

Standing Committee on
Government Operations



Report on the Review of the 2022-2023 Annual Report of the Northwest Territories Ombud and Special Report on Recommendations for Amendments to the *Ombud Act*

20th Northwest Territories Legislative Assembly

Chair: Mr. Julian Morse

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SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Government Operations is pleased to provide its *Report on the Review of the 2022-2023 Annual Report of the Northwest Territories Ombud and Special Report on Recommendations for Amendments to the Ombud Act* and commends it to the House.



Mr. Julian Morse
Chair, Standing Committee on Government Operations

STANDING COMMITTEE ON GOVERNMENT OPERATIONS

REPORT ON THE REVIEW OF THE 2022-2023 ANNUAL REPORT OF THE NWT OMBUD AND SPECIAL REPORT ON RECOMMENDATIONS FOR AMENDMENTS TO THE *OMBUD ACT*

INTRODUCTION

The Standing Committee on Government Operations (Committee) has reviewed the 2022-2023 Annual Report of the Northwest Territories Ombud (Ombud)¹ and the Special Report on Recommendations for Amendments to the *Ombud Act*.² The Committee thanks Ms. Colette Langlois, Ombud, for her appearance before the Committee on April 9, 2024.³

Section 33 of the *Ombud Act* requires the Ombud to prepare an annual report.⁴ The Speaker tables the reports in the Legislative Assembly. Once tabled, Committee reviews the reports.

The Annual Report includes information about the Ombud's Office, administrative fairness, and their work performed over the previous year such as inquiries and complaints received, public education and outreach, and finances.

The Special Report provides an updated list of recommendations to update and amend the *Ombud Act* after *Bill 61, An Act to Amend the Ombud Act* came into force on July 1, 2023.

ABOUT THE NWT OMBUD

The NWT Ombud is an independent office of the Legislative Assembly tasked with speaking up for fairness in territorial government administration and services. The powers and duties of the Ombud include:

- Investigating complaints from people who feel they have been treated unfairly by territorial authorities.
- Own-initiative investigations to help improve government services.
- Public education on the principles of administrative fairness.

OBSERVATIONS

Ombud's Reports

The Ombud did not make any recommendations in the 2022-2023 Annual Report. Instead, she submitted a Special Report with ten recommendations for amendments to the *Ombud's Act*:

1. That the Ombud's jurisdiction be extended to hamlets, cities, towns, and villages.
2. That the provision restricting the Ombud from investigating human rights matters where there is overlap with administrative fairness be amended or removed.
3. That the Ombud's jurisdiction be extended to complaints about the human rights offices.
4. That references to "judicial review" be removed in section 17, and that consideration be given to instead including wording similar to what is used in other Canadian jurisdictions.
5. That the Ombud's power to obtain information from authorities during an investigation be strengthened and clarified.
6. That the Act be amended to include a new provision assuring public servants and authorities that they can provide information to the Ombud voluntarily.
7. That the definition of "administrative head" be amended to be more inclusive of heads who do not have the title of "Deputy Minister" or "Chief Executive Officer".
8. That a provision be added to protect the confidentiality of evidence obtained in the course of Ombuds processes similar to provisions found in other Canadian legislation.
9. That the wording "and any administrative policies of the Clerk" be removed from subsection 42(2).
10. That the French title "Protecteur du citoyen" be replaced with the title "Ombud".

Review of the *Ombud Act*

In October 2020, the Speaker tabled the Ombud's first ever-ever Annual Report, for 2019-2020. The Ombud's report made 14 recommendations for legislative changes to the Act. The recommendations were informed by the Ombud's review of legislation in other jurisdictions, advice received from other Ombuds and legal professionals, and issued that arose when the Ombud responded to individual complaints.

Committee at that time endorsed many of the Ombud's recommendations in their subsequent Review Report. That report was tabled in May 2021 and discussed in Committee of the Whole. The Legislative Assembly ultimately adopted seven (7) motions that recommended changes to the Act.⁵

At the time, Members hoped the GNWT would put forward amending legislation in the remaining two years of the 19th Assembly⁶ and were disappointed when the GNWT declined to do so in the November 2021 response.⁷ Rather, the GNWT agreed only to consider Committee's recommendations in the context of a "future review."

In June 2022, Committee followed up on the GNWT's response in a meeting with the Government House Leader. Committee wanted to learn more about the GNWT's position and, more importantly, make one more appeal for change to the Act in the 19th Assembly. Ultimately, the Government maintained its position and declined to make changes.

In response, *Bill 61: An Act to Amend the Ombud Act*, was tabled in November 2022 as a private members bill.⁸ The Member for Yellowknife North worked with the Ombud to address the most pressing issues, and the amended Act came into force in April 2023.

In the Report on the Review of Bill 61,⁹ Committee recommended that "the GNWT, in consultation with the Board of Management, lead a holistic review to examine and clarify the jurisdiction of each statutory officer of the Assembly." In its response,¹⁰ the Government committed to undertaking a review of the Act early in the 20th Assembly.

Many of the recommendations in the Ombud's 2024 Special Report are still outstanding from the Ombud's first report tabled in October 2020. Committee is dissatisfied that efforts to craft recommendations that would improve government operations – which were endorsed as motions in the Legislative Assembly – were disregarded without meaningful and timely action. Therefore, Committee recommends that:

Recommendation 1: The Standing Committee on Government Operations recommends that the Government of the Northwest Territories take immediate action to enact the ten recommendations of the Ombud or provide the rationale and justification as to why the Government is not proceeding with the recommendations.

Outreach and Public Education

During the public review on April 9, 2024, the Ombud spoke about the initiatives taken on by the Ombud's Office to increase public education and outreach. The Ombud talked about the positive impact of in-person outreach and the success of the Working Together for Fairness full-day seminar offered to the public service. Committee is impressed at the steps the Ombud has taken to engage with both members of the public and public servants to raise awareness about administrative fairness.

However, the Ombud also expressed concern that the Office lacked capacity to fulfill its mandate. The Office's current compliment of three staff, including the Ombud, manages between 150 and 200 case files per year in addition to initiating own-motion investigations and providing outreach and public education. Committee shares the Ombud's concerns: there is evidence of increases in the volume and complexity of complaints reported, combined with the increased demand for training and outreach.

Committee believes the Ombud's Office should have the capacity and resources it needs to fulfill all aspects of its mandate, and consequently recommends:

Recommendation 2: The Standing Committee on Government Operations recommends that the Government of the Northwest Territories, in consultation with the Ombud, identify and address any shortfalls in budget or resources that may inhibit the Ombud's Office from fulfilling their mandate.

CONCLUSION

This concludes the Standing Committee on Government Operations *Report on the Review of the 2022-2023 Annual Report of the Northwest Territories Ombud and Special Report on Recommendations for Amendments to the Ombud Act*.

Recommendation 3: The Standing Committee on Government Operations recommends that the Government of the Northwest Territories provide a response to the recommendations contained in this report within 120 days.

ENDNOTES

¹ The 2022-2023 Annual Report is available at:

https://www.ntlegislativeassembly.ca/sites/default/files/legacy/td_998-192_.pdf

² “Recommendations for Amendments to the *Ombud Act*” Special Report to the Legislative Assembly Available at: https://www.ntlegislativeassembly.ca/sites/default/files/legacy/td_11-201.pdf

³ The Legislative Assembly uploads video recordings of public meetings and other special events to its YouTube channel. Available at: <https://www.youtube.com/live/WZIkdpTWOeY?si=xd2fXR3MhixbBHtX> (beginning at 39:21).

⁴ The *Ombud Act* is available at: <https://www.justice.gov.nt.ca/en/files/legislation/human-rights/human-rights.a.pdf#page=24>.

⁵ For more information on the Legislative Assembly’s discussion, see the Hansard for June 1, 2021. Available at <https://www.ntassembly.ca/sites/assembly/files/hn210601.pdf#page=32>.

⁶ For more information, see Members’ remarks on Committee Report 13-19(2). Available at: <https://www.ntassembly.ca/sites/assembly/files/hn210601.pdf#page=35>.

⁷ The Government’s response to Committee’s recommendations on the Ombud’s 2019-2020 Report is available at: https://www.ntassembly.ca/sites/assembly/files/td_451-192.pdf

⁸ Bill 61: Private Member’s Public Bill, *An Act to Amend the Ombud Act*. Available at: https://www.ntlegislativeassembly.ca/sites/default/files/legacy/reprint_-_bill_61.pdf

⁹ Standing Committee on Government Operations Report on Bill 61: *An Act to Amend the Ombud Act*. Available at : <https://www.ntlegislativeassembly.ca/content/report-review-bill-61-act-amend-ombud-act>

¹⁰ Government of the Northwest Territories Response to Committee Report 40-19(2): Report on Bill 61: *An Act to Amend the Ombud Act*. Available at : <https://www.ntlegislativeassembly.ca/tables-documents/gnwt-response-committee-report-40-192-report-bill-61-act-amend-ombud-act>