not unreasonable that a higher number of complaints can arise. However, if a smaller agency were to receive a high number of complaints, it could be perceived as a reason for further inquiry by this Office and may point to a potential systemic issue. It is important to focus on the substance and issue of each complaint, rather than solely the number of complaints received.

Figures 7-10 demonstrate from which government entities the most complaints originate, as well as the type of complaint. The statistics are demonstrated over a period of three years. Appearing on these tables does not necessarily suggest fault or maladministration by the respondent or public body.



### Outreach Visit Leads to Investigation

In September 2022, an Ombudsman Representative conducted an Outreach Visit at an adult correctional facility. Prior to the outreach visit, Correctional Services staff and Person in Custody populations were notified of the pending visit so that any individual within the facility could meet with an Ombudsman Representative.

During the outreach visit, a Person in Custody (PIC) alleged the following:

- They were not receiving complaint forms from Correctional Officers (CO's) when they wished to submit a complaint. Furthermore, they asserted that Correctional Services staff were not following policy related to the Correctional Complaint Process.
- They believed a physical ailment they were experiencing was due to poor water quality within the facility, and further alleged they were aware that CO's were in possession of the facility's water quality testing results and when the PIC asked to review a copy of the testing results, the request was refused.
- Harassment and intimidation by Correctional Services staff.

Following the outreach visit the Office of the Ombudsman notified the Department of Justice of the allegations and conducted an investigation that included interviews, reviewing relevant legislation, regulations, policies and procedures, closed circuit television (CCTV) footage, and liaising with Correctional Services staff.

Following our investigation, several recommendations were issued to the Department of Justice to promote consistency in the internal PIC complaint resolution process, access to information, and internal investigation processes. These recommendations were accepted and implemented and can be found in the recommendation section of this Annual Report.

### Lanark Waterline Extension Project, Municipality of the County of Antigonish

Our Office was contacted by two residents of the Municipality of the County of Antigonish (the Municipality) concerning the implementation of the Lanark Waterline Extension Project. The residents (Complainants) alleged a lack of communication surrounding the project and vote manipulation by the Municipality in order to advance the project.

An Ombudsman Representative conducted an investigation which included assessing information received from the Complainants and respondents, reviewing relevant legislation and bylaws as well as conducting a site-visit and interviews.

While the *Municipal Government Act (MGA)* provides the authority for municipalities to make local improvements, there is no provision that requires a vote involving affected residents for the improvement project to proceed. The voting process undertaken by the Municipality for the Lanark Water Line Extension was described as a "best practice" approach which had previously been used by the Municipality on other, unrelated projects. The voting process in this instance, and the communications around it, created confusion for the Complainants who believed that since the results of an initial vote did not support the project it would not move forward. They were not aware that if two-thirds majority support was not achieved, the Municipality could reassess and reconfigure the proposed service area to reflect the area where the support threshold was met, to proceed with the project.

Recommendations were issued regarding the development of policy involving communication with residents regarding local improvement projects. The recommendations were accepted by the Municipality and can be found in the recommendation section of this report. The Office will continue to monitor the status of the implementation of these recommendations.

### Seniors Care Grant

A senior contacted our office advising they had applied for the Seniors Care Grant but were not approved. The Complainant informed the Ombudsman Representative they had been told by program staff that the name on their grant application did not correspond with the name on their Canada Revenue Agency (CRA) file. The administrators of the grant require access to applicant CRA records to verify whether applicants meet the eligibility requirements for the grant, and it was this discrepancy which created an issue in processing the application.

The Representative assigned to the file determined the issue was not a name discrepancy rather, the Complainant's birthdate on their CRA file did not correspond with the birthdate on the grant application. The Representative passed this information on to the Complainant, who subsequently confirmed that they contacted the CRA and their birthdate on file was correct. After further discussions with the administrators of the grant and the Complainant, it was identified that the birthdate on the Complainant's 2022 tax return was incorrect. After confirming the issue involving the date of birth had been rectified, the Representative contacted the administrators of the grant, who also confirmed their records reflected the change and was now consistent with the grant application. The administrators determined the senior was eligible for the grant and the funds were disbursed.

## Respondents to Complaints

The table below (Figure 11) lists all public bodies that were the subjects of complaints under the *Ombudsman Act* and the *PIDWA* for 2023-2024. The respondent to a complaint is captured when the complaint is made, prior to any review or investigation taking place. Appearing on this list does not imply fault or maladministration by the respondent. **(Departments in bold)**

Figure 11

<b>4</b>	<b>Advanced Education, Dept of</b>	<b>1</b>	Lunenburg, Town of
<b>4</b>	<b>Agriculture, Dept of</b>	<b>1</b>	Mahone Bay, Town of
<b>1</b>	Amherst, Town of	<b>2</b>	Middleton, Town of
<b>1</b>	Antigonish, Town of	<b>1</b>	Mulgrave, Town of
<b>1</b>	Atlantic Provinces Special Education Authority	<b>70</b>	<b>Municipal Affairs and Housing</b>
<b>1</b>	Auditor General, Office of	<b>3</b>	Municipality of Clare
<b>1</b>	Bible Hill, Village of	<b>2</b>	Municipality of East Hants
<b>3</b>	Bridgewater, Town of	<b>2</b>	Municipality of Shelburne
<b>10</b>	Cape Breton Regional Municipality	<b>5</b>	<b>Natural Resources and Renewables</b>
<b>2</b>	Chester, Village of	<b>1</b>	New Glasgow, Town of
<b>1</b>	Communications Nova Scotia	<b>1</b>	Nova Scotia Community College
<b>3</b>	<b>Communities, Culture, Tourism and Heritage</b>	<b>74</b>	Nova Scotia Health Authority
<b>279</b>	<b>Community Services</b>	<b>26</b>	Nova Scotia Legal Aid Commission
<b>2</b>	County of Annapolis	<b>1</b>	Nova Scotia Liquor Corporation
<b>2</b>	County of Antigonish	<b>3</b>	Nova Scotia Pension Services Corporation
<b>1</b>	County of Colchester	<b>5</b>	Nova Scotia Police Complaints Commission
<b>1</b>	County of Inverness, Municipality of the	<b>4</b>	Nova Scotia School Boards Association
<b>3</b>	County of Kings, Municipality of the	<b>2</b>	Nova Scotia Utility and Review Board
<b>1</b>	County of Pictou	<b>3</b>	Office of the Ombudsman
<b>2</b>	County of Richmond, Municipality of the	<b>5</b>	Peggy's Cove Commission
<b>2</b>	Digby, Town of	<b>2</b>	Pictou, Town of
<b>1</b>	District of Digby, Municipality of	<b>2</b>	Premier, Office of
<b>1</b>	District of Guysborough, Municipality of the	<b>3</b>	Property Valuation Services Corporation
<b>1</b>	District of Lunenburg, Municipality of the	<b>1</b>	Public Prosecution Service
<b>2</b>	<b>Economic Development</b>	<b>6</b>	Public Service Commission
<b>21</b>	<b>Education &amp; Early Childhood Development</b>	<b>22</b>	<b>Public Works</b>
<b>5</b>	Efficiency One	<b>32</b>	Regional Centres for Education
<b>3</b>	Emergency Management Office	<b>1</b>	Region of Queens Municipality
<b>7</b>	<b>Environment and Climate Change</b>	<b>33</b>	<b>Seniors &amp; Long Term Care</b>
<b>2</b>	<b>Finance and Treasury Board</b>	<b>41</b>	<b>Service NS &amp; Internal Services</b>
<b>1</b>	Halifax Harbour Bridges	<b>5</b>	Service NS
<b>49</b>	Halifax Regional Municipality	<b>4</b>	Shelburne, Town of
<b>49</b>	<b>Health and Wellness</b>	<b>1</b>	Stellarton, Town of
<b>21</b>	Human Rights Commission, Nova Scotia	<b>1</b>	Wolfville, Town of
<b>2</b>	Information and Privacy Commissioner, Office of the	<b>1</b>	Workers' Compensation Appeals Tribunal
<b>1</b>	Intergovernmental Affairs	<b>17</b>	Workers' Compensation Board
<b>3</b>	IWK Health Centre	<b>2</b>	Yarmouth, Town of
<b>221</b>	<b>Justice</b>	<b>711</b>	<b>No respondents - includes non-jurisdictional complaints, info requests, and other inquiries</b>
<b>3</b>	Kentville, Town of	<b>1829</b>	<b>TOTAL</b>
<b>12</b>	<b>Labour, Skills, and Immigration</b>		
<b>1</b>	Legislative House of Assembly		
<b>1</b>	Lockeport, Town of		

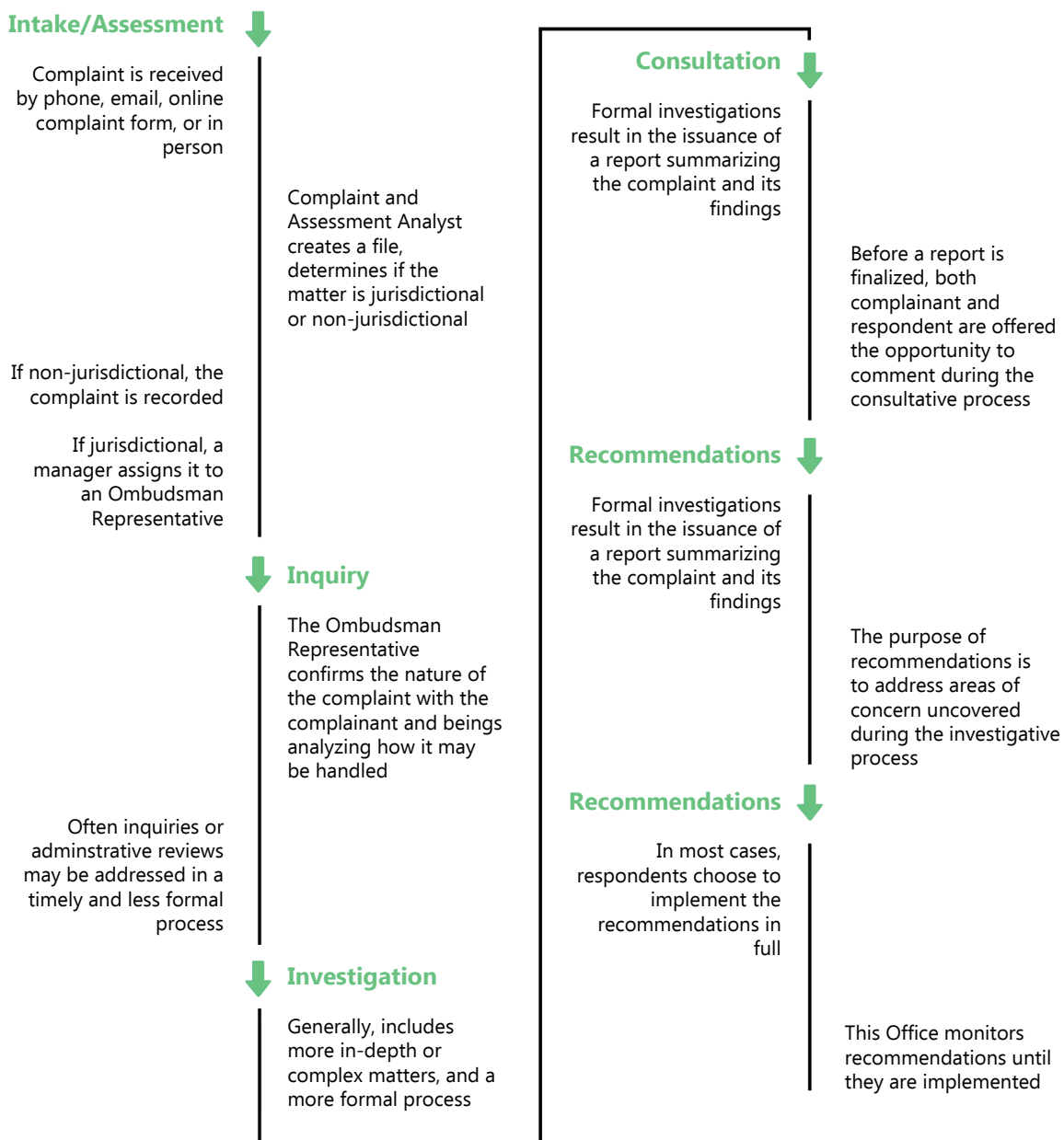
# COMPLAINT RESOLUTION

Most of the in-depth investigations undertaken by this Office begin as complaints or concerns brought to our attention by a member of the public. While our initial approach is to resolve these matters informally, sometimes the nature or complexity of an issue requires a more formal approach. These types of more formal investigations can involve extensive research, review of documentation, and interviews with relevant parties, among other methods of accurately determining what took place. In some cases, the need for a formal investigation is derived from recurring issues and others may have broader systemic implications beyond the initial concern or complaint. When an investigation moves to the next stage of investigation, a manager will further assess and decide on the direction. If a more formal investigation or investigation is decided, management will meet and provide direction.

Through monitoring trends in complaints, Ombudsman Representatives may identify potential systemic issues in policy or process. Pursuant to the *Ombudsman Act*, the Ombudsman has the authority to initiate an investigation of their own volition. These "Own Motion" investigations usually, but not always, pertain to a potential systemic issue observed within a government agency or department. This type of investigation enables the Ombudsman to pursue issues and matters that may not necessarily be complaint driven, that require an in-depth review.

## Complaint Resolution Process

### Ways in which complaints are handled by the Office of the Ombudsman



## Jury Duty Summons

An individual contacted our Office expressing concern over being summoned for jury duty five times over 31 years. They believed that the process did not appear to be random and was potentially unfair. The individual stated they contacted the Acting Jury Coordinator, Department of Justice (the Department) who promised a response.

Interestingly, during our review, the Complainant was summoned for a sixth time for possible jury duty.

In a written response from the Department, the Complainant was informed that the matter had been forwarded to the “Jury Working Group,” an ongoing committee overlooking jury management at the time. The Complainant was not satisfied.

An Ombudsman Representative reviewed the letter from the Department, which contained significant additional information, and followed up with the official responsible for the jury selection system and process.

The letter explained the jury selection process is governed by the *Juries Act*. It noted the overall pool of jurors in Nova Scotia matches the provincial health registration list, (the MSI list) from which names are drawn anonymously and randomly. This is a universal Canadian practice. Another pertinent fact about the list is that it is broken down by court-house locations and population size. The largest list is in the Halifax Regional Municipality (HRM). However, each court jurisdiction can reach into other lists should the situation require it.

The initial calls or notices regarding jury duty merely place the individuals in a selection pool. It does not mean actual selection for duty, which is a follow-up process. In fact, the Complainant in this instance has never served on a jury, despite the number of times being contacted as a member of a pool of jurors.

The letter explained how jurors get selected and rejected, including prerogatives of lawyers for parties to reject, and prerogatives of judges to accept or reject jurors. There also are various ways potential jurors can be excused from jury duty, including work conflicts, planned vacations, health issues, and even the factor of “ever having attended a law school.” Other contextual information included the fact that there are relatively few jury trials, possibly fewer than a dozen a year. Those occur only in the Supreme Court of NS, with juries of twelve for criminal trials and seven for civil trials.

In a follow-up interview with the Ombudsman Representative, the Administrator acknowledged that an individual could be contacted as often as the Complainant has been, but that it would be unusual. They noted a practice called “hold-over,” also described as infrequent. It means that a potential jurist who has been approached for a particular trial and rejected for reasons related to the unique circumstances of that trial could be approached again from a shorter list. For the court this is convenient, but obviously at that point the process is not random and anonymous.

Our Office concluded that the “hold-over” practice does not seem unreasonable in circumstances where only the unique nature of a given trial excludes a qualified juror who remains available to be asked again. Beyond that practice, there are circumstances where judges will insist on having “peers” from particular and more narrow pools, again reducing the randomness of selection. Examples might be where a trial has cultural, racial, or language dimensions. To take just one example, in circumstances where the French language is required for a trial the pool of functionally bilingual Nova Scotians will be much smaller.

Overall, the information reviewed by the Ombudsman Representative supported two conclusions. The system is not completely random, although at the initial contact level it is. It is reasonably broad-based, reflecting MSI registrants, but strategically managed for cases where unique qualifications are required.

The process also has certain realities, such as smaller pools of potential jurists based on the MSI pool in smaller court districts. However, in those locations the number of jury trials also would likely be smaller. Although the Complainant’s experience was described as annoying and perhaps frustrating, the structure does not appear to be broken as the Complainant alleged. The Complainant was satisfied with the information provided and expressed appreciation for the help provided by the Ombudsman Representative.

### ***Ombudsman Act Investigations***

A large portion of the complaints submitted to the Office are received primarily over the telephone and are addressed by Investigation and Complaint Services. These complaints are either handled by the Complaint and Assessment Analyst during intake and assessment or are referred to Ombudsman Representatives as Administrative Review Investigations. Of these complaints, a small number warrant or become Formal Investigations. Many of these complaints involve departments and municipalities that have their own internal complaint resolution process or avenue of appeal available. In those instances, we often ensure the complainant has exhausted those processes before this Office becomes involved. If an Ombudsman Representative determines a complainant may require additional assistance, they may help them to navigate the complaint resolution process or provide general procedure related direction. If a complaint received is a part of an ongoing or active process, that appears to have come off track, informal intervention by Ombudsman Representatives may help to get it back on track. Having said that, Ombudsman staff are impartial and do not provide legal advice or serve as advocates to a complainant or respondent – rather they advocate for fair process.

When a complaint is within the jurisdiction of the Office, and avenues of appeal have been exhausted, typically the first step after the initial Intake Assessment is an Administrative Review Investigation. An Ombudsman Representative is assigned to review the complaint and will work with the complainant and responding government officials to address the issue. General assistance may be provided by opening lines of communication, offering suggestions based on best practices, or by guiding either party to an unaddressed or overlooked step in policy or procedures. If a resolution cannot be achieved informally, a more formal investigation may be initiated. As mentioned earlier, formal investigations rely on more in-depth research, interviews, and other reference materials; and may lead to the issuance of recommendations.

### **Own Motion Investigations and Policy Reviews**

The Office of the Ombudsman may investigate government activities, practices, and policies under its own initiative, categorized as Own Motion investigations. Policy reviews may be undertaken at the request of a government department, agency, board, or commission, or the Ombudsman may determine that a specific policy warrants review. These reviews and investigations frequently address concerns which may be systemic in nature. In the year under review, this Office conducted no Own Motion Investigations.

### **Youth Investigations**

Complaints that are submitted to the Office by children and youth or their families, guardians, or staff providing services are categorized under Youth & Seniors Services. These complaints are handled similarly to others, but special attention is given to the needs of children and youth, both in terms of conveying information in an age-appropriate way, and in terms of ensuring their safety and security at all points of the complaint and investigation process. Many complaints are first heard by Ombudsman Representatives during site visits to Child and Youth Caring Programs, Wood Street Centre Campus, the Nova Scotia Youth Centre, and the Cape Breton Youth Detention Facility. These visits help ensure that both youth and staff are aware of the Office's role and can present complaints in as easy a manner as possible.

## Public Interest Disclosure of Wrongdoing Act (PIDWA) Investigations

The *Public Interest Disclosure of Wrongdoing Act (PIDWA)* provides public servants and members of the public with a clear and accessible method to disclose allegations of wrongdoing regarding provincial government. While the *PIDWA* covers provincial government employees only, disclosures regarding municipal government may be reviewed and addressed under the *Ombudsman Act*. Public employees making disclosures may contact the Designated Officer in their department or their supervisor/manager, or they may contact the Office of the Ombudsman directly. Concerns that are more appropriately addressed through an established grievance mechanism, such as an employment matter, are generally not investigated through the *PIDWA* and are referred to an organization such as a union. All matters received are subject to an assessment, and where appropriate, a referral. For instance, if a public employee were to bring an allegation of discrimination to this Office, Ombudsman Representatives might refer that person to the Nova Scotia Human Rights Commission.

When the *Public Interest Disclosure of Wrongdoing Act* was amended in 2016, the definition of government bodies which fell under the jurisdiction of this legislation expanded to include public sector agencies, board, commissions, and educational entities. A communication was sent by the Public Service Commission to these government entities to remind them of their responsibilities under the legislation, including the development of procedures related to disclosures of wrongdoing and the identification of a Designated Officer to handle the disclosures. As a result of this communication, this Office was contacted by some of these government entities for assistance in understanding their new responsibilities and in the development of procedures. The Office welcomes this proactive approach and is reviewing ways to provide further resources and support in relation to disclosure of wrongdoing in the future.

There were two disclosure of wrongdoing inquiries, allegations, or investigations specific to the Office of the Ombudsman received/ submitted in 2023-2024. Figure 12 contains information required to be reported under section 18 of the *PIDWA*.

Figure 12

Information Required under Section 18 of the Act 2023-2024	
The number of disclosures received	2
The number of disclosures investigated under the <i>Ombudsman Act</i>	1
The number of findings of wrongdoing	0
Recommendations and actions taken on each wrongdoing	n/a

### Investigation Outcomes (Recommendations)

The *Ombudsman Act* provides the authority to make recommendations to provincial government departments, agencies, boards, commissions, and municipalities. Recommendations are generally the result of in-depth, usually formal, investigations conducted by the Office.

For every recommendation issued, the public body involved is required to report back to this Office on their plans to give effect to and implement the recommendation, often within a prescribed time frame. The authority to issue recommendations is how this Office informs and enhances government public policy, procedures, and service delivery. The public body may choose to accept and implement the recommendations, implement them in part, or refuse to accept them. That said, most government departments choose to accept and implement the recommendations in full. There are several reasons why a party responding to a recommendation may choose to implement in full, including a genuine desire by public officials to improve policy and procedures, and concerns about how failure to do so may be perceived by the public.

Figures 13-19 describe the recommendations issued in 2023-2024. The table also describes the public body involved as the respondent, as well as the nature of the complaint. Not all recommendations stem from new matters addressed in the year under review, some examples are derived from investigations initiated in an earlier fiscal year but were concluded in 2023-2024.

Figure 13

#### Complaint

This Office received a complaint from a member of the public who alleged that their organization had been negatively impacted due to the alternative procurement practices (ALTP) used by Nova Scotia Health (NSH) and the Department of Service Nova Scotia and Internal Services (SNSIS)

#### Respondent

Department of Service Nova Scotia & Internal Services (Procurement Services)

Nova Scotia Health

#### Recommendations

Department of Service Nova Scotia & Internal Services:

1. Review policies regarding the use of Alternative Procurement Practices to clarify:
  - a. The relationship between Procurement Services and Public Sector Entities; and
  - b. Whether the support of Procurement Services should be required for Public Sector Entities to use ALTP processes.
2. Review and revise the ALTP Form to include:
  - a. A section for detailed information on all justifications for requesting an ALTP process be used;
  - b. Whether the Chief Procurement Officer, rather than the Procurement Officer, supports the use of ALTP, and the rationale for supporting or not supporting the request, and
  - c. Support the final decision made by the Senior Administrative Officer, or their designate.

Nova Scotia Health:

3. Review and amend the NSH alternative procurement process, including:
  - a. Documentation of the decision-making process on the ALTP form to increase transparency, and;
  - b. Ensuring that discussion and review with the Chief Procurement Officer occurs, and is documented, in situations where the use of ALTP processes are not supported by Procurement Services;
  - c. Ensure consistency with the requirements of provincial procurement policies and guidelines, after the review of ALTP policies by Service Nova Scotia and Internal Services, as recommended above.

**The recommendations were accepted by the respondents.**

Figure 14

**Complaint**

This Office received a complaint alleging irregularities in the process used by the Department of Health and Wellness in the reappointment of Emergency Medical Care Inc. as providers of ground ambulance service provision for the Province of Nova Scotia.

**Respondent**

Department of Health and Wellness

**Recommendations**

Department of Health and Wellness:

1. In consultation with the Department of Service Nova Scotia and Internal Services, Procurement Services, incorporate privacy impact assessments (PIAs) within the Department of Health and Wellness tendering processes, to ensure awarded tenders and service providers are in compliance with information access and privacy legislation and policies.
2. In keeping with information access and privacy legislation and policies, develop and implement information-sharing and communication protocols with service providers who are successfully awarded a tender. These protocols ought to provide clear direction to all service providers with respect to their responsibilities under these protocols, including who is responsible to oversee the information-sharing process, ensure compliance, and to identify and address breaches to the protocol.

**These recommendations were accepted by the respondent.**

Figure 15

**Complaint**

This Office received a complaint from a member of the public concerning their Income Assistance benefits being reduced despite no change in their disability or living expenses.

**Respondent**

Department of Community Services (Employment Support and Income Assistance)

**Recommendations**

Department of Community Services:

1. The Department of Community Services undertake a review of the existing *Employment Support and Income Assistance Act* and regulations to determine whether the eligibility for the enhanced household rate for a person with a disability, is not being adversely impacted for individuals for individuals who are deemed to be boarding.
2. Pending the Department of Community Services review and response to the Human Rights Review and Remedy for the finding of Systemic Discrimination against Nova Scotians with Disabilities Report, and any potential review of the *Employment Support and Income Assistance Act* and regulations, the application for the enhanced household rate, and overpayment status of the Complainant be reassessed on an interim basis.

**These recommendations were accepted by the respondent.**

Figure 16

### Complaint

During an outreach visit conducted by this Office at an Adult Correctional Facility (Department of Justice) a Person in Custody (PIC) alleged unfair treatment by Correctional Services staff in the handling of their complaints.

### Respondent

Department of Justice

### Recommendations

Department of Justice:

1. Ensure relevant Correctional Services Staff review Section 24 of the Correctional Services Act dealing with procedures related to PIC complaints.
2. Review and where necessary, revise policy to ensure consistency with the type of complaint forms utilized among the four provincial correctional facilities.
3. Develop and implement policy regarding the provision of information, such as water test results, when requested by a PIC.
4. Ensure investigators assigned to investigate complaints are aware of the requirements of the Correctional Services Investigations, Inspections and Audits policy and procedures.

**These recommendations were accepted by the respondent.**

Figure 17

### Complaint

This Office received a complaint from members of the public concerning the implementation of the Lanark Waterline Extension Project in the Municipality of the County of Antigonish.

### Respondent

The Municipality of the County of Antigonish

### Recommendations

The Municipality of the County of Antigonish:

1. Develop and implement policy related to communicating with residents when local improvement projects are being considered by the Municipality. Such a policy should include:
  - a. A plan to ensure timely and clear communications regarding the nature, scope and objective of the project;
  - b. The timeline for the project implementation; and
  - c. Information regarding any consultations planned with relevant stakeholders, such as affected residents, and how these consultations will inform any decisions made by the Municipality with respect to the status of the project.

**These recommendations were accepted by the respondent.**

Figure 18

**Complaint**

This Office received a complaint from a member of the public alleging inaction by the Cape Breton Regional Municipality (CBRM) with respect to the implementation and enforcement of the Land Use Bylaw.

**Respondent**

Cape Breton Regional Municipality

**Recommendations**

Cape Breton Regional Municipality (CBRM):

1. The CBRM provide information to both the Complainant and Office of the Ombudsman with respect to their investigation of the activity at [location redacted], including the information and/or evidence relied upon in support of their findings and/or conclusions.
  - a. If the finding of the investigation undertaken by the CBRM determined the current operations at [location redacted] are not in compliance with the existing Land Use Bylaw, then appropriate enforcement be actioned.
2. The CBRM undertake a review of its existing Rural CBRM Zone (Part 41, Land Use Bylaw) to determine whether it is meeting the contemporary needs of the Municipality, and where appropriate, initiate amendments in keeping with the *Municipal Government Act*, and related CBRM policies and procedures.

**Recommendation one was not addressed to the satisfaction of this Office.**

**Recommendation two was accepted and implemented.**

Figure 19

**Complaint**

This Office received a complaint from a property owner who alleged the Municipality of Victoria County did not follow administrative fairness in enforcing the Dangerous or Unightly Premises provisions of the *Municipal Government Act*.

**Respondent**

Municipality of Victoria County

**Recommendations**

Municipality of Victoria County (MVC):

1. Ensure that decision-making processes in the handling of dangerous or unsightly premises adhere to the principles of administrative fairness and provide the opportunity for meaningful participation of property owners directly impacted by the decisions and actions of the MVC in its application of related policies and procedures and the *Municipal Government Act (MGA)* including:
  - a. Providing appropriate notice of an intended action or decision. If the property owner is residing outside of the municipal jurisdiction, that reasonable efforts be made, and documented, to notify the property owner.
  - b. Ensuring the information considered by the MVC in its decision-making process, including relevant legislation, regulations, policies, procedures, use of criteria and/or discretion being relied upon, is provided to the property owner.

(cont'd)

## COMPLAINT RESOLUTION

(cont'd)

- c. That the property owner be afforded an opportunity to be heard and present their views on the proposed action or decision and provide any supplemental or contrary information they believe is relevant to the decision.
  - d. That an adequate appeal or review mechanism is developed and implemented to provide the opportunity for an impacted party to seek a review or challenge a decision that may be adverse to them.
    - i. Information about such an appeal or review mechanism process be made publicly available, including the MVC's website, and that the process be clearly communicated to the person at the time the decision is made, including any applicable time limits or other requirements for seeking review.
  - e. The documentation of decisions and ensuring that the MVC has policies in place that require staff to record reasons for decisions, and the related documentation records regarding such decisions are in accordance with statutory obligations and/or organizational requirements.
  - f. Ensuring representatives and staff of the MVC understand their delegated authority and duty to document their decisions clearly, including information about how they reached their decision.
    - i. This includes documenting what information they gathered and considered, any findings of fact they made and how they applied the rules to the information/facts to reach the decision.
    - ii. This also includes documenting how they weighed the evidence and relevant considerations in the decision-making process, and why they may have assigned more weight to one piece of evidence or rejected certain information in reaching their conclusion.
  - g. Establishing a consistent method for representatives and staff of the MVC to communicate decisions to affected parties or individuals, preferably in writing. The method of communicating decisions may vary depending on the nature of the decision and its impact on the party or individuals, and that communication be appropriately documented.
  - h. The development of template documents to assist representatives and staff of the MVC in making and communicating decisions and provides adequate reasons to people affected by these decisions.
    - i. Reasons for decisions should include the issue to be decided, the facts and evidence considered, the applicable law or policy, an explanation of how the law or policy was applied to the facts, the conclusion or decision reached, and information about any review or appeal options.
  - i. Timely decision making and establishing clear and reasonable time frames in policy for typical decision-making processes. While some time frames may be set out in legislation, for those instances where it is not, an expectation that representatives and staff of the MVC will communicate a decision to an affected person as soon as is reasonably possible is an ideal standard. If there is an unavoidable delay in the process, that the representatives and staff of the MVC be directed to advise the person of the reason for the delay and approximately when they can expect to receive the decision.
  - j. Ongoing training and education on administrative and procedural fairness, standards for documenting and communicating reasons, and other topics relevant to ensuring meaningful participation for those affected by decisions of representatives and staff of the MVC.
2. Develop and implement a conflict-of-interest policy to mitigate the potential for conflict of interest within the MVC by defining conflict of interest and providing mechanisms to address issues that arise when personal and employment interests involving representative and/or staff persons of the MVC conflict.
- a. Once developed, the policy should be made publicly available, including being posted and linked on the MVC website and available to the Eastern District Planning Committee.

**Recommendation one was accepted. Recommendation two was not accepted.**

## Wires Crossed

In a significant number of cases, the role of our Office becomes to encourage or help facilitate communication between parties in conflict. This case is an example in which certain safety and technological issues could not be fully assessed, but a facilitating or enabling role could still prove useful.

In 2022 a representative of the International Brotherhood of Electrical Workers (IBEW) contacted our Office with concerns about how the Department of Labour, Skills and Immigration (LSI) (the Department) was handling changes to the regulation of workers doing solar panel installations. The complaint included allegations of undue delays in resolving certain issues surrounding qualifications, and an allegation that provincial officials were unresponsive.

The complaint came at a time when the demand for domestic and industrial solar panels had expanded as part of a general movement towards more efficient and cleaner sources of electricity. Simplified, the issue came down to whether, and with what degree of training, non-union general workers could be permitted to do the installations. Contractors have a stake in lower cost work. Consumers can benefit from lower costs too. Certified electricians, mostly unionised, have a stake in protecting areas of employment. Everyone has a stake in safety and quality work.

The Department has overriding responsibilities for safety, as well as for training and, less directly, for quality work and efficiency. The Complainant alleged that the Department at the time had already compromised on safety concerns with concessions that could allow non-unionised and less well-trained workers greater freedom to do installations. The Complainant reported that in 2017 a bulletin had circulated throughout the industry setting a dividing line between trained electricians and other solar installers which, in the Complainant's view, invited participation by workers with little or no electrical training. The Complainant acknowledged they had an interest in protecting the interests of trained and better-paid electrical trades people. But they asserted their interest as primarily one of safety. They said that while aspects of the work may not be demanding, it is all in the field of electricity where risks always exist, and expertise is always desirable. The 2017 bulletin was issued by the Nova Scotia Apprenticeship Agency (NSAA). The Agency is a Provincial Government entity, operating under the *Apprenticeship and Trades Qualifications Act*. Sections of its Charter suggest its status and purpose:

- (1) The Nova Scotia Apprenticeship Agency, established by Order-in-Council 2014-224 on July 1, 2014, is a special operating agency of the public service under the *Public Service Act*...
- (2) The Agency is an agent of the Crown, and is comprised of the Board, any committees of the Board, including Trade Advisory Committees, and the staff of the Agency including the Chief Executive Officer.

Most stakeholders involved in the 2017 bulletin were commercial entities, companies seeking to profit from solar or other energy-efficiency endeavours. Five energy companies, mainly solar, were directly involved, as was a private training company. The training company's website at the time stated that it offered four and five-day training courses aimed specifically at solar installation and bringing students to the level of being able to apply for electrician certification programs. Some training was offered online: "Our 4-Day Solar PV Design and Installation workshop meets the prerequisite to write the CSA exam for electricians."

The Complainant had noted that in their view a one-week or less training course was inadequate to produce the level of skill required for electrical work, including solar panel installations.

The Chief Electrical Inspector for the Province, responsible for the proposed changes, also emphasized safety. They referred to the work and the responsibilities on the "construction laborer" side of the demarcation line as "plug and play," installing equipment that arrives from the manufacturing plant already "terminated," requiring no further fashioning of wiring or connectors.

Ombudsman Representatives could not resolve the technical and training issues. Our objective was to help advance the process and ensure that the IBEW and other professional voices were heard, and to move matters closer to conclusion. There were separate discussions with the Complainant and the Respondent to help clarify views and advance understanding.

A representative for LSI acknowledged delays in the process, which they explained as COVID related. They also stated that government is responsive to the IBEW, but their respective agendas do not always align with one another. They also confirmed that no decision on the bulletin had been made and a review was already underway, with an individual hired specifically to lead it.

In a letter from LSI to the Complainant the review process was outlined, and a new meeting of stakeholders, including the IBEW, was promised. The LSI representative also agreed to speak with the Complainant directly, which they did the following day. The Complainant was satisfied with the progress and with the intervention. The Ombudsman Representative suggested that the process be afforded time to unfold however, that the Complainant could check back with our Office if the issue was not resolved, or if there were undue limits on consultation or unreasonable delays.

OUTREACH

A significant portion of the work completed by this Office is through outreach. Outreach can take many forms, from an information booth at a Seniors’ Expo, to visiting youth in care or custody, or providing formal presentations to government employees and community groups. There are three areas that receive regular outreach attention: adults in Long-Term Care (LTC) facilities, youth in Child and Youth Caring Programs (CYCPs), as well as Young Persons and Persons in Custody in correctional facilities. Ombudsman Representatives engage children, youth, seniors, Persons in Custody, and staff by offering to speak with them in private or with their peers. Representatives also collect data, dispense educational materials, listen to concerns or complaints, familiarize themselves with a facility through site-visits, and build a rapport with residents, Persons in Custody, and staff. Site-visits are scheduled on a regular and as needed basis. For example, adult correctional facilities and CYCPs are visited quarterly, Wood Street Centre Campus, the Nova Scotia Youth Centre, and the IWK Secure Care Unit are visited monthly. Ombudsman Representatives also prepare written reports detailing their visits, regardless of whether a complaint is filed by someone in attendance.

In addition to our regular site-visits, Ombudsman Representatives attend special events that allow them to engage with new groups and individuals. Ombudsman Representatives also sit on the Nova Scotia Council for the Family Youth in Care Committee, the Canadian Council of Child and Youth Advocates, the Forum of Canadian Ombudsman, the International Ombudsman Institute (IOI), and the Canadian Council of Parliamentary Ombudsman. The Office continued to participate in the annual Provincial Government Employees United Way fundraising campaign and coordinated our efforts through the Public Service United Way Steering Committee.

Figure 20

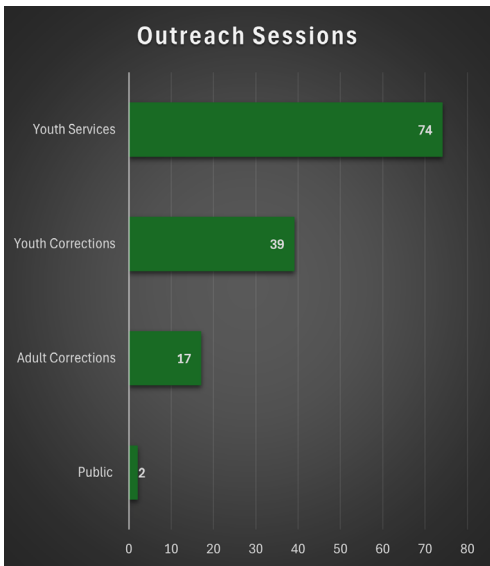
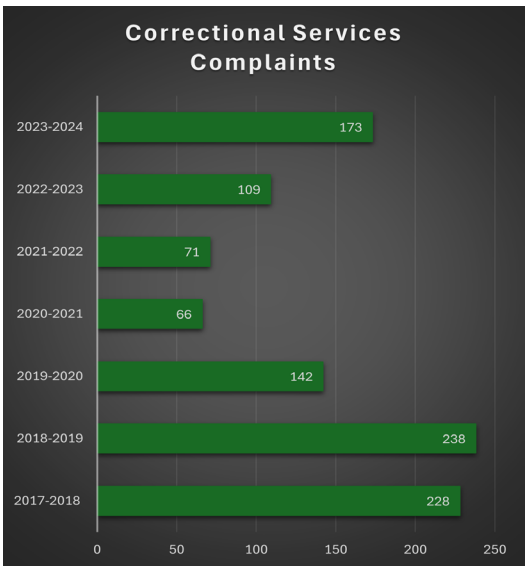


Figure 21



Correctional Services

In Nova Scotia, there are four adult correctional facilities holding both sentenced Persons in Custody as well as those remanded to custody pending trial. These facilities are the Central Nova Scotia Correctional Facility (CNSCF), the Southwest Nova Scotia Correctional Facility (SNSCF), the Northeast Nova Scotia Correctional Facility (NNSCF), and the Cape Breton Correctional Facility (CBCF). These correctional facilities are visited by Ombudsman Representatives on a quarterly basis or as needed. During site visits, Representatives may receive complaints, provide information or referrals, and promote the resolution of complaints through Correctional Services’ internal complaint resolution processes.

Ombudsman Representatives and the Complaint and Assessment Analyst educate Persons in Custody on Correctional Services internal complaint process and encourage them to exhaust all avenues of appeal before filing a complaint with the Office. This approach has reduced the total number of complaints involving Correctional Services. Fewer complaints of this nature enable the Complaint and Assessment Analyst and Ombudsman Representatives more time to address complex or systemic issues.

Figure 21 illustrates the number of Correctional Services complaints by Persons in Custody over the last seven fiscal years. The graph does not include complaints by Persons in Custody outside of Correctional Services, such as complaints about the services provided by Nova Scotia Health (Nova Scotia Health Authority). In 2023-2024 there were 173 new complaints by Persons in Custody about Correctional Services, several of those complaints were referred to the internal complaint process.

In addition to receiving complaints from Persons in Custody at correctional facilities, representatives from the Department of Justice approached our office about auditing the use of close confinement in its correctional facilities. Those discussions resulted in Ombudsman Representatives developing and conducting an independent quarterly review process on the use of close confinement and providing our findings to the Department of Justice.

# Youth and Seniors Services

While youth and seniors may be at the opposite ends of the age spectrum, they share some things in common. For instance, youth and seniors, including those in care and custody, are some of the most vulnerable people in our society. Because both groups rely more often on government services, they tend to have more opportunities for adverse interactions. Perhaps they are even dependent on one or more government service in their daily lives. This can create conflicts that complicate the level of service received. For instance, youth who reside in Child and Youth Caring Programs (CYCPs), or who are in custody at the Nova Scotia Youth Centre, interact with government employees daily and are dependent on the services and care provided by government, especially when compared with the average young person in Nova Scotia. Ombudsman Representatives confidentially review and investigate the concerns of children, youth, and seniors that relate to government services. These groups receive focused attention when it comes to our referral service. While acknowledging potential vulnerabilities, sometimes it is appropriate for Ombudsman Representatives to help guide a person through a process rather than simply directing them elsewhere, and Ombudsman Representatives are continually educating themselves on ways to better address issues relating to youth and seniors.

The general oversight function and mandate for children and youth is not rooted in a specific piece of legislation, but in the findings of a provincial government audit which took place in 1995, and the Stratton Report which addressed allegations of abuse at provincial youth facilities. At that time government recognized independent oversight was a necessary component in helping to keep youth in care and custody safe from harm. This recognition has since led to regularly scheduled site visits to youth residential care and custodial facilities by Ombudsman Representatives. For more information on site-visits, you may wish to review the outreach section of this report.

Keeping informed on the policy, procedures, and operational protocols for these sites helps to resolve issues quickly. Ombudsman Representatives strive to make both residents and staff at provincial facilities comfortable with coming forward with complaints and concerns, including allegations of abuse and wrongdoing. While Ombudsman Representatives encourage those in care and custody to address basic concerns with staff first and to take advantage of internal complaint resolution processes, Representatives do not hesitate to investigate allegations of mistreatment.

## Senior-Specific Issues

Complaints that are captured as senior-specific issues must be cases where the person’s status as a senior citizen is directly relevant to the complaint. Therefore, not all complaints made by senior citizens will be captured here.

Figure 22

5	Care Facility
4	Facility Staff/Social Worker
4	Government Services/Programs
8	Grants/Rebates
3	Housing
2	Medication Costs
2	Pension/OAS/IA
2	Pharmacare
4	Other
34	<b>Total</b>

## Type of Youth Complaints

Most youth complaints come from youth in care and custody. This reality is reflected in the categories in figure 18. For instance, the category “food” is referring to the food provided in government facilities that house youth. For another example, “staff” refers to facility staff.

Figure 23

8	Bullying
16	Communication
7	Court Matters
8	Facilities/Building
4	Food
9	Mandate Explanation
4	Personal Belongings
10	Placement
10	Program/Treatment
21	Restrictions
21	Staff/Youth Workers
10	Other
128	<b>Total</b>

### Employment Support & Income Assistance

A recipient of the Department of Community Services' Employment Support & Income Assistance (ESIA) program contacted our Office with a concern that their financial benefits were reduced from the enhanced household rate to the standard household rate. The recipient stated that they were previously eligible for the enhanced rate due to their disability and their status as a renter, but they now met the definition of a boarder, and as such were reduced to the standard rate. The recipient acknowledged that ESIA Regulations stated that disabled recipients who board are only eligible for the standard rate, however they challenged the fairness of these Regulations, as despite their current living situation, they were "no less disabled" nor were their living expenses any lower than when they received the enhanced rate.

During their investigation, the Ombudsman Representative discovered that prior to the recipient moving from their rental, their ESIA caseworker had approved their new home as a rental, but that after one month, following a visit from an Eligibility Review Officer, they were deemed to be boarding, and therefore were being charged a monthly overpayment fee to repay the month they had received the enhanced rate.

Recommendations were issued to address both the recipient's specific situation, and overall issue of a gap in service for recipients with disabilities who board instead of rent. The Recommendations were accepted and can be found in the recommendation section of this report. The Recommendations will continue to be monitored until fully implemented.

### Implementation of the Land Use Bylaw

In January 2018, a resident of the Cape Breton Regional Municipality (CBRM), contacted the CBRM complaining of a quarry (pit) and associated sales activity operating in their neighbourhood. A CBRM Development Officer responded and acknowledged that the activity was occurring in contravention of the CBRM's Land Use Bylaw. The Development Officer issued an Order to the operators of the pit directing them to cease its operation, stating, 'Our office is responsible for the enforcement of the CBRM's Land Use Bylaw. It has come to our attention that quarried material such as gravel is being retailed from properties (at this location) without a permit and in contravention of this Bylaw.'

The Development Officer identified that sales associated with a mining or quarrying operation are not permitted in this zone and this activity was taking place without a Development Permit. There is also a functioning pit operating from the adjoining property (same owner) referenced in the same Order issued by the Development Officer.

The property owner was directed by the Development Officer to immediately cease retail operations. In addition, they followed up with the property owner on this instruction, acknowledging that while the CBRM does not regulate the primary industry of mining, it does regulate the retailing of gravel at the location, and it is not permitted.

Despite the issuing of this Order the retailing of quarried material persisted.

In July 2022, the resident, frustrated at the lack of enforcement by the CBRM, contacted our Office. The Complainant had become increasingly frustrated as the activity associated with the retailing and the pit on the adjoining property increased and their repeated complaints to the CBRM did not result in the issues being addressed.

After an Ombudsman Representative contacted CBRM officials, there followed a period of review by the CBRM, who subsequently maintained that following their review they could not find evidence to substantiate the retailing of quarry material and the current activity taking place at this location did not constitute retailing under the CBRM Land Use Bylaw. They further advised that the original complaint which led to the Order being issued was considered both closed and resolved several years earlier. The investigation undertaken by this Office did not share the CBRM's conclusion. Ombudsman Representatives found retail activity was being carried out at this location, in the same manner as previously identified by the CBRM Development Officer. It was also confirmed that there was activity of an industrial nature taking place at this location in the form of a pit/topsoil removal operation, for which there appeared to be no Development Permit in place, as acknowledged by the CBRM Development Officer in 2018.

Our Office has a consultative process to encourage discussion and understanding on the position of respondents but also to enable respondents to understand the rationale for our findings and conclusions should any questions or concerns arise.

Numerous attempts were made by this Office to engage with representatives of the CBRM to better understand their position and discuss our concerns in this instance. A subsequent complaint involving the property was received. The matter remains ongoing.

## Remediation of a Dangerous or Unsightly Premise

In March 2021, the owner of a property located within the Municipality of Victoria County (the Municipality) contacted our Office alleging the Municipality did not follow administrative fairness in its enforcement of the Dangerous or Unsightly Premises provisions of the *Municipal Government Act (MGA)*. The Complainant also alleged that the Municipality was in a conflict-of-interest in its management of the situation.

The Complainant stated they were residing in British Columbia in the fall of 2020 when they were notified by their neighbor in the Municipality of Victoria County, that a structure on their property was on fire and the fire department were on scene. Following notification from their neighbour, the Complainant called and spoke with the Fire Chief who advised the structure was heavily damaged and would require demolition and removal. According to the Complainant they advised the Fire Chief they (the Complainant) would contact a contractor whom they knew to mitigate costs and to remediate the property.

Four days later, with no contact or attempt to contact the property owner, the Municipality engaged a contractor for the demolition and removal of debris from the Complainant's property. The Complainant subsequently received an outstanding property tax bill with the contractor's fee added on their municipal taxes seeking compensation for the work charged to the Municipality.

According to the Complainant they arranged for a contractor to remediate the property and had that contractor been provided an opportunity to complete the required demolition work, the fee would have been significantly lower than what the contractor chosen by the Municipality billed. The Complainant also expressed frustration that the Municipality ought to have recognized the potential for conflict-of-interest when it retained a close family member of the Fire Chief to undertake the work.

The investigation by Ombudsman Representatives included a review of relevant legislation, regulations, policies and procedures, as well as documentation, interviews, and a meeting with the Chief Administrative Officer (CAO) and the Director of the Eastern District Planning Commission (EDPC). The investigation also focused on the principles of administrative fairness while examining the steps undertaken by the Municipality in this instance.

In meeting its duty of procedural fairness, a public organization must ensure its decision-making processes provide opportunities for individuals to meaningfully participate and be heard when they are proposing actions or making decisions that impact them. Our investigation revealed when the Municipality administered the Dangerous or Unsightly Premises provisions of the *Municipal Government Act*, they did not notify, or attempt to notify, the property owner of the incident and what was required of them, nor did they provide the property owner an opportunity to participate in the decision-making process to address the situation.

In the absence of internal policy, procedures, and/or guidelines regarding incidents of this nature the Municipality stated its actions were guided by the *MGA*. In the context of Dangerous or Unsightly Premises, the *MGA* defines Immediate Action as: "Where public safety requires immediate action, the administrator may immediately take the necessary action to prevent danger or may remove the dangerous structure or condition." In this instance the Municipality invoked the Immediate Action clause four days after the fire. The remediation work was awarded to a private contractor absent any type of procurement or standing offer process. While the close family relationship of the Fire Chief and the private contractor was acknowledged, the Municipality did not have its own conflict-of-interest policy and the Fire Chief was not a paid employee of the Municipality, rather the head of the volunteer organization relied upon for fire and emergency services within and by the Municipality.

Recommendations were issued to the Municipality with the intent of improving the handling of dangerous and unsightly premise matters. The Municipality agreed with those recommendations and developed an Administrative Fairness Procedure when dealing with the Dangerous or Unsightly Premises provisions of the *Municipal Government Act*. However, the Municipality did not accept the recommendation related to developing a conflict-of-interest policy to provide representatives and members of the public guidance in the Municipality's administration of the *Municipal Government Act*, related policies, and procedures, including complaint resolution. This Office was disappointed with the Municipality's decision not to develop a conflict-of-interest policy given such policies have been shown to benefit both decision makers and the public in ensuring that when real and/or perceived conflicts arise, the decision-making process is undertaken in an objective and transparent manner. On a more positive note, the Municipality and the owner of the property came to a financial resolution regarding the outstanding contractor fee and tax arrears.

## CONTACT US

Ombudsman Representatives are available to meet with groups or organizations to discuss the services the Office provides.

The Office also has communication materials to distribute such as brochures and posters. Additional reference documents supplementing the Annual Report may be found on our website or by contacting the Office.

There are several ways to contact the Office of the Ombudsman:

### Telephone:

Public Inquiries/Complaints: 1-902-424-6780 or Toll Free: 1-800-670-1111  
Youth Inquiries/Complaints: 1-902-424-6780 or Toll Free: 1-800-670-1111  
Disclosure of Wrongdoing Inquiries/Complaints: Toll Free: 1-877-670-1100  
Fax: 1-902-424-6675

### In person:

5657 Spring Garden Road Suite 200 (Park Lane Terraces)  
Halifax, NS B3J 3R4

### Mail:

PO Box 2152  
Halifax, Nova Scotia B3J 3B7

### Online:

Website: [www.ombudsman.novascotia.ca](http://www.ombudsman.novascotia.ca)  
E-mail: [ombudsman@novascotia.ca](mailto:ombudsman@novascotia.ca)



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