

NOVA SCOTIA
OFFICE OF THE OMBUDSMAN



ANNUAL REPORT
2020-2021

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Ombudsman Annual Report 2020-2021

Office of the Ombudsman

June 2021

June 2021

The Honourable Kevin Murphy
Speaker of the House of Assembly
Legislative Assembly of Nova Scotia
Province House
Halifax, Nova Scotia

Dear Speaker Murphy,

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 have the pleasure of presenting to you, and through you to the House of Assembly, the annual report on the exercise of my functions under those acts for the fiscal year ending March 31, 2021.

Respectfully,



William A. Smith
Ombudsman



William A. Smith, Ombudsman

When I issued my previous Annual Report, Nova Scotia and the rest of the world was on the cusp of the second wave of the Novel Coronavirus (COVID-19) Pandemic. That report was prepared as staff alternated between working from home and the office, and access to some government services were modified or put on hold in keeping with public and staff safety.

The 2020-2021 fiscal year has been like no other. From a public service perspective, we had very few expectations about how the year would unfold. Consequently, this report reflects a year of adjustment, restrictions, and uncertainty. Our case numbers are down slightly, our outreach efforts were significantly altered, and our ability to directly connect with government departments and municipalities was impacted as they too worked to adjust to the “new normal.”

Nova Scotians have mentally, physically, and financially been impacted by COVID-19 and will continue to be for the foreseeable future. With that in mind our oversight responsibilities have never been more important. While we must acknowledge the burden and interruptions the pandemic has placed on government, we must also continue to exercise our role and mandate as agents of fairness, integrity, and good governance. The Office of the Ombudsman continues to provide three oversight functions. First, pursuant to the Ombudsman Act, Ombudsman Representatives address complaints regarding the administration of provincial and municipal governments. This includes municipal units, provincial departments, agencies, boards, and commissions. Second, we in effect operate as a child, youth, and seniors Ombudsman working directly with departments and agencies who provide services to all children, youth, and seniors, including children and youth in care and custody of the Province, and seniors residing in long-term and residential care facilities, to help improve those services. Notably, that includes functioning as an independent review mechanism when complaints arise involving the delivery of those services. Thirdly, this Office reviews and investigates allegations or disclosures of wrongdoing from provincial government employees and members of the public. This mandate has broadened significantly from the first days of this Office when it was established 50 years ago. On that note, 2021 marks our 50th year of service to Nova Scotia. While celebrating this milestone will be understandably subdued because of the pandemic, we hope to leverage the use of technology to share the ways in which we continue to support good governance in Nova Scotia.

Whether you are reading this report with no previous knowledge of the Office of the Ombudsman or you are well versed in our role and mandate, I ask that you take some time to consider the statistics and cases, and reflect on the important role an independent oversight body plays in helping to hold government agencies to account. This is not achieved by attacking the work of public servants, rather in identifying areas for change and improvement and by promoting these positive changes in public service with a focus on administrative fairness.

Finally, I would like to take this opportunity to wish all Nova Scotians well as they continue to live, work, and persevere through the pandemic and the untold impacts of this past year. A true testament to Nova Scotia strong. And a sincere thank you to my staff for their efforts in maintaining our service standards throughout this unique and challenging time.

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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).

Organization



Administration

The **Office Manager** fulfills administrative and business functions and is a committee member for 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 inmates 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 Residential Child-Caring Facilities, Wood Street Centre Campus, the Nova Scotia Youth Centre (Waterville), and the Cape Breton Detention Facility (Glace Bay).

The Ombudsman is an executive member of the Canadian Council of Child and Youth Advocates (CCCYA), and Ombudsman Representatives participate on various CCCYA working groups.



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 17 full-time positions, including that of Ombudsman. It continues to benefit from a roster of supplemental trained employees, co-op and student work placements. The casual roster enables the Office to accommodate staff vacancies while continuing to carry out in-depth investigations.

Office of the Ombudsman staff sit on the following committees:

- Diversity Roundtable
- Pride Nova Scotia Government Employee Network
- Nova Scotia Disability Employee Network
- French Language Services Committee

This year, due to the Novel Coronavirus Pandemic (COVID-19) we were unable to host any in-person student placements rather, the public law student conducted their winter placement virtually. One person on staff successfully completed their candidacy process through the Nova Scotia College of Social Workers and is now a Registered Social Worker.



**DALHOUSIE
UNIVERSITY**
Inspiring Minds



**DALHOUSIE
UNIVERSITY**
SCHULICH SCHOOL OF LAW

Training and Professional Development

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

Internal Government and Public Service Commission Training

- Identifying and Addressing Unconscious Biases
- Identifying and Addressing Microaggression
- Respectful Workplace
- Leadership Development Program
- The working mind for employees
- First Aid / CPR
- Teams Essential Training
- Acadie at a Glance
- Human Rights 101

External Training

- The Forum of Canadian Ombudsman Certificate in Advanced Issues in Ombuds Practice – Osgoode Hall, York University
- Intermediate French 1 – Université Sainte-Anne
- Policy Development and Implementation Certificate – Saint Mary's University
- Ethics 101 – Nova Scotia College of Social Work
- The Heart of Helping: Understanding Vicarious Trauma and Compassion Fatigue – Dalhousie University
- Lifting the Burden on Kids – Statistics Canada

Finances

The Office of the Ombudsman's **2020-2021 Budget** is shown in (Figure 1). This year the Office spent 98% of its budget.

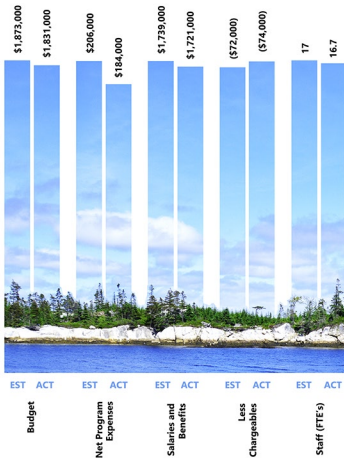


Figure 1

CASE STUDY #1

In the early stages of the Novel Coronavirus (COVID-19) Pandemic the Office of the Ombudsman received a complaint from a small business owner who was concerned their application for the Small-Business Impact Grant would be denied on the grounds that they were being asked to provide tax documents which they did not possess. The complainant said they had provided all the appropriate documentation listed in the application process and could not understand why they were being asked for additional tax forms that the business did not have. The complainant had communicated with administrators for the grant program, but they were unsuccessful in resolving their concerns and could not recall exactly who they were communicating with.

An Ombudsman Representative made inquiries to try and determine responsibility for the program and who the complainant may contact to resolve their concerns. By contacting the Nova Scotia COVID-19 Response Council (NSCRC), the Ombudsman Representative determined that the grant was administered by Dalhousie University with policy support from the Department of Business.

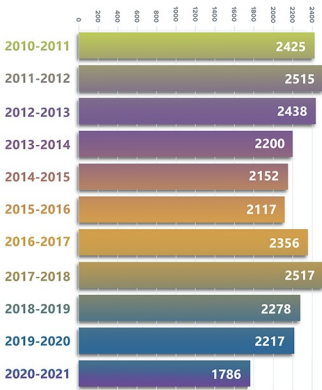
While the Ombudsman Representative was in the process of making inquiries, the complainant was informed by the program administrators that their application had been denied. The complainant once again reached out to the program administrators seeking clarification. The Ombudsman Representative contacted officials at the Department of Business requesting information around the application process. Eventually the Ombudsman Representative connected with an official in the Executive Council Office who agreed to review the application. That review found that a mistake was made in how the business was classified. The business is a restaurant which was closed as a result of the Public Health Order, thereby making it eligible for the grant however, reviews of the application mistakenly deemed it to be a food truck which would not have been eligible. The error was likely the result of the name of the Nova Scotia limited company that owns the restaurant which had the potential to suggest it may be a food truck.

The eligibility issues were resolved, and the restaurant's application was reconsidered for the grant.

Key Facts and Figures

In 2020-21, the Office handled 1,786 complaints, inquiries, and youth contacts. To see how that compares with the last ten years see figure 2. Of the 1,786 total complaints, inquiries and youth contacts handled, 1,278 matters were resolved at the intake and assessment stage, 462 at the administrative review investigation stage. Three were formal investigations, two were own-motion investigations, and 41 were youth meetings/contacts (figure 3). Various complaint outcomes can be seen in figure 4, including 528 non-jurisdictional complaints.

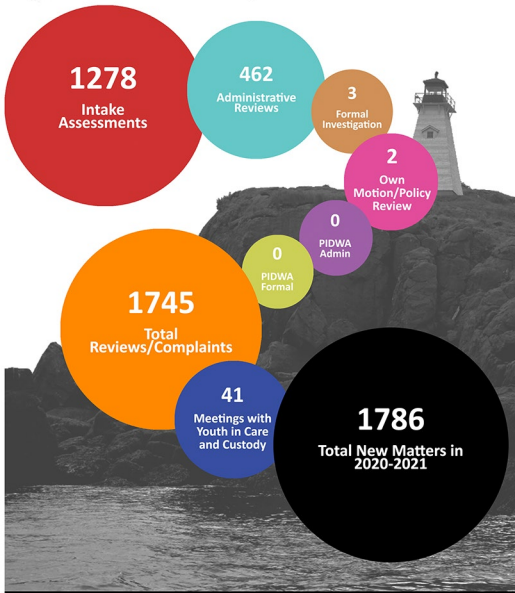
Figure 2



The decrease in total matters handled between 2017 and 2020 can be attributed in part to a reduced number of meetings with youth in care and custody, as well as complaints from youth in care and custody. The average number of youth in custody at the Nova Scotia Youth Centre (NSYC) has seen steady decreases over the last several years as more youth are receiving community sentences. The difference between fiscal 2019-20 and 2020-21 is attributed to the COVID-19 pandemic. In-person outreach numbers for instance were significantly reduced in the first few months of the pandemic as we complied with public health orders and adapted our outreach sessions remotely (i.e. teleconference, virtual), particularly to locations such as long-term care facilities, correctional facilities, and residential child-caring facilities.

Reviews/Complaints/Meetings

Figure 3



Results of Complaints and Inquiries

Figure 4

1026

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

23

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)

14

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

2

Discontinued by Ombudsman: When the Ombudsman, or his 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)

75

Discontinued by Complainant (Withdrawn): When a complainant decides to disengage from the review / investigation process

528

Non-Jurisdictional:

- Court or Tribunal (84)
- Elected Official (1)
- Federal (115)
- Private (273)
- Self-regulating body (55)

77

Outcome was undetermined when the stats were collected at year end.

1745 Total*

** Total excludes meetings with youth in care and custody.*

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:

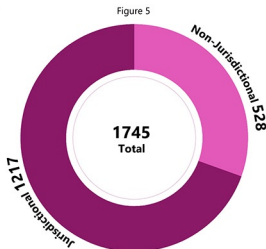
Self-regulating body – When the Office receives a complaint regarding a professional governed by a self-regulating body or about the services of a self-regulating body (e.g. complaints about lawyers)

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)



Resolution Timelines

Most files are resolved by Ombudsman Representatives in one to seven days. Figure 6 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.



Intake Assessments	1-7 Days	
Administrative Reviews	1-4 Weeks	
Formal Investigations	4 Weeks +	+
Own Motion Investigations	4 Weeks +	+

Figure 6

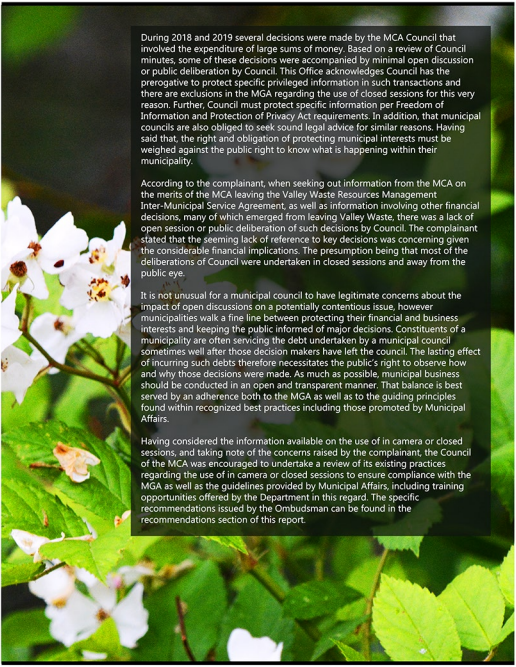
This Office was contacted by a concerned resident of the Municipality of the County of Annapolis (MCA) who, along with other citizens, believed the municipality was being mismanaged. The complainant alleged that in the past two years Municipal Council had been misusing 'in camera' sessions as a means of making decisions outside of the public eye, including taking on significant debt. Further, that these sessions were in breach of the Municipal Government Act (MGA). The focus of the complainant's grievance centred on the MCA's departure from the Valley Waste Resources Management Inter-Municipal Service Agreement as well as several other decisions which the complainant saw as controversial and fiscally irresponsible for the municipality to undertake. Based on the information available, an investigation was initiated. The focus of the investigation was administrative in nature regarding the application of 'in camera' sessions, which are referred to in the MGA as closed sessions.

According to the Department of Municipal Affairs and Housing guidelines, *Council Meetings – Open and Transparent*, municipalities in Nova Scotia are obliged to conduct business in an open and transparent manner. When meetings or portions thereof are held in private, they are done in a closed session or 'in camera.' To help guide members of municipal councils in determining when it is appropriate to conduct business in a closed session, numerous resources are available on best practices.

Council Meetings – Open and Transparent, notes that closed sessions should not be scheduled but rather used as the need arises during otherwise open sessions of council. This inherently means that the public are invited to attend meetings of council or open sessions, and it is only for short, specific periods, that they be asked to step outside of the meeting space. As much as possible, discussions among councillors that move a council towards a decision, should be done in the public open session. Further, a council should also strive to hold open meetings on a scheduled basis with advance notice given to the public. Holding special council meetings where the stated purpose of the meeting is to go into a closed session or where most of the meeting is spent in private, is contrary to the principles of good governance.

The MGA provides a municipal council the authority to use closed sessions and outlines the exceptions when they may be held. Those exceptions are designed to protect a municipality's financial and business interests, but not unnecessarily exclude the public. While this Office acknowledges closed sessions are a right of municipal council and can be a useful tool, the use of such sessions must not be exploited. The process of determining when and for how long to conduct business in a closed session must be administered in a consistent and fair manner. Going into a closed session to avoid public scrutiny is contrary to best practices and unfair to the constituents who a municipal council represent.





During 2018 and 2019 several decisions were made by the MCA Council that involved the expenditure of large sums of money. Based on a review of Council minutes, some of these decisions were accompanied by minimal open discussion or public deliberation by Council. This Office acknowledges Council has the prerogative to protect specific privileged information in such transactions and there are exclusions in the MGA regarding the use of closed sessions for this very reason. Further, Council must protect specific information per Freedom of Information and Protection of Privacy Act requirements. In addition, that municipal councils are also obliged to seek sound legal advice for similar reasons. Having said that, the right and obligation of protecting municipal interests must be weighed against the public right to know what is happening within their municipality.

According to the complainant, when seeking out information from the MCA on the merits of the MCA leaving the Valley Waste Resources Management Inter-Municipal Service Agreement, as well as information involving other financial decisions, many of which emerged from leaving Valley Waste, there was a lack of open session or public deliberation of such decisions by Council. The complainant stated that the seeming lack of reference to key decisions was concerning given the considerable financial implications. The presumption being that most of the deliberations of Council were undertaken in closed sessions and away from the public eye.

It is not unusual for a municipal council to have legitimate concerns about the impact of open discussions on a potentially contentious issue, however municipalities walk a fine line between protecting their financial and business interests and keeping the public informed of major decisions. Constituents of a municipality are often servicing the debt undertaken by a municipal council sometimes well after those decision makers have left the council. The lasting effect of incurring such debts therefore necessitates the public's right to observe how and why those decisions were made. As much as possible, municipal business should be conducted in an open and transparent manner. That balance is best served by an adherence both to the MGA as well as to the guiding principles found within recognized best practices including those promoted by Municipal Affairs.

Having considered the information available on the use of in camera or closed sessions, and taking note of the concerns raised by the complainant, the Council of the MCA was encouraged to undertake a review of its existing practices regarding the use of in camera or closed sessions to ensure compliance with the MGA as well as the guidelines provided by Municipal Affairs, including training opportunities offered by the Department in this regard. The specific recommendations issued by the Ombudsman can be found in the recommendations section of this report.

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.

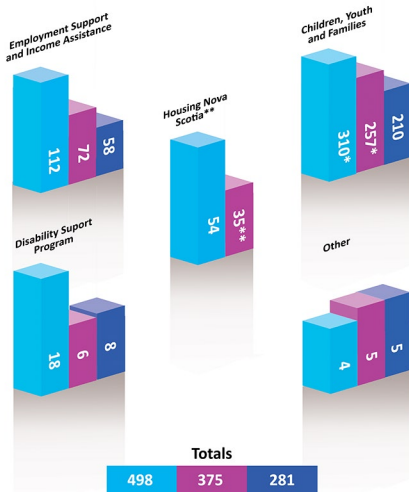
This Office recognizes that receiving a complaint does not necessarily mean it is with merit in every instance. Nor does the number of complaints regarding a public body speak to the quality of programs and services it delivers. By their nature, the public bodies accessed more frequently by citizens, 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 7-12 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.

Department of Community Services

2018-2019 - 2019-2020 - 2020-2021

Figure 7



* includes complaints by youth in care

** Housing Nova Scotia was moved under Municipal Affairs in 2019, as a result some Housing Nova Scotia Complaints will be captured with the Municipal Affairs statistics

Department of Justice

2018-2019 - 2019-2020 - 2020-2021

Figure 8

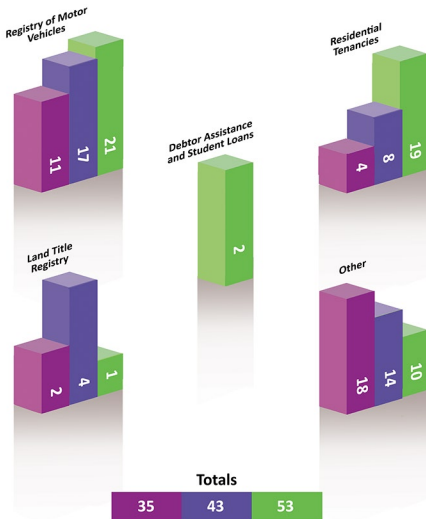


* includes complaints from adults and youth in custody

Service Nova Scotia and Internal Services

2018-2019 - 2019-2020 - 2020-2021

Figure 9



Department of Health and Wellness

2018-2019 - 2019-2020 - 2020-2021

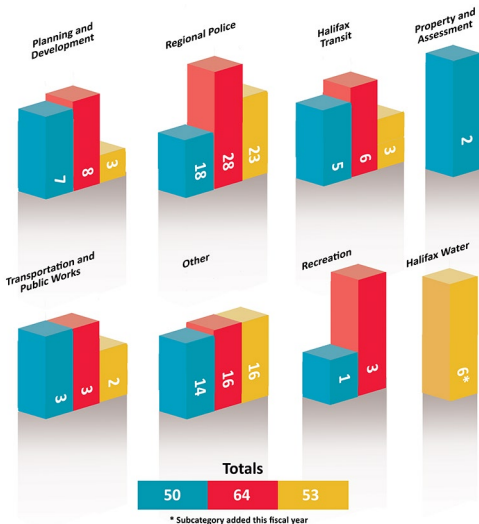
Figure 10



Halifax Regional Municipality

2018-2019 - 2019-2020 - 2020-2021

Figure 11

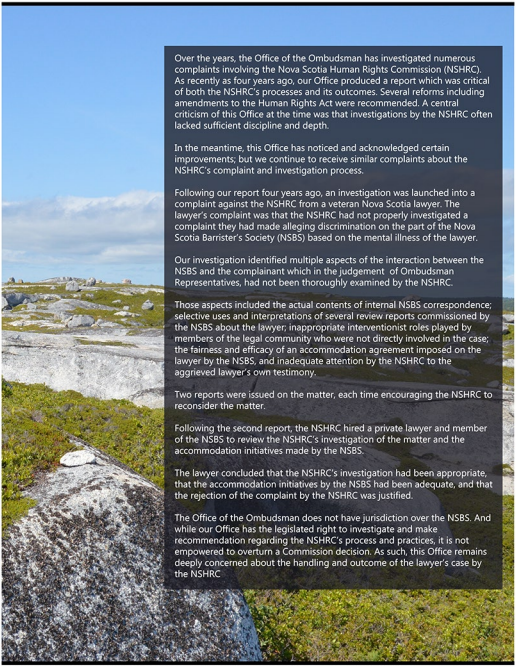


Workers' Compensation Board

2018-2019 - 2019-2020 - 2020-2021

Figure 12





Over the years, the Office of the Ombudsman has investigated numerous complaints involving the Nova Scotia Human Rights Commission (NSHRC). As recently as four years ago, our Office produced a report which was critical of both the NSHRC's processes and its outcomes. Several reforms including amendments to the Human Rights Act were recommended. A central criticism of this Office at the time was that investigations by the NSHRC often lacked sufficient discipline and depth.

In the meantime, this Office has noticed and acknowledged certain improvements; but we continue to receive similar complaints about the NSHRC's complaint and investigation process.

Following our report four years ago, an investigation was launched into a complaint against the NSHRC from a veteran Nova Scotia lawyer. The lawyer's complaint was that the NSHRC had not properly investigated a complaint they had made alleging discrimination on the part of the Nova Scotia Barrister's Society (NSBS) based on the mental illness of the lawyer.

Our investigation identified multiple aspects of the interaction between the NSBS and the complainant which in the judgement of Ombudsman Representatives, had not been thoroughly examined by the NSHRC.

Those aspects included the actual contents of internal NSBS correspondence; selective uses and interpretations of several review reports commissioned by the NSBS about the lawyer; inappropriate interventionist roles played by members of the legal community who were not directly involved in the case; the fairness and efficacy of an accommodation agreement imposed on the lawyer by the NSBS, and inadequate attention by the NSHRC to the aggrieved lawyer's own testimony.

Two reports were issued on the matter, each time encouraging the NSHRC to reconsider the matter.

Following the second report, the NSHRC hired a private lawyer and member of the NSBS to review the NSHRC's investigation of the matter and the accommodation initiatives made by the NSBS.

The lawyer concluded that the NSHRC's investigation had been appropriate, that the accommodation initiatives by the NSBS had been adequate, and that the rejection of the complaint by the NSHRC was justified.

The Office of the Ombudsman does not have jurisdiction over the NSBS. And while our Office has the legislated right to investigate and make recommendation regarding the NSHRC's process and practices, it is not empowered to overturn a Commission decision. As such, this Office remains deeply concerned about the handling and outcome of the lawyer's case by the NSHRC.

Respondents to Complaints

The table below (figure 13) lists all public bodies that were the subjects of complaints under the Ombudsman Act and the PIDWA for 2020-2021. 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 13

2	Agriculture
1	Amherst (Town)
4	Annapolis (Municipality)
1	Annapolis (Royal)
2	Bridgewater (Town)
5	Business (now Inclusive Economic Growth)
41	Cape Breton Regional Municipality
1	Chester (Municipality)
1	Communications Nova Scotia
281	Community Services
10	Cumberland (Municipality)
2	East Hants (Municipality)
6	Education and Early Childhood Development
5	Emergency Management Office
16	Environment (now Environment and Climate Change)
1	Finance and Treasury Board
1	Fisheries and Aquaculture
1	Gaelic Affairs
53	Halifax (Municipality)
114/124	Health and Wellness/Nova Scotia Health Authority*
34	Human Rights Commission
1	Information and Privacy Commissioner
2	Infrastructure and Housing (starting March 2021)
3	Internal Services
4	IWK Health Centre
121	Justice
2	Kentville (Town)
3	Kings (Municipality)
19	Labour and Advanced Education
4	Lands and Forestry
2	Legislative House of Assembly
4	Lunenburg (Municipality)
51	Municipal Affairs and Housing (now Municipal Affairs)
1	New Glasgow (Town)
3	Nova Scotia Community College
41	Nova Scotia Legal Aid Commission
1	Nova Scotia Liquor Corporation
2	Nova Scotia Pension Services Corporation
1	Nova Scotia Securities Commission
3	Nova Scotia Police Complaints Commission
8	Office of the Ombudsman**
4	Office of the Premier
1	Port Hawkesbury (Town)
2	Property Valuation Services Corporation

2	Public Prosecution Service
2	Public Service Commission
1	Queens (Municipality)
8	Regional Centres for Education (Former School Boards)
2	Richmond (Municipality)
53	Service Nova Scotia and Internal Services
21	Transportation and Infrastructure Renewal (now Transportation and Active Transit)
1	Trenton (Town)
6	Truro (Town)
1	Victoria (Municipality)
2	Workers' Compensation Appeals Tribunal
26	Workers' Compensation Board

631 No Respondent - includes non-jurisdictional complaints, info requests, and inquiries

1745 TOTAL

* Includes Offender Health

** the Office of the Ombudsman was the respondent for 8 matters which include concerns regarding the progress, process, or outcome of files handled by Ombudsman Representatives. In all cases these matters have been reviewed and responded to by Managers.

Month at a Glance

The following table (figure 14) breaks down the month of July 2020. This table demonstrates the variety of complaints received in any given month. The information below includes the respondent to the complaint as well as the general nature of the issue. Ombudsman Representatives must maintain a broad knowledge of legislation, policy, and procedures and consider all types of administrative complaints, ranging from those regarding provincial acts to specific municipal policies. The presence of a complaint in this table does not necessarily indicate fault or maladministration. The respondent is captured when the complaint is received.

Figure 14

July 2020 - 155 Complaints and Inquiries

- 1 Cape Breton Regional Municipality**
By-law Enforcement (1)
- 29 Community Services**
Children, Youth and Families (22)
Employment Support and Income Assistance (5)
Disability Support Program (1)
Other (1)
- 1 Education and Early Childhood Development**
Employment Matter (1)
- 3 Halifax Regional Municipality**
Regional Police (3)
- 12 Health and Wellness**
Continuing Care (9)
Public Health (1)
Quality and Patient Care (2)
- 1 Human Rights Commission**
Complaint Timeline (1)
- 12 Justice**
Adult Corrections (6)
Maintenance Enforcement Program (4)
Police Services (1)
Public Prosecution Services (1)
- 11 Labour and Advanced Education**
Higher Education (9)
Labour Services (1)
Safety (1)
- 5 Municipal Affairs and Housing**
Housing Nova Scotia (4)
Other (1)
- 1 Municipality of the County of Cumberland**
Response to Public Complaint (1)

- 1 Municipality of Region of Queens**
By-law Enforcement (1)
- 5 Nova Scotia Health Authority**
Healthcare (1)
Health Records (3)
Offender Health (1)
- 3 Nova Scotia Legal Aid Commission**
Applicaton for Service (3)
- 2 Regional Centres for Education**
Hiring Process (2)
- 5 Service Nova Scotia and Internal Services**
Land Registry (1)
Registry of Motor Vehicles (3)
Residential Tenancies (1)
- 2 Transportation and Infrastructure Renewal**
Highways (2)
- 49 Non-Jurisdictional**
Court or Tribunal e.g. seeking legal advice (9)
Federal e.g. federal tax credits and benefits (15)
Private Matters e.g. insurance, utilities, private business (18)
Self-Regulating Body e.g. medical malpractice (7)
- 12 No Respondent**
General requests for information such as contact information, copies of annual reports, brochures, or inquiries about our role and mandate (12)

The Office dealt with a disclosure of wrongdoing under the Public Interest Disclosure of Wrongdoing Act that was brought to us by a group of individuals associated with an employment development and worker support agency in Cape Breton.

Island Employment (IE) is an independent, third-party organization with a significant, or majority portion of their budget, funded by the province of Nova Scotia. It is a creation of the Nova Scotia Works (NSW) division of the Department of Labour and Advanced Education (LAE).

IE typically employs around 30 people. Its funding takes the form of budgets for specific work development and worker support programs, mainly funded through LAE, although other departments may use their services as well. An umbrella operational agreement is in place between LAE and the organization. It imposes certain operating and reporting standards on the organization but does not control it as a government public service entity, despite its obvious resemblance to one.

The Complainants in this case disclosed numerous allegations to Ombudsman Representatives, mostly related to how Island Employment was spending its program funds. The Complainants alleged the following practices:

1. Billing different contracts for the same services/expenses, including rental space, travel expenses, and employee salaries;
2. The submission of false travel expenses and employees being directed to submit false travel expense claims;
3. Employees being paid a fee to provide training workshops to external organisations during their regular working hours in addition to receiving their regular salary; and
4. A lack of transparency, accountability, and oversight of the operations of Island Employment including spending practices involving items such as computers and tablets purchased through various contracts.



The Ombudsman Representatives investigated the allegations under the Public Interest Disclosure of Wrong Act (PIDWA), which essentially is Nova Scotia's "whistleblower" legislation. The PIDWA is designed to encourage public servants and other members of the public to expose perceived wrongdoing in the public service, and to provide such whistleblowers with protection against reprisals for doing so.

The investigation entailed scrutiny of hundreds of pages of documents such as spending records and expense claims covering a four-year period. Multiple interviews with IE managers and staff, LAE officials, and others were carried out.

The investigation found merit in three of the four allegations made – all except number two above. Ultimately, the Office of the Ombudsman made a finding of wrongdoing under Section 3 (j)(ii) of the PIDWA, which reads as follows:

(ii) A misuse or gross mismanagement of public funds or assets,

Beyond that core finding, numerous administrative defects were identified, including conflicts of interest by employees, uncontrolled spending practices and lack of adherence to government procurement standards, indulgent spending activities related to food, promotional goods, and gifts, and inconsistent and inappropriate practices related to travel claims.

The investigation into IE also identified and flagged weaknesses in both the standards and requirements by the Province for third party service agencies spending public money.

A Consultative Report of the findings and conclusions was provided to LAE and IE in December of 2020, and a final report in April of 2021 which incorporated responses from both parties.

As of the writing of this report, while this Office is disappointed at the extent to which LAE will continue to apply many existing standards and practices of accountability and influence that were challenged in our findings, this Office is pleased to note that the Final Recommendations have been considered by LAE and there are plans in place to give effect to them. Further, the agency itself, IE, has accepted all recommendations unconditionally.

The complete list of recommendations to both respondents is provided elsewhere in this report. The Office of the Ombudsman has set a timeline for implementation of its recommendations and will continue to monitor the process.



Did you know?

The Office of the Ombudsman was formed in 1971. In 2021 the Office will celebrate 50 years of serving Nova Scotia. While COVID-19 has placed limitations on how we are able to celebrate the occasion safely, we will be certain to mark this milestone with a look to the next 50 years of supporting fairness, integrity, and good governance.



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.

This year five in-depth investigations were conducted. The Office did not investigate any new matters as disclosures of wrongdoing under the Public Interest Disclosure of Wrongdoing Act (PIDWA), but continued PIDWA investigations initiated in previous fiscal years. Many issues are received as disclosures of wrongdoing, but following assessment, may be investigated under the Ombudsman Act or warrant referral to other resolution processes. Disclosures of wrongdoing must meet specific criteria pursuant to the PIDWA.

COMPLAINT RESOLUTION PROCESS

Ways in which complaints are handled by Office of the Ombudsman

Intake/Assessment ↓

Complaint is received by phone, email, online complaint form, or in person

Complaint and Assessment Analyst creates a file, determines if the matter is jurisdictional or non-jurisdictional

If non-jurisdictional, the complaint is recorded

If jurisdictional, a manager assigns it to an Ombudsman Representative

↓ Inquiry

The Ombudsman Representative confirms the nature of the complaint with the complainant and begins analyzing how it may be handled

Often Inquiries or Administrative Reviews may be addressed in a timely and less formal process

↓ Investigation

Generally, includes more in-depth or complex matters, and a more formal process

Consultation ↓

Formal Investigations result in the issuance of a report summarizing the complaint and its findings

Before a report is finalized, both complainant and respondent are offered the opportunity to comment during the consultative process

Recommendations ↓

Most final reports include recommendations from this Office

The purpose of recommendations is to address areas of concern uncovered during the investigative process

Recommendations ↓

In most cases, respondents choose to implement the recommendations in full

This Office monitors recommendations until they are implemented

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 two 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 Residential Child-Caring Facilities, 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 no disclosure of wrongdoing inquiries, allegations, or investigations specific to the Office of the Ombudsman received/submitted in 2020-2021. Figure 15 contains information required to be reported under section 18 of the PIDWA.

Figure 15

Information Required under Section 18 of the Act	2020-2021
The number of disclosures received	0
The number of findings of wrongdoing	0
Details of each wrongdoing	n/a
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.

Figure 16 describes the recommendations issued in 2020-2021. The table also describes the public body involved as the respondent, as well as the nature of the complaint. There were 25 formal recommendations issued. 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 that were concluded in 2020-2021. Of the 25 recommendations issued, 23 have been accepted and are being monitored for implementation and two are pending acceptance from the respondent.

Figure 16

Complaint

This Office received a complaint from a patient at the East Coast Forensic Hospital who alleged they were kept in patient seclusion for days without attention from staff. The investigation found no evidence to support this allegation, however procedural issues were noted and formed the recommendation on this file.

Respondents

Nova Scotia Health (NSH) & Department of Health and Wellness (DHW)

Recommendations

1. Develop and implement a single seclusion record that tracks the complete sequence of a patient's seclusion from initial placement to discharge. That the record includes details around the circumstances for initiating seclusion, appropriate physician check-ins, and incremental monitoring information. The record also should include clearly stated justifications for continuing seclusion and reason for discontinuing.

The intent of the recommendation was accepted by the respondent and is being achieved through procedural modifications to NSH practices. The recommendation is being monitored for implementation.

Figure 17

Complaint

This Office was contacted by a concerned resident of the Municipality of the County of Annapolis. The complainant alleged that Municipal Council were misusing closed sessions (in camera) of Council to make significant decisions outside the public eye. While there was no evidence to support that Council violated the letter of the Municipal Government Act, recommendations were made with the intention of supporting good governance through best practices.

A more detailed case study of this investigation can be found in this report.

Respondent

The Municipality of the County of Annapolis (MCA)

Recommendations

1. The Municipality of the County of Annapolis develop guidelines on the use of closed sessions that take into consideration the Municipal Government Act (MGA) and recognized best practices within the sector of municipal government including but not limited to:
 - a. Maximizing time spent in open session by keeping closed session discussions limited to only those details that require protection under section 22 of the MGA, recognizing that a subject may meet the criteria of a section 22 exception, but not necessarily require closed session discussion.
 - b. Conducting closed sessions in a manner that fosters timely return to open session.
 - c. Making use of closed sessions only as they arise – avoiding the scheduling of meetings for the purpose of going 'in camera' or a closed session.
2. In conjunction with the Department of Municipal Affairs and Housing, the Municipality of the County of Annapolis undertake training on the appropriate use of 'in camera' or closed sessions.

The recommendations have been accepted by the respondent and are being monitored for implementation.

Figure 18

Complaint

The Complainants in this case disclosed numerous allegations to Ombudsman Representatives, mostly related to how Island Employment was spending its program funds. The Ombudsman Representatives investigated the allegations under the Public Interest Disclosure of Wrong Act (PIDWA). In summary, this Office found that LAE was inclined to move incrementally on changes that might increase their accountability for such agencies, and to bring them closer to complete adherence to main-stream public service procurement and spending standards. LAE also appeared inclined to reflect the issues back to the agency as opposed to considering deficiencies in the program.

A more detailed case study of this file can be found in this report.

Respondent

Labour and Advanced Education (LAE) & Nova Scotia Works – Island Employment

Recommendations

Labour and Advanced Education

In keeping with sections 20(b) and 26(1) of the Public Interest Disclosure of Wrongdoing Act it is recommended that the Department of Labour and Advanced Education:

1. Review and revise the Employment Assistance Services Program (NSEAS) Policy and its current application with respect to agreements with Nova Scotia Works agreement holders to ensure that spending by these agencies is conducted in accordance with provincial government policies to promote consistent, sustainable, transparent, accountable, and ethical spending of taxpayer dollars. This review and revision should clarify and re-state all policies and practices related to:
 - a. Eligibility of travel and other expenses, such as meals and incidentals, as well as the department's position on pre-paying of staff expense claims
 - b. Hiring of employees to provide contract services and conflict of interest
 - c. Purchasing of gifts, staff meals, promotional items, and payment for staff "retreats" to ensure appropriate and financially responsible spending in alignment with the objectives of the agreements
 - d. Procurement, with the goal of ensuring procurement practices and policies that at minimum meet Government of Nova Scotia Procurement standards and policies.
2. Conduct a staff workload analysis to determine if current staffing and funding resources align with the service objectives of all agreements and to ensure such resources remain current as programs change and services evolve.
3. Explore and implement a system of Memoranda of Understanding (MOUs) with all other funders of programs covered by NSEAS policies, or articulate and apply any other effective strategy, to ensure that the management and implementation of those agreements adheres to practices and standards set out in the LAE policies OR conduct a review of the practice of Nova Scotia Works agencies to determine how wide-spread the practice of taking on additional projects and paying staff administrative fees may be, how these additional projects are managed with the resources funded by LAE, and whether this practice has an impact on the agency's delivery of ENS services. (*continued*)

4. Ensure the new Accountability Framework includes:

- a. Specific and representative sample sizes of documents to be reviewed for the quarterly and annual audits
- b. A requirement that annual audits include reviews of agency travel policies and staff travel expenses,
- c. Review of agency policies annually to ensure compliance with agreements
- d. Assurance that Conflict of Interest policies, whether contained in NSEAS Policy or devised internally by agencies, conform to Nova Scotia Government minimum standards
- e. Inclusion of clear and specific guidelines, and, where practical, pre-authorization by funders of all expenses such as gifts, food purchases, promotional items, and staff development initiatives that are not clearly linked to the delivery of services to clients.

5. Develop and implement a process to review and respond to complaints received about NSW agencies, in collaboration with those agencies.

6. Assess whether any of the findings and conclusions of this Final Report require a forensic audit or examination.

Island Employment

In keeping with sections 20(b) and 26(1) of the Public Interest Disclosure of Wrongdoing Act it is recommended that Island Employment:

1. Provide formal training for agency directors and Board members with signing authority on their roles and responsibilities. This training should include information on procurement processes and policies, appropriate expenditures under the agreements, and acceptable travel claim expenses. This training also should include the Board's role in addressing internal complaints that are not resolved at the Executive Director level.
2. Review internal procurement policies to ensure they are consistent with the requirements of funding bodies such as the provincial and federal governments, and with those implemented by LAE based on the recommendations listed above.
3. Examine the use and appropriateness of unrestricted, client, or other discretionary funds, including whether they are prescribed and specifically authorised in funding agreements.
4. Develop and implement policies related to donations, including the management and use of these funds and the issuance of tax receipts in accordance with relevant laws and policies.
5. Review the practice of paying management staff administrative fees to ensure this practice is compliant with LAE policy and the provisions of the funding agreements.
6. Develop and implement policy regarding the billing and payment of administrative fees for project work. This policy should include the requirement to document specific information on the work undertaken to administer the project, such as detailed information on the dates and times staff have worked on these projects. *(continued)*

7. Review and revise internal (agency) Conflict of Interest policies, specifically in regard to hiring employees to provide contracted services, to ensure that they conform to LAE Policies as recommended above.
8. Revise travel expense policies to ensure conformity to LAE policies. Revisions should ensure or prescribe the following:
 - a. Appropriate claiming of meals when travelling, including under which circumstances specific meals can be claimed (including meals claimed when attending conferences or staying in hotels where the breakfast meal is provided),
 - b. The inclusion of relevant supporting documentation and/or details of the incurred expense,
 - c. The circumstances under which incidental expenses can be claimed,
 - d. Practice of pre-paying travel expense claims,
 - e. Oversight of claims by management staff, and
 - f. Staff training regarding the travel policy and eligible expenses.
9. Review, revise, and implement policies to ensure that all spending practices related to the purchasing of gifts for staff, staff meals, promotional items, and staff "retreats" from monies provided from the government to deliver employment services are consistent with LAE agreements and Nova Scotia Government spending and financial policies and practices
10. Reconsider the use of the existing staff savings program, pursuant to the findings and conclusions of this investigation that the program is unfitting and confusingly managed in the current context.
11. Develop and implement a complaint resolution policy and process to respond to and address internal and client complaints. It is advisable to consult with Employment Nova Scotia in the development of this policy to determine when the complaint should be elevated to LAE.

The recommendations have been accepted and are being monitored for implementation

Figure 19

Complaint

A resident of the Municipality of the District of Lunenburg (MODL) contacted this Office after their attempt to resolve a complaint directly with MODL was unsuccessful.

Respondent

Municipality of the District of Lunenburg (MODL)

Recommendations

That the Municipality of the District of Lunenburg:

1. Provide the Complainant a written response, with a copy to this Office, detailing the outcome of their complaint, no later than December 31, 2020, including relevant avenues of review and/or appeal, if available.
2. Undertake a review and assessment of existing complaint resolution practices, and where appropriate, amend, or develop and implement, a written process outlining the handling of public complaints, considering best-practices in complaint resolution, and that the process be made available to the public.

The recommendations were accepted by the respondent. The first recommendation has been implemented and the second is being monitored for implementation.

Figure 20

Complaint

This Office received multiple complaints about the process for public engagement and/or consultation for capital projects in the Cape Breton Regional Municipality (CBRM). Specifically, resulting from the process for determining the location of a new fire station.

Respondents

Cape Breton Regional Municipality (CBRM)

Recommendations

1. Develop and implement policies, procedures, guidelines, and/or criteria on the use of public consultation and/or engagement involving capital projects, including emergency services buildings; and such be made available to the public

The recommendation has been accepted by the respondent and are being monitored for implementation

Figure 21

Complaint

This Office was contacted by a resident of the Halifax Regional Municipality (HRM) stating by-law enforcement failed to adequately enforce dangerous or unsightly property regulations as they pertain to complaints they had made against their neighbour over several years. This Office found that consistent by-law infractions were acknowledged by the HRM, but it appeared the history of complaints were not adequately factored into enforcement.

Respondents

Halifax Regional Municipality (HRM)

Recommendations

1. By-Law Enforcement Officers and supervisors include the chronology and/or history of a property and/or property owner that is the subject of similarly based substantiated complaints as part of their assessment process when determining what level, if any, enforcement action may be appropriate.
2. Review, and where appropriate amend, expand, or clarify existing policy and procedures, including Guidelines for Compliance, to address instances when a property owner that is the subject of repeated substantiated complaints or infractions, has routinely demonstrated delayed or non-compliance respecting a by-law.

The recommendations have been submitted to the respondent and the status of their acceptance is pending.

A complainant contacted the Office alleging that the home located next door to their property was falling down, unsafe, there was trash and debris in the yard, and were concerned about how it may impact their property.

The complainant stated they were advised by a structural engineer who attended the property on behalf of the Halifax Regional Municipality (HRM), that the home was structurally unsound. The complainant alleged after this there did not seem to be any action taken for several months to remedy the concerns regarding the state of the home, so they called 311 to ask whether there would be follow-up and requested a 311 complaint be created. However, according to the complainant, representatives at 311 would not provide an update on the file.

Upon review by an Ombudsman Representative, it was determined there was an anonymous complaint made regarding the property in question. Subsequently, the complainant called 311 requesting an update on the property as they were aware the HRM were involved, and a request was forwarded to the HRM's compliance office. The compliance officer assigned to respond informed the complainant that as there was no record a complaint was filed with 311 under the complainants name, the HRM could not release details as they were unable to verify whether the complainant was the person who filed the original complaint.

The complainant then officially filed a complaint with 311, providing their contact details for follow-up. The complainant later called looking for an update but was again told no update could be provided. Apparently, the compliance officer was unaware the complainant had officially filed a 311-complaint ticket under their name.

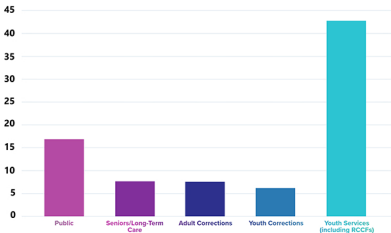
An Ombudsman Representative spoke with supervisors at both 311 and HRM's compliance office and confirmed the complainant was eligible to receive an update as a ticket was created under their name, but there was confusion on the part of the compliance officer due to the timing of the anonymous complaint, and the complainants subsequent calls to 311. After compliance was notified of the complainant's eligibility to receive an update, they contacted them to advise of their findings related to the property and the steps being taken to mitigate any safety issues.

The complainant was pleased an update was provided and believed the HRM was adequately handling the concerns.

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 Residential Child-Caring Facilities (RCCFs), as well as Young Persons and inmates in correctional facilities. Ombudsman Representatives engage children, youth, seniors, inmates, 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, inmates, and staff. Site-visits are scheduled on a regular and as needed basis. For example, adult correctional facilities and RCCFs 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.

Outreach Sessions

Figure 22



In addition to our regular site-visits, Ombudsman Representatives attend special events that allow them to engage with new groups and individuals. This year Ombudsman Representatives endeavored to attend virtual events whenever possible, unfortunately many events that we would typically attend, such as seniors' or youth expos, were cancelled due to the COVID-19 Pandemic.

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 Public Service Commission United Way fundraising campaign and coordinated our efforts through the Public Service United Way Steering Committee.

Correctional Services

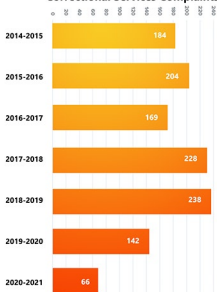
In Nova Scotia, there are four adult correctional facilities holding both sentenced inmates as well as those remanded to custody pending trial. These facilities are the Central Nova Scotia Correctional Facility (CNSCF), the Southwest Nova Scotia Correctional Facility (SNSCF), the Northeast Nova Scotia 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 inmates 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 systematic issues.

Figure 23 illustrates the number of correctional services complaints by inmates over the last five fiscal years. The graph does not include complaints by inmates outside of correctional services, such as complaints about the Offender Health services provided by Nova Scotia Health (Nova Scotia Health Authority). For a total of all inmate and public complaints about correctional services see figure 8. In 2020-21 there were 66 new complaints by inmates about correctional services, several of those complaints were referred to the internal complaint process. This figure is significantly less than previous years and is attributed to the reduced number of individuals in custody due to the COVID-19 pandemic.

In addition to receiving complaints from inmates 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.

Figure 23
Correctional Services Complaints



Adult Corrections Case Example

This Office received a complaint from an inmate that was incarcerated in a provincial correctional facility and had the occasion to visit a local hospital and later transferred to another hospital for further treatment. As a result, the inmate was placed in two correctional facilities, two hospitals, and transported by Sheriff Services on multiple occasions. After the inmate's treatment was complete, their personal effects in the form of jewelry were not accounted for and subsequently lost.

The various agencies involved declined ownership of the loss until further review indicated the presence of the jewelry during stages of the transport. The Ombudsman Representative identified the agency responsible for accounting for the effects and an agreement was made between the inmate and agency for compensation.

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 Residential Child-Caring Facilities (RCCFs), 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.

Type of Youth Complaints

Most youth complaints come from youth in care and custody. This reality is reflected in the categories in figure 24. For instance, the category "food" is referring to the food provided in government facilities that house youth or for another example, "staff" is referring to facility staff.

Figure 24

9	Staff
4	Programming
4	Education
1	Placement
1	Discipline
11	Personal Safety / Abuse Allegation
10	Legal / Lawyer
1	Facilities / Building
2	Food
1	Recreation
2	Rights
14	Social Worker
0	Hygiene
3	Communication
4	Healthcare
2	Personal Property
4	Privileges
11	Policy and Procedures
13	Other
97	Total

Senior-Specific Issues

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

Figure 25

19	Continuing Care / Nursing Homes
11	Housing
17	Other Health Care
26	Other
30	Non-Jurisdictional (referrals)
103	Total

A resident of Pictou County contacted the Office of the Ombudsman complaining about wind turbine noise in their area and a lack of municipal regulation of the turbine industry.

An Ombudsman Representative visited the area and met with both the complainant and the respondent municipality which is primarily responsible for regulating the wind industry in their jurisdiction.

The main issue for the complainant was the question of whether the Municipality would regulate the industry at all, and whether regulations would be effective. The issue for the respondent became the degree and type of regulatory regime they could realistically create.

The Ombudsman Representatives role in this case was more consultative than regulatory.

The Chief Administrative Officer (CAO) and Councillors were up front with their concern that, while they wished to regulate, they also wish to attract future wind turbine business to the county. There was concern that overly restrictive regulations would discourage future wind development.

It took more than a year for the Municipality to draft a by-law that appeared satisfactory to both the Council and the complainant

Key components of the by-law include:

- Setbacks for larger "utility" turbines of 1,500 metres from a residence, and 1,000 metres for smaller turbines,
- A "Post-Construction Sound Monitoring Field Study" required to ensure that the allowable standard of 40dBA is not exceeded. That study must be done within a year of operation, and,
- A communications and community meeting requirement regarding each new development in a community

The complainant expressed appreciation for the role our office played, both in responding to and advising, and by monitoring and remaining in touch with by-law planning at the Municipality.

The complainant and the Office of the Ombudsman both accept that the Municipality has limitations in what it can achieve in regulating large industries, and limited liability or resources to redress past problems. Another shared conclusion is that there appears to be inadequate regulation of the industry at the provincial level. The result has been inconsistent standards among municipalities and the absence of consideration and possible redress of past regulatory defects including ineffective setbacks and little or no noise control.

For that reason, this Office is currently considering a separate Own-Motion review of both provincial and municipal regulation of the wind industry in Nova Scotia. A consideration for doing so is a forecasted increase in wind energy use as the Province seeks to dramatically reduce its reliance on carbon fuels.



A resident of Wood Street Centre (WSC) expressed concern about restrictions placed on contacting their Pastor (spiritual adviser "SA"). Upon contacting a Unit Supervisor, it appeared staff had not considered the SA a professional contact. Upon review the Ombudsman Representative determined that policy and procedures list a spiritual adviser as a contact similar to the Ombudsman, a Social Worker, or lawyer and therefore a person who a youth has the right to contact. The Unit Supervisor agreed and explained they had been instructed by the WSC Social Worker and would in turn refer this back to them and reference the policy.

The Ombudsman Representative contacted the complainant, who informed they were still not being provided phone contact for their SA. The Representative followed up with the WSC Social Worker who explained they were awaiting a response from the complainant's Social Worker to confirm the contact information for the SA. They also explained there had been concerns expressed with the frequency the complainant was contacting the SA.

The Ombudsman Representative again followed up with the WSC Social Worker, who informed that they had been instructed by the complainant's Social Worker that the complainant is permitted one phone call to the SA per day, however, it is not to be during scheduled programming. The Ombudsman Representative explained these stipulations to the complainant, who in turn expressed concern regarding scheduling, as they believed they would be unable to reach their SA outside of business hours.

The Ombudsman Representative connected with senior staff at WSC who confirmed the complainant will have multiple opportunities per day (breaks, quiet time, etc) to contact their SA, and staff will ensure this is accommodated.

The Ombudsman Representative contacted the complainant and explained how contact with their SA would be accommodated by staff going forward and the complainant indicated they were satisfied, and was aware they could reach out to the Ombudsman Representative if the issue persisted.



After formal recommendations are issued, this Office continues to monitor for implementation. In some cases, the monitoring may take years. Here we offer examples of a formal investigation that continues to be monitored by this Office. In addition, this section provides an update on our Ombudsman Youth Council.

Nova Scotia Human Rights Commission (NSHRC)

During this fiscal year, several complaints were received that involved the NSHRC, specifically complaints about communication and delays in moving forward with investigations. In communication with the NSHRC regarding these complaints, it was discovered that the NSHRC was experiencing operational challenges, including file management, and staffing challenges.

Based on previous investigations conducted by this Office involving the NSHRC and the current issues experienced by the NSHRC, the decision was made to open an own motion investigation to monitor the situation. The NSHRC has been keeping this Office up to date on their steps to address staffing challenges. While some progress has been made in filling staffing vacancies and addressing the backlog of files, this Office will continue to monitor the situation until satisfied that the issues have been addressed.

Adult Protection Services

The Department of Health and Wellness (DHW) reported to this Office in December 2020 that the four recommendations issued and accepted in a previous fiscal year regarding the operations of Adult Protection Services, are now being implemented by the department. For further details on this case see the recommendation summary in our 2019-2020 annual report.

Child Death Review

While monitoring the recommendations that resulted from the Child Death Review Report issued in 2014, this Office requested further information regarding Child Protection Services (CPS) caseload statistics. This Office received the information from CPS and found that the caseload statistics in some areas of the province exceeded the maximum caseload standards set out in CPS Standards. As such, this Office initiated an own motion to monitor the caseloads statistics and actions taken by CPS to address caseloads. We will continue to monitor the situation on a quarterly basis.

Office of the Police Complaints Commissioner

Since issuing formal recommendations to the Office of the Police Complaints Commissioner (OPCC) in a previous fiscal year, this Office has received progress updates on the implementation of the recommendations. Specifically, the OPCC has finalised their policy on Complaint Intake, which both satisfies one of the recommendations issued by this Office as well as incorporating a recent legislative change which extended the time to submit a complaint to the OPCC. Complainants now have one year from the date of the alleged incident that prompted their concerns to file a formal complaint with the OPCC.

Ombudsman Youth Council

The Ombudsman Youth Council (OYC) has now entered its third year and had conducted recruitment between November and December 2020. The OYC now consists of thirteen youth from across the province ranging from 12 to 19 years of age. For the 2021 year, monthly and "as needed" meetings are being conducted virtually.

We are currently in a similar position to many organizations who are trying to set priorities and look forward to the future, but with many unknowns impacting our ability to look ahead. Our outreach efforts for instance have continued virtually, but with a mind to return to in person service as soon as possible. We do not know when that will happen, and consequently we are limited in what types of outreach efforts we can envision.

At the time of preparing this report, Nova Scotia is experiencing the third wave of the COVID-19 Pandemic. While public health restrictions have evolved in line with case numbers, ultimately, we remain subject to some form of restrictions. The Office of the Ombudsman is committed to doing our part to keep Nova Scotians and our employees safe, and we are especially aware of how some of our outreach efforts would have the potential to impact our most vulnerable citizens if we were to resume in person visits prematurely.

On a positive note, in his capacity as President of the Canadian Council of Parliamentary Ombudsman (CCPO), William A. Smith will host the CCPO's annual meeting virtually from Halifax, Nova Scotia in June 2021. In addition, Mr. Smith has been reappointed for a second five-year term as the Ombudsman for Nova Scotia. This reappointment will maintain stability within the Office and help steer the organization through what we hope are the final waves of the COVID-19 Pandemic, and the Office as a whole providing another 50 years of service to Nova Scotians.

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

E-mail: ombudsman@novascotia.ca



Facebook: Nova Scotia Ombudsman



Twitter: @NS_Ombudsman