



Speaking Up for Fairness

2019/2020 Annual Report of
the Northwest Territories Ombud



Office of the Ombud Northwest Territories

We speak up for fairness

July 2020

Honourable Frederick Blake
Speaker
Legislative Assembly of the Northwest Territories

Dear Mr. Speaker:

It is my duty and privilege to submit the Annual Report of the Northwest Territories Ombud, pursuant to section 43 of the *Ombud Act*, for the period from April 8, 2019 to March 31, 2020.

Sincerely,

Colette Langlois
Ombud

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A large, stylized compass rose logo is centered in the background. It features a circular base with four triangular points extending outwards, all in shades of teal and light blue. The logo is semi-transparent, allowing the text and other background elements to be seen through it.

Message from the Ombud

This has been a year of many milestones, the most significant of which was November 18, 2019, the day most provisions of the Act came into force, and the Office began accepting complaints.

Further on in this report, you can find information on our Office and how we do our work, the steps we took to prepare to open our doors, and what will become annual updates on the inquiries and complaints we received, our educational and outreach activities, other highlights from the year, and our finances. There is also a substantial section on recommendations for amendments to the *Ombud Act*.

However, it seems fitting to begin this report with some words of gratitude for the many contributions that made the achievements of this first year possible.

The challenges of building a new institution from the ground up are exciting and rewarding, and at times can also feel overwhelming and lonely. From the moment I was appointed, I was deluged by warm welcomes and offers of help from fellow members of the Canadian Council of Parliamentary Ombudsman and many of their officials, as well as the wider ombud network. Whatever question I have had, and there have been many, there has been someone to offer information, advice or perspective, always with patience, generosity, and kindness, and often from decades of experience. As the youngest legislative ombud office in Canada by over twenty years, we have a lot of catching up to do. It is both reassuring and inspiring to have the support of such a strong community that is united in its dedication to advancing administrative fairness in our institutions.

Several northern businesses went above and beyond to help us get our doors open and launch our services on schedule. I will not list them all here for fear of missing anyone, but I do want to recognize

one group in particular, and that is the indigenous language translators and broadcasters who have been working with us to get our message out.

A new Office comes with new words and new concepts, like “Ombud” and “fair process”. Those of you who accepted the challenge of translating them into your languages for the first time are truly innovators and trailbreakers. Thank you for bringing your expertise and creativity to helping start a conversation about administrative fairness in all official languages.

During the last year, I have had several introductory discussions with both public service and non-governmental organizations. I am grateful to the participants in those meetings for their receptivity to and interest in the Office and its mandate, and for their many insightful questions and comments. I especially want to thank the public servants who were on the receiving end of our first few complaints and helped us refine our procedures and make them more workable for everyone.

Last, but certainly not least, I want to express my appreciation to all the people who took a chance on a new process and brought us their inquiries and complaints in our first few months of operation. Thank you for trusting us.

Looking Forward

When I took office as the Northwest Territories’ first Ombud on April 8, 2019, I did not imagine that just over a year later I would be finalizing this report in the midst of a global pandemic. As I write this, our



Office is still working remotely, as we have been since March 19, 2020. I am proud that despite the disruption to our physical workspace, which we had barely settled into, we have continued responding to inquiries and complaints with minimal impact on our accessibility to the public. The credit for this goes to the Office staff, who have shown exceptional dedication, flexibility and resilience in transitioning to our “new normal”.

Although our complaints process is relatively intact, unfortunately, the pandemic will affect our public education and outreach plans for 2020/21 and possibly beyond. While during the winter months I focused on developing print and online resources and advertising campaigns, I very much looked forward to a spring and summer of promoting the Office in person at carnivals, music festivals, trade

shows and other community events around the Territory. Websites and social media ads reach a lot of people, but they are not for everyone. Sometimes there is just no substitute for an in-person conversation over a cup of tea or around a campfire.

For now, we are readjusting our plans to prioritize developing training materials for the public service that can be delivered online, and stepping up advertising campaigns to raise public awareness about the office.

It is my hope that sometime before the end of my mandate it will again be possible to meet people in their own communities. When that time comes, we will be ready.

Colette Langlois

Ombud

About the Office of the Ombud





We are an independent office of the Legislative Assembly that speaks up for fairness in territorial government administration and services.

We listen to and investigate complaints from people who feel they have been treated unfairly by territorial authorities. We can also investigate matters on our own initiative without receiving a specific complaint. We work to find fair solutions and to help improve government services.

Our mandate includes public education on the role of the Ombud and the principles of administrative fairness.

Jurisdiction of the Office of the Ombud

The Ombud has jurisdiction over “matters of administration”. Administrative matters include most of the day to day dealings people have with employees of territorial government departments and agencies. Administrative matters do not include, for example, political matters like Cabinet and MLA decisions, decisions by the courts, actions by lawyers who are representing the government, or clinical decisions by health professionals.

The Schedule to the *Ombud Act* lists the government departments and agencies that are within the Ombud's jurisdiction.

We can investigate:

- GNWT Departments
- Education councils and authorities
- Health and social services authorities
- Aurora College
- Inuvialuit Water Board
- Legal Aid Commission
- Liquor Commission and Liquor Licensing Board
- NWT Business Development and Investment Corporation
- NWT Housing Corporation and housing authorities
- NWT Hydro Corporation
- NWT Power Corporation
- Status of Women Council of the NWT
- Surface Rights Board
- Tłıchq Community Services Agency
- Workers' Safety and Compensation Commission

We cannot investigate:

- Federal government departments or agencies
- Indigenous governments
- Municipal governments
- MLAs
- Legislative Assembly and Executive Council
- Courts
- Police
- Private businesses and individuals

Who we Are

The first Ombud, Colette Langlois, was appointed on April 8, 2019.

Darlene Lamb, the Intake Officer/Office Manager, started in her position In October 2019. Darlene is the first point of contact for most people who have questions or complaints. She listens to and takes down information about their concerns, assesses their situation, and either refers them internally or to other agencies that might be better able to assist them. As the Office Manager, she also coordinates all administrative support, systems and services for the Office.

Michelle Staszuk, the Early Resolutions and Investigations Officer, joined us in December 2019. Michelle follows up with complainants and government authorities to gather information, discuss options, and look for informal resolutions to problems. She also conducts formal investigations.

Both Darlene and Michelle contribute to the Office's public education and outreach projects and activities.



From left to right:
Darlene Lamb,
Michelle Staszuk,
and Colette Langlois

How We do Our Work



We listen.

When people first contact us, we want to know which organization their concern is about and what happened. We ask about what they have already tried to fix the situation, and what they would like to have happen.

The answers to our questions help us to know whether the matter is something that we can look into, and whether there are other options that might fix the problem faster. For example,

if people have not contacted anyone within the government authority about the problem, or if there is an appeal process they have not tried, we usually ask them to do that first. If that does not work out, we let them know to contact us again.

Our intake process is confidential. We do not share your name or information, or take action on your complaint, without your consent.

We help navigate.

Sometimes bureaucracy can be confusing or intimidating. It is not always easy to know where to start. We can help point you in the right direction. We often refer people to contacts or processes within government

authorities that they might not have been aware of and that can fix some problems. We also refer people to other services and complaint processes for matters that are outside of our mandate.

We work with people to solve problems.

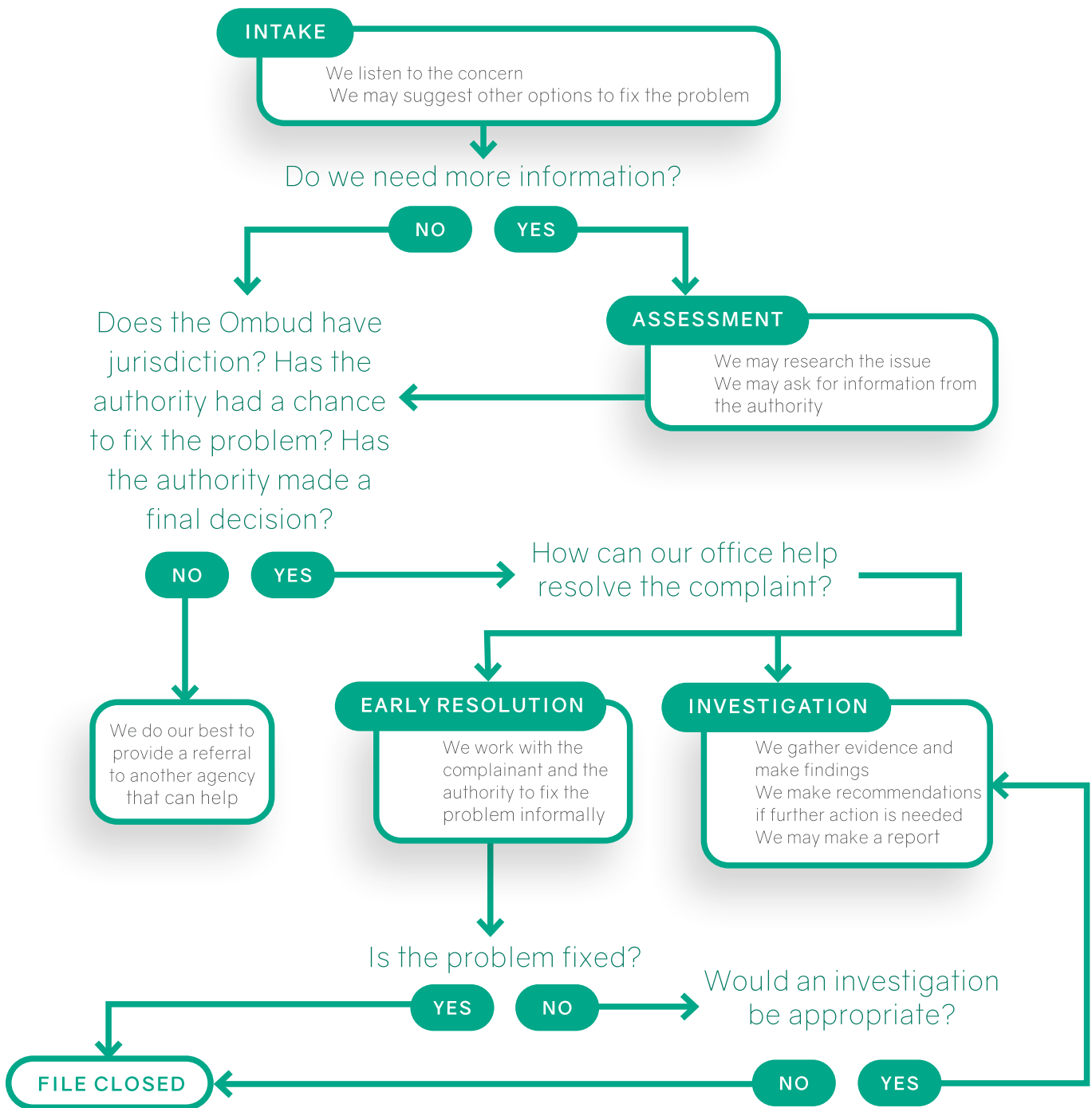
People and government authorities are not always able to work out problems themselves. If the matter is within our mandate, we see what we can do to help solve the problem. Our Office does not take sides with either the complainant or the public authority. Our role is to speak up for fairness.

We can often fix problems informally through our early resolution process. Early resolution involves listening to both sides, asking questions, gathering information, and discussing options.

Sometimes we decide we need to do a more formal investigation. We make this decision

based on a number of considerations, including the kind of evidence we think we will need to get to the bottom of the matter, and whether we think formal recommendations might be appropriate. At the end of an investigation, we let the person who made the complaint and the government authority know what our findings were. Depending on the outcome of the investigation, we might then make recommendations to fix the problem. If the government authority does not take action, we may make a report to the Legislative Assembly.

Our Process





About Administrative Fairness

The Ombud is
an advocate for
administrative
fairness.

What does that
mean?

Every day, government organizations take actions and make decisions that affect people's lives. Administrative fairness is the standard of conduct that government organizations in a democratic society owe to people.

Government organizations are expected to treat people fairly and reasonably. For example, they need to follow rules, provide clear information about processes and decisions, and deal with people with honesty and respect.

Although there is no single definition of fairness, there are some basic principles and practices that can help to describe it.



The Fairness Triangle: Three Aspects of Fairness¹

Decision

What was decided?

- Did government have the legal authority to make the decision?
- Was the decision based on relevant information?
- Was the decision oppressive or unjust?
- Was the decision wrong in fact or law?

Process

How was it decided?

- Was the person given enough information to know what was required?
- Was the person given an appropriate chance to present their views?
- Did government take the time to listen?
- Did government provide reasons for decisions?
- Was the decision made within a reasonable time?
- Was the decision-maker unbiased?

Service

How was the person treated?

- Was government approachable?
- Was confidentiality respected?
- Was government honest and forthright?
- Did government offer an apology if a mistake was made?



Fairness is not always simple. Context is important in deciding whether something is fair. Fairness **does not** mean that government has to agree to every request, or treat everyone exactly the same.

¹ This section is based on materials developed by Ombudsman Saskatchewan. The Fairness Triangle was developed by Ombudsman Saskatchewan from the concept of the satisfaction triangle, in: Moore, Christopher (2003). *The Mediation Process: Practical Strategies for Resolving Conflict* (3rd ed.). San Francisco: Jossey-Bass Publishers.

2019/2020

Setting Up the Office



When my appointment took effect on April 8, 2019, the Office of the Ombud consisted of a desk, a personal phone and a laptop in the basement of a home in British Columbia.

Later that summer, I relocated to Hay River and operated from a combination of a carrel at the Hay River Public Library, a picnic table at Twin Falls Gorge Territorial Park and the cab of my truck while waiting for our office to be ready to occupy. By the time Parts 2, 3 and 4 of the *Ombud Act* came into force on November 18, 2020, the Office's first employee had been in her position for three weeks, our space in Hay River had been renovated and partially furnished, our toll-free phone line had been connected, and we had a sign on our front door featuring our brand new logo. As of March 31, 2020, the Office is fully up and running with two full-time employees, and a steadily increasing number of inquiry and complaint files.

The following are some highlights of the implementation phase of the Office of the Ombud. While public education and outreach were also important during this phase, they are an ongoing part of our mandate and therefore have their own section in this report.



Alexandra Falls Office



Putting Together a Team

One of the first tasks I set myself following my appointment was to write job descriptions and begin recruiting the first employees of the Ombud Office. As in so many matters, the advice and assistance of my provincial/territorial counterparts and fellow Legislative Assembly statutory officers was invaluable throughout this process.

Intake Officer/Office Manager Darlene Lamb started in mid-October and coordinated final preparations to ensure we had all the necessary equipment, supplies and systems

to be able to open our doors a few short weeks later. On her first day of work, she did not have a desk, a computer or even a chair, and she nonetheless mobilized in short order. Once we opened, Darlene took our first complaints and welcomed our first visitors.

Early Resolution and Investigations Officer Michelle Staszuk joined us in December. Michelle resolved our first complaints, conducted our first investigations, and drafted our first pamphlets.

Setting Up the Office

The Corporate Services division of the Legislative Assembly negotiated a lease for Hay River office space, oversaw renovations on behalf of the Office of the Ombud and assisted with procuring materials and services. While several Corporate Services staff members were involved in the Office set-up, I especially want to recognize Donna Friesen, now retired from the Legislative Assembly, whose incomparable will and tenacity kept the project on track.

Major purchases associated with the set up of the physical office space included furniture; IT equipment, software licenses and services; and a videoconferencing system.

Other aspects of the office set-up included the development of operational procedures

for internal administration and complaints handling; information and records management and complaints tracking systems; acquisition of the nwtombud.ca domain and email addresses; preparation of our workplace safety manual; design of our logo and letterhead; translation and printing of business cards; and gathering of reference materials for our small library.

It was a huge disappointment to our team that just as we were putting the finishing touches on our space, equipment, and procedures, a pandemic was declared and we had to begin working from home. We look forward to the time when we can once again safely work together in the same physical space and welcome members of the public to our office.



Joining the Ombud Community

During 2019/2020 the Office officially joined both the Canadian Council of Parliamentary Ombudsman (CCPO) and Forum of Canadian Ombudsman (FCO). We have also submitted an application for membership in the International Ombudsman Institute. Staff from the Office participate in CCPO Legal Group and CCPO Communications Group teleconferences which occur from time to time. Through inter-office visits, conferences, courses, calls, email exchanges and organizational memberships, the Office is continuing to build many personal connections within the ombud network.

Within days of beginning my mandate, I was invited by both the British Columbia Ombudsperson and the Alberta Ombudsman to visit their offices and to meet with them and their teams. I cannot overstate how instrumental the words of wisdom I gleaned

from these first meetings were in starting me off on the right track. In early November, just before our Office opened, I was also able to make a brief visit to the Ontario Ombudsman's office and took the opportunity to bombard a few of his senior officials with last minute questions, which they answered with expertise and patience.

In addition to these in-person meetings, staff and I had several phone calls and email exchanges with CCPO colleagues and some of their senior officials that have been especially helpful in interpreting our statute, drafting our procedures, and navigating our first complaints. Early in my mandate, I also had the opportunity to speak with Alaska Ombudsman Kate Burkhart about her experience delivering and promoting ombud services in a northern jurisdiction with many remote communities.

Professional Development

In September I completed the Essentials for Ombuds Course offered by the Forum of Canadian Ombudsman and Osgoode Hall Law School, and in October I completed the Ontario Ombudsman's Sharpening Your Teeth: Advanced Investigative Training for Administrative Watchdogs.

Staff and I also completed conflict resolution and workplace safety training in preparation for the opening of the office.

2019/2020

Inquiries and Complaints



Inquiries include all contacts to the Office about general information requests and potential complaints. Each matter is counted as a separate inquiry. For example, if a person's complaint involves matters to do with 3 different authorities, we would consider that 3 inquiries. If a person calls us back several times about the same matter, we would consider that 1 inquiry. We do not count questions and comments that come up during presentations or in public forums like community events and social media sites.

Complaints are those matters where our Office intervenes by initiating either an early resolution process or an investigation. Many inquiries are resolved before they reach the complaint stage.

Administrative suggestions are suggestions made to authorities in writing to informally resolve a situation and/or to prevent similar situations from recurring. They are less formal than recommendations, which would be provided in a report following an investigation.

From our November 18, 2019 opening to March 31, 2020, the Office received 53 inquiries, of which 11 progressed to the complaint stage. As of fiscal year-end, 2 inquiry files, and 6 complaint files remained open. No recommendations were made. Three administrative suggestions were made and were accepted by the authority.

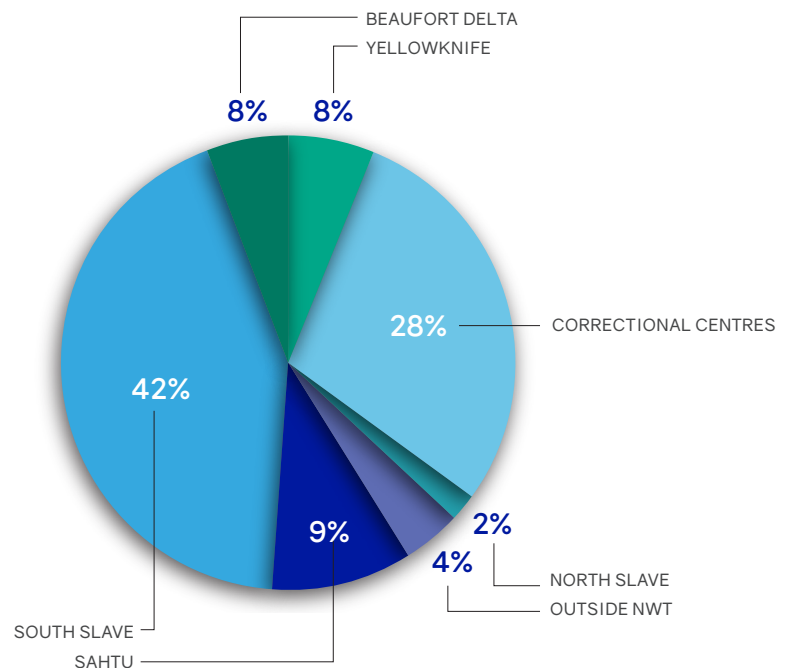


2019/2020 Inquiries

2019/2020 INQUIRIES	OPEN/ CARRIED OVER	CLOSED	CARRIED OVER TO NEXT FISCAL YEAR	
Carried over from previous fiscal year	0	0	0	
Information Request	5	5	0	
Potential Complaints	48	40	STATUS AT YEAR END	
			At intake	2
			At early resolution	2
			At investigation	4
TOTAL	53	45	8	

Inquiries by Location

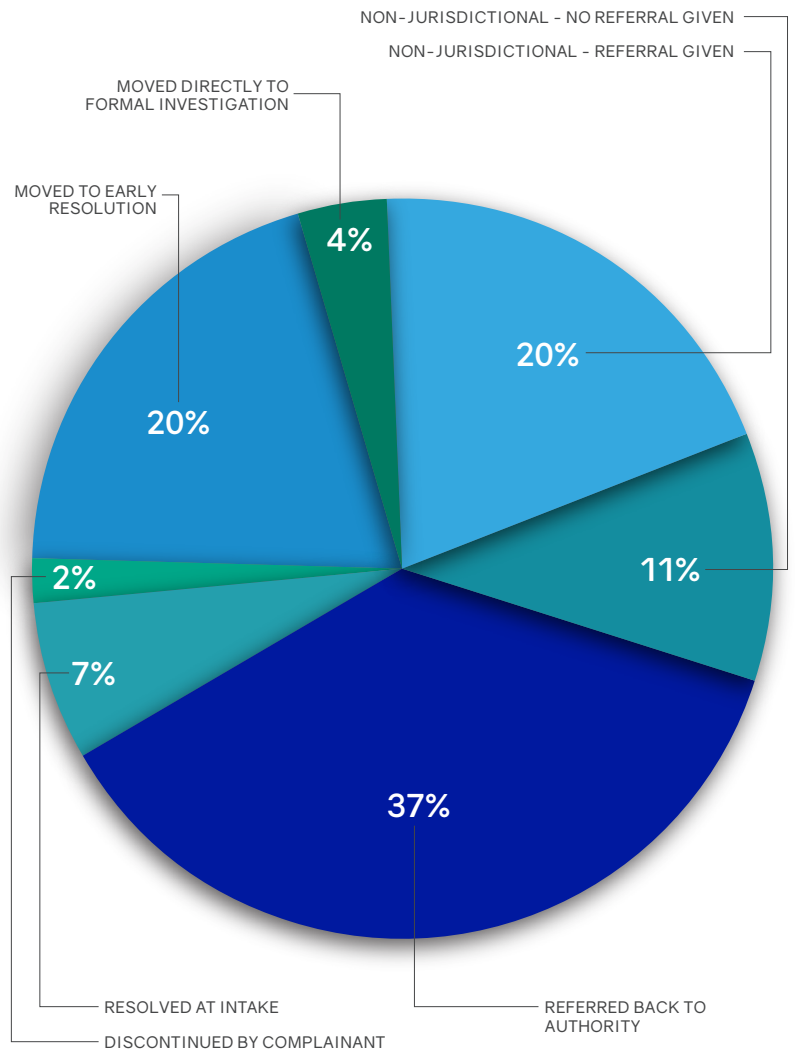
Beaufort Delta	4
Correctional Centres	15
Deh Cho	0
North Slave	1
Outside NWT	2
Sahtu	5
South Slave	22
Yellowknife	4
TOTAL	53





Potential Complaints by Outcome at Intake

NON-JURISDICTIONAL	
• Referral given	9
• No Referral given	5
JURISDICTIONAL	
• Referred back to authority	17
• Resolved at intake	3
• Discontinued by complainant	1
• Moved to early resolution	9
• Moved directly to formal investigation	2
STILL AT INTAKE AT FISCAL YEAR END	2
TOTAL	48





Potential Complaints by Organization

NON-JURISDICTIONAL	
• Other level of government	4
• Private individual or business	4
• Non-government organization	1
• Territorial public body	2
TOTAL NON-JURISDICTIONAL	11
JURISDICTIONAL	
• Finance	2
• Hay River Health & Social Services Authority	2
• Health & Social Services	5
• Infrastructure	1
• Justice	15
• Legal Aid Commission	1
• Municipal & Community Affairs	3
• NWT Health & Social Services Authority	1
• NWT Housing Corporation	4
• Sahtu District Education Council	1
• Workers' Safety & Compensation Commission	2
TOTAL JURISDICTIONAL	37
TOTAL	48



Complaints by Outcome

RESOLVED AT EARLY RESOLUTION	
• Voluntary action by authority – complainant satisfied	4
• Voluntary action by authority – Ombud satisfied	1
STILL OPEN AT FISCAL YEAR END	
• In early resolution process	2
• In investigation process	4
TOTAL	11

2019/2020

Examples of Our Work

I don't know where to start.
No one is listening.
I'm getting the runaround.
They never got back to me.
I'm afraid they're going to say no.
They just gave me BS reasons.

These are some of the things we hear from people who contact our Office. Although we receive concerns about a wide range of issues, we have noticed that, like the examples above, many seem to have something to do with communication problems.

Someone promised to call back and never did. A policy was written in confusing language. A decision was not clearly explained. Information about programs and procedures or who to contact was hard to track down.

Following up on phone calls and emails, making information easy to find, and taking the time to explain things in accessible language are all ways that authorities can make their programs and services fairer and reduce the likelihood of complaints.

The following are a few specific examples of cases that we resolved in 2019/2020 . We have changed names to protect people's privacy.



Example #1

When something doesn't seem right, and you're not sure where to go

(Referral to other agencies)

Alice was concerned about the pension she received from the government of Canada. She said that the amount was not enough for her to live on. Her husband also received some income from time to time, but they could never rely on how much.

Our Office doesn't have jurisdiction over the federal government, so we could not look into her concerns directly. We let Alice know where her local Service Canada Centre was located, and recommended that she go there to ask about her federal pension. Alice didn't know that there were different kinds of pension benefits and wasn't sure which kind she was getting. We explained to her about CPP (Canada Pension Plan), OAS (Old Age Security) and GIS (Guaranteed Income Supplement), and told her to make sure she asked about all of them when she went to the Service Centre.

We also let Alice know that there might be some territorial programs that could help her. We told her where her local ECE Service Centre was located, and suggested she could go there to ask about programs she might be eligible for, like the seniors home fuel subsidy.

Alice said it was hard for her to approach places to ask for help, because she never knew what to say. She thanked us for speaking with her and said that she felt more confident about going to the Service Centres now that she had an idea of the kinds of things that she could ask them about.



Example #2

Giving the Department a chance to fix the problem

(Referral back to the authority)

George moved to the Northwest Territories from another province to take a job here. He enjoyed the work, and planned to stay in his position for the next several years at least. He and his wife knew this would mean a few years of living apart, as she was pursuing a unique career opportunity of her own in a different jurisdiction.

George ran into difficulties when he called to apply for an NWT health care card. He was told that under NWT Health and Social Services policy, anyone who had moved to the NWT while their spouse stayed behind was not eligible for a NWT health care card until their spouse moved here or until one year had passed, whichever came first. People in this situation were considered to be “temporarily absent” from their home province, until their family had moved to join them. Other provinces had a similar policy. George was told that the home province would continue to cover a person in his situation for up to a year or until their spouse joined them, at which point they would be eligible to get an NWT Health Care Card.

George wasn't sure that his former province really would continue to cover him. When he checked with them, it sounded like there

were requirements for him to spend a certain amount of days in the year back in the home province, which he wouldn't be able to meet. Even if he could keep coverage in his former province, George was still concerned about the issue of fairness. He was an NWT resident, and felt that he shouldn't be treated differently from other NWT residents just because he had a spouse who wasn't living in the NWT. George's application for a health care would have been granted if he wasn't married, and he didn't think that a person's marital status should affect their health coverage.

When George contacted our Office, we let him know about the health care card appeal process which he could take to have the decision reconsidered by the Department. We talked with him about the information that would be helpful to provide in his appeal, and gave him the mailing and email address for health care card appeals. We let George know that if he wasn't satisfied after receiving a decision in his appeal to the Department, he could contact our Office again.

George called back to let us know that his appeal to the Department was successful, and he received his NWT health care card.



Example #3

How can I follow the rules if I don't know what they are?

(Early Resolution)

Ryan was an inmate who started suboxone treatment in order to help him address drug addiction problems. He was given a copy of the suboxone treatment policy, which he signed to confirm he would obey all the program conditions.

The policy said that people on this treatment had to provide random urine samples when asked. But Ryan couldn't find anything in the policy that said those samples had to be given under supervision. Ryan had previously given urine samples for unrelated medical reasons that had not been supervised. However, each time he was asked to give a sample for the suboxone treatment, it was taken under the supervision of a staff member.

One day, Ryan refused to provide a sample under supervision. He said he felt it was an invasion of his privacy. A few days after that, Ryan was told that the doctor would be tapering him off of suboxone treatment for failure to comply with the requirement to provide samples when asked.

Ryan used the internal appeal process to file a written complaint. He received a written response which explained that the requirement to provide samples under

supervision was set out in the policy for drug testing. The drug testing policy required all urine samples to be provided under the supervision of a corrections officer. This policy was separate from the suboxone policy. Ryan said that, while he still had privacy concerns, now that he knew about the policy he would follow it, and asked for another chance. Ryan was told that the decision to take him off of suboxone treatment was a medical decision made by the doctor based on all the factors in his file.

When Ryan contacted our Office, we explained that we cannot investigate decisions by health care professionals about what treatment a patient should receive. These kinds of decisions are "clinical decisions" and are not considered matters of administration. However, in this case, it looked like the decision to stop Ryan's suboxone treatment might also have had to do with his failure to follow Corrections policies. A decision that is made based on policies is administrative, and that means it is something our Office can look into. From a fairness perspective, it is important to be sure that people who could suffer consequences from not following a policy know in advance what is required from them.



When we contacted the Department of Justice, they said that Ryan had broken his “contract”. We asked to see the contract he had signed, and were told the suboxone policy signed when he started the treatment was the contract. The policy was seven pages long, contained a lot of medical jargon, and seemed to be written mainly for health care professionals and corrections staff. It did not mention the requirement that urine samples be given under supervision.

We wrote to the Department of Justice with some suggestions for resolving Ryan’s concerns and for avoiding similar situations in the future. First, we suggested that they develop a one-page plain language contract for inmates on suboxone treatment that clearly explained the rules for providing urine samples. Second, we suggested that the policy be changed to include clear guidance to health professionals on whether a decision to take an inmate off of suboxone should be based on clinical judgment, or solely on whether the inmate complied with Corrections policies and their contract. Finally, we suggested that the Department let Ryan’s doctor know that his past non-compliance with the policies had taken place when the requirements may not have been

clear to him and may have been the result of a misunderstanding, so that his doctor could take this into consideration in making any future treatment decisions.

The Department of Justice accepted our suggestions. Ryan was pleased with these results. His complaint had led to positive results for him and would also be helpful for others in the future.

2019/2020

Public Education and Outreach



In 2019/2020, our public education efforts focused on raising awareness about the newly-opened Office among the general public, and introducing public servants to the role of the Ombud and principles of administrative fairness. This was accomplished through print and online resources, presentations, meetings with representatives from various organizations, and advertising. Toward the end of the fiscal year, some meetings and presentations had to be postponed due to the pandemic.

Print and Online Resources

Our nwtombud.ca website was launched in December 2019 in English and French. Summary information in all other official languages is available on the site. The website includes information about our Office, the complaints process, and principles of administrative fairness, as well as general tips on solving problems and a section with resources specifically for public authorities that are within the Ombud's mandate. The website had been accessed by 253 users, and received 1,243 page views as of March 31st.

The Office also created the NWT Ombud – Protecteur du citoyen TN-O Facebook page in January 2020. This page is mainly used to announce upcoming events and resources.

We developed two public information pamphlets: Speaking up for Fairness in territorial government services, and Speaking up for Fairness in Northwest Territories correctional centres. We also produced

business cards in all official languages. Wide distribution of the printed pamphlets and business cards was deferred due to the pandemic but is expected to take place over the summer of 2020 as more offices re-open.

A guide for public authorities called “The Ombud’s Office is Calling – Now What?” was distributed by email to administrative heads of some public authorities, and is posted on our website. We also did a limited email distribution of “Fairness by design: An administrative fairness self-assessment guide” which was developed by the Canadian Council of Parliamentary Ombudsman and released in 2019. The guide, which is posted on our website, provides an opportunity for public sector organizations to proactively conduct self-assessments to evaluate the fairness of their systems, policies and practices.

Arrangements were made with the Department of Finance to provide access through the GNWT’s online training platform to the Fairness 101 webinar offered by the Office of the British Columbia Ombudsperson. This free, 1-hour online course provides participants with an overview of the principles of administrative fairness and teaches learners how to recognize and apply these principles in their work. It focuses on how to be fair when making and communicating decisions that directly impact members of the public to ensure excellence in service delivery and prevent complaints from escalating.

In 2019/2020,
83 employees
accessed
the *Fairness*
101 course
through the
GNWT training
platform.

COMMUNITY	NUMBER OF PARTICIPANTS
Behchokò	1
Fort Liard	1
Fort Resolution	1
Fort Simpson	6
Fort Smith	7
Gamètì	1
Hay River	10
Inuvik	11
Yellowknife	45
TOTAL	83

AUTHORITY	NUMBER OF PARTICIPANTS
Aurora College	1
Education, Culture & Employment	5
Environment & Natural Resources	3
Executive & Indigenous Affairs	3
Finance	5
Health and Social Services	1
Industry, Tourism & Investment	3
Infrastructure	46
Justice	3
Lands	4
NWT Health and Social Services Authority	6
NWT Housing Corporation	1
Tłjchò Community Services Agency	1
Workers' Safety & Compensation Commission	1
TOTAL	83

Presentations

The Ombud made in-person presentations to the following groups:

- Department of Environment & Natural Resources Senior Management Team
- Department of Infrastructure Senior Management Team
- Department of Justice Senior Management Team
- Deputy Ministers Committee (2 presentations)
- Director of Human Rights and staff
- Hay River Counseling Services
- Ontario and Manitoba Legislative Interns
- South Slave Regional Management Committee
- Standing Committee on Accountability and Oversight
- Territorial Quality Control Committee
- Workers' Compensation and Safety Commission Senior Management Team

The Ombud also made presentations at public meetings in Fort Smith and Hay River.

Introductory Meetings

The Ombud met with representatives of the following organizations to introduce her role and to share information about the Office:

- Department of Education, Culture & Employment
- Federal Ombudsman for Victims of Crime
- Foster Family Coalition
- Hay River Health and Social Services Authority
- Information and Privacy Commissioner
- Languages Commissioner
- Legal Aid Commission
- NWT Chamber of Commerce
- NWT Seniors' Society
- Workers' Advisor
- YWCA

Advertising

The opening of the Office was advertised in English and French print media, radio announcements in several official languages, and through an article in the GNWT's Bearnet newsletter.

Other Highlights

The Office received its first ever official visit in February 2020. Our friend and colleague Renée Gavigan, Deputy Ombudsman, Saskatchewan spent two days with us sharing advice and perspectives from her decades of experience, and cheerfully withstood an hours long question and answer session with the team in our boardroom. We did

leave just enough time to give Renée a brief introduction to the NWT and our system of government, including a visit to the Legislative Assembly and a tour of Hay River and area.

The Ombud attended the following conferences:

- Forum of Canadian Ombudsman (FCO) Conference, Toronto, April 2019
- Canadian Council of Parliamentary Ombudsman (CCPO) Conference, Victoria, June 2019
- Looking Ahead: Symposium on the Future of the Parliamentary Ombudsman Functions and Services, Victoria, June 2019

Financials

ACCOUNT	EXPENDITURES (\$S)
COMPENSATION & BENEFITS	• <u>326,862</u>
OTHER EXPENSES	
Travel & Transportation	• 51,624
Materials & Supplies	• 20,661
Purchased Services	• 26,569
Contract Services	• 91,388
Fees & Payments	• 12,226
Controllable Assets	• 81,084
Computer Expenses	• 21,892
TOTAL OTHER EXPENSES	• <u>305,444</u>
TOTAL	<u>632,306</u>

Recommendations for Changes to the *Ombud Act*

One of the challenges of the first year of my mandate has been to take the black and white text of a new statute and turn it into a living and breathing office that prevents, resolves, and investigates problems between citizens and the administrative authorities of territorial government departments and agencies.

In preparing for the coming into force of the *Ombud Act*, I reviewed in detail the legislation and procedures of Ombud offices in other jurisdictions, and sought advice from my provincial/territorial colleagues and senior members of their teams. For a few questions I also obtained independent legal advice.

While these enquiries clarified most matters, a few inconsistencies and areas of uncertainty remained. As the Office began responding to individual complaints, further concerns came to light. Most of these issues would have been difficult or impossible to foresee by the drafters and legislators who prepared and considered the Bill.

It is with the intent of ensuring that my office is fully enabled to fulfill the purpose and vision with which the Legislative Assembly created it, that I respectfully submit the following recommendations for amendments to the *Ombud Act*.



A. Jurisdictional Issues

The following recommendations concern the Ombud's jurisdiction to investigate complaints.

1. Definition of “authorities” – section 1 and Schedule

It is recommended that the definition of “authorities” be broadened to include territorial government offices that are excluded from the current schedule.

The Ombud has the power to investigate complaints about territorial government organizations called “authorities” in the Act. “Authorities” are listed in the Schedule. They include GNWT Departments, and specific agencies such as Divisional Education Councils, the Northwest Territories Housing Corporation and the Workers' Safety and Compensation Commission. If an authority is not included in that list, the Ombud does not have the power to investigate a complaint about it.

The list leaves out a number of offices that are filled by Ministerial or Commissioner in Executive Council appointees who are not also government employees, such as the Chief Rental Officer, Assessment Appeals Tribunal, Social Assistance Appeal Board, and Staffing Appeals Officers, to name a few. Members of the public are generally surprised and sometimes frustrated to learn that we cannot look into complaints about these and similar offices.

Other Canadian legislation does typically include these types of offices within the Ombud's mandate². Provincial and territorial ombuds have made many significant reports and recommendations about authorities that would fall into these categories.

² See for example s. 2 of the Schedule of the *Ombudsman Act* (Yukon), which reads:

- A person, corporation, commission, board, bureau, or authority who is or the majority of the members of which are, or the majority of the board or board of directors of which are
- appointed by an Act, Minister, or the Commissioner in Executive Council;
 - in the discharge of their duties, public officers or servants of the Yukon; or
 - responsible to the Government of the Yukon



2. Human Rights Act authorities – Schedule

It is recommended that the authorities created under the *Human Rights Act* be included in the Schedule.

Other provincial and territorial ombuds have jurisdiction to investigate complaints about human rights commissions and tribunals. There is a public interest in ensuring that these authorities, like other public authorities, operate within the principles of administrative fairness, and that people who do not believe they have been treated fairly by them have somewhere to go to complain.

The human rights authorities in the NWT are somewhat unique in that they are appointed by the Legislative Assembly rather than by the Cabinet. However, they are not the only human rights authorities that report directly to a Legislative Assembly, rather than through a Minister. This is also the case in Ontario.

It is also not unprecedented for statutory officers of the Legislative Assembly to have jurisdiction to investigate complaints about each others' offices. For example, the Languages Commissioner's jurisdiction extends to the Office of the Ombud as well as to Elections NWT and the Human Rights Commission.



3. Jurisdiction where appeal or other process available – section 17

It is recommended that references to “judicial review” be removed in section 17.

Subsection 17(1)(d) provides that the Ombud does not have jurisdiction to investigate where rights of appeal or objection, or a right to apply for judicial review exists until after that right has been exercised.

“Judicial review” is not the same as an appeal. It usually refers to the power of superior courts to determine whether a public authority has acted within or outside of its jurisdiction.³ In the NWT, the procedure for

judicial review is addressed in the *Rules of the Supreme Court of the Northwest Territories*, and requires that the application be made within 30 days of the order or omission giving rise to the matter unless the Court grants an extension.

The use of the term is confusing in this context. Although the procedure is rarely used, an application for judicial review could conceivably be brought with respect to nearly any administrative decision, action or omission. Section 17 as currently written could be interpreted as requiring that the Ombud always wait until 30 days have passed following a decision, action or omission before deciding whether to investigate a matter.

³D. Jones and A. de Villars *Principles of Administrative Law*, 6th ed. (Toronto: Carswell, 2014) at 6-7 and 255-257.



4. Jurisdiction where complainant has not used an available appeal or similar process – subsection 17(2)

It is recommended that subsection 17(2) be amended to remove the requirement that the Ombud consider whether a complainant's failure to exercise a right of appeal or objection was "unreasonable" before accepting a complaint.

Section 17(2) allows the Ombud to investigate a decision where there is an appeal or similar remedy once the time for the appeal has expired, "if the Ombud is satisfied that in that particular case it would have been unreasonable to expect, or have expected, the complainant to pursue that recourse".

There are many reasons why a complainant might choose not to use an available appeal or review process. The requirement for "unreasonableness" could leave the Ombud's decision to investigate in such a case open to challenge. It is not clear what criteria would be appropriate to make that determination. For example, would the cost and/or inconvenience of filing an appeal provide a good enough reason for not doing so? If so, it would almost always be reasonable for a

complainant to choose not to use an available appeal process, and the provision seems unnecessary.

All complaints are analyzed at intake to determine whether they should be investigated based on the grounds for refusing to investigate a complaint set out in subsection 22(1). It is not necessary for the Ombud to take the extra step of evaluating the reasonableness of a complainant's choice not to pursue another remedy. In particular, paragraph 22(1)(g), if amended as recommended in recommendation #7, would give the Ombud the discretion to refuse to investigate a complaint where the complainant has an adequate remedy or right of appeal, whether or not the complainant has used it.



5. Temporal jurisdiction – subsection 17(3)

It is recommended that subsection 17(3) be replaced with a provision that authorizes the Ombud to investigate matters that occurred before the coming into force of the Act, without any limitation period.

Subsection 17(3) currently restricts the Ombud from investigating matters that occurred before January 1, 2016.

In many cases, it would not be possible to conduct a meaningful investigation into a matter that occurred several years in the past. Circumstances may have changed, and/or witnesses and evidence may no longer be available. This concern can be addressed by the Ombud's discretion to refuse to investigate matters under subsection 22(1). In particular, paragraph (a) gives the Ombud the authority to refuse to investigate complaints related to matters of which the complainant had knowledge for more than a year before contacting the Ombud.

In a few cases, a complainant may not become aware of a problem for many years, and there may still be documents or other evidence that would allow for an investigation. Examples of when this could happen are with some real estate and financial transactions.

A small number of people complained about matters that the Office would have investigated but for subsection 17(3). This was very upsetting to those complainants, as the January 1, 2016 cut-off seemed arbitrary and unfair to them. While we are still able to look into the parts of their complaints that involved events after 2016, the process would be more meaningful if we could look at the complaints in full.



6. Jurisdiction to investigate human rights matters – section 23

It is recommended that the reference to the Director of Human Rights be removed from section 23.

Section 23 provides that the “Ombud shall not investigate any matter that falls within the mandate of the Languages Commissioner, the Information and Privacy Commissioner, the Conflict of Interest Commissioner, the Chief Electoral Officer, the Director of Human Rights, or the Equal Pay Commissioner, unless that commissioner, director or officer agrees.”

It is usually clear when this provision applies to a complaint. In practice, there is little overlap between mandates. It is difficult to imagine how a conflict of interest or an elections-related complaint could ever fit within the Ombud’s mandate to investigate matters of administration. In some cases, access to information, privacy, and official languages issues might overlap with administrative fairness issues. However, it is relatively easy to identify those complaints and refer them to the appropriate statutory officer.

It is more difficult to know when a complaint about administrative unfairness might also be a human rights matter, and this can create

uncertainty about the Ombud’s jurisdiction. The potential overlap might not become apparent until the investigation is already well underway. Administrative fairness and human rights do sometimes overlap when the respondent is a government authority. For example, one of the findings the Ombud can make following an investigation is that something that occurred was “improperly discriminatory”.

Further, the process and outcomes available through the human rights system are very different from those of the Ombud. Which process makes the most sense for a complainant can depend on the outcome they are seeking. It seems unfair to require an informed individual who does not want to make a human rights complaint to follow that process before considering a complaint to the Ombud.

In practice, the Office always encourages complainants to contact the Human Rights Commission if we believe there may be a human rights aspect to their complaint so that they can be fully informed of all of their options. We do not begin an investigation into a matter if we know the complainant already has a human rights complaint about the same matter under consideration. However, complainants should not be prevented from requesting intervention by the Ombud if they do not wish to pursue a human rights process.



B. Procedural Issues

The following recommendations concern the Ombud's jurisdiction to investigate complaints.

7. Refusal to investigate where complainant has an adequate alternate remedy or right of appeal – subparagraph 22(1)(g)(i)

It is recommended that subparagraph 22(1)(g)(i) be amended so that it applies before an investigation as well as during the course of the investigation.

Subparagraph 22(1)(g)(i) allows the Ombud to cease investigating a complaint where the complainant has an adequate alternate remedy or right of appeal. Usually, the Ombud is or becomes aware of alternate remedies and appeals during the complaint analysis process before an investigation ever begins. It would be appropriate for the Ombud to be able to refuse to start an investigation in these circumstances.



8. Notice of refusal to investigate – paragraph 22(2)(a)

It is recommended that paragraph 22(2)(a) be amended to remove the requirement for the Ombud to notify the authority any time the Ombud refuses to investigate a complaint.

Paragraph 22(a) requires the Ombud to notify authorities and complainants any time the Ombud refuses to investigate a complaint, or ceases to investigate a complaint.

While it is appropriate for the Ombud to notify both parties when the Ombud ceases to investigate a complaint, it would be time-consuming and generally inappropriate for the Ombud to notify the authority any time the

Ombud decides not to investigate a matter at all. Many matters are resolved before the Office ever contacts the Department or agency involved. For example, sometimes complainants decide themselves they do not want to pursue a matter and do not want anyone else to know they contacted us. Other times we refer the complainant back to the Department to use an internal review or appeal process.



9. Application of other laws respecting disclosure and confidentiality – section 29

It is recommended that section 29 be replaced with a provision similar to subsection 25(7) of the *Ombudsman Act* (Saskatchewan)⁴ to remove potential barriers to investigating some complaints where complainants cannot provide written consent to disclosure of their information, or where third party information is required.

Subsection 29(2) provides that the Ombud cannot require a person to provide information about a matter if the person is bound by the provisions of an Act to maintain confidentiality. Subsection 29(4) creates an exception where the complainant provides written consent to the release of their information, however, that relates only to the complainant's own information, not to information about third parties.

Examples of Acts that have specific confidentiality provisions include the *Child and Family Services Act*, the *Social Assistance Act*, and the *Maintenance Orders Enforcement Act*. Recent case law suggests the courts might find that the Ombud can require authorities to produce information covered by the confidentiality provisions of these and other Acts, but this is not clear or certain.⁵

The following are examples of situations where s. 29 could create barriers to investigations:

- an income support client does not have access to internet or fax in order to provide a signed consent for the release of their own information;
- the complaint is being made on behalf of a person who does not have the capacity to provide signed consent (e.g., a child, a person who is seriously ill or disabled, a deceased person);
- the information of a third party is needed to determine whether the authority acted reasonably (e.g., a maintenance enforcement matter);
- the investigation has been initiated by the Ombud and there is no complainant to provide consent.



In balancing privacy rights and the right to administrative fairness, it may be helpful to keep in mind that the *Ombud Act* itself includes strong protections for information received in the course of an investigation. (See sections 13, 18, 25 and 39 of the Act).

First, investigations are conducted in private unless the Ombud is satisfied that special circumstances exist in which public knowledge is essential to further an investigation.

Second, the Ombud, as well as employees and contractors of the Office are required to maintain confidentiality in respect of all matters that come to their knowledge through the Office. The only exception is where a matter needs to be disclosed to establish grounds for conclusions and recommendations made in a report under the Act.

Third, the Ombud, employees and contractors of the Office are not competent or compellable to give evidence in court or other proceedings about information they have as a result of their work for the Office.

Producing information during an investigation by the Ombud is not equivalent to disclosing it publicly or handing it over to another party. While the Ombud is required to inform complainants of the outcome of an investigation, this does not mean that the Office provides them with copies of confidential documents or other evidence that led to that outcome. The accountability for how confidential information received during the course of an investigation is handled rests with the Ombud.

⁴ 25(7) Subject to section 26:

- a) a rule of law that authorizes or requires the withholding of any document, paper or thing or the refusal to answer any question on the ground that the disclosure or answer would be injurious to the public interest does not apply with respect to any investigation by or proceedings before the Ombudsman;
- b) a provision of an Act requiring a person to maintain secrecy in relation to, or not to disclose information relating to, any matter shall not apply with respect to an investigation by the Ombudsman;
- c) no person who is required by the Ombudsman to furnish any information or to produce any document, paper, or thing or who is summoned by the Ombudsman to give evidence shall refuse to furnish the information, produce the document, paper or thing or to answer questions on the ground of a provision of an Act mentioned in clause (b);
- d) nothing in subsection (4) permits the Ombudsman to require questions to be answered, or to require the production of any information, report, statement, recommendation, memorandum, data or record that would be the subject of a privilege pursuant to ...[]

⁵ *Nova Scotia Office of the Ombudsman v. Attorney General of Nova Scotia (Department of Health and Wellness and Minister of Health and Wellness)* [2019] CA 475210 (NSCA).



10. Voluntary disclosure of information to the Ombud – NEW

It is recommended that the Act be amended to include a new provision ensuring that authorities are permitted to provide information to the Ombud voluntarily

Section 30 of the Act provides that no person is liable for prosecution for an offence for complying with a requirement of the Ombud. While this protects authorities and public servants who are required to provide information in the course of an investigation, it would not protect authorities and public servants who are requested to provide information in the course of an early resolution process.

It is generally to everyone's advantage to resolve complaints through early resolutions, rather than formal investigations, wherever possible. Early resolutions often come about through a few phone calls or email exchanges. Formal investigations can require extensive documentation and correspondence at every stage which is less efficient and more time consuming for all parties.

Some public servants who want to cooperate with our inquiries have rightly raised questions and concerns about their authority to disclose information to our Office. In most cases, the concerns could be addressed by confirming that the complainant has signed a consent form for our inquiries. On a few occasions, we have felt it necessary to proceed with a formal investigation where an informal process would likely have resolved the problem, only to ensure that provisions like section 30 applied to the matter.

A provision modelled on s. 34 of the *Ombudsman Act* (Saskatchewan), would give assurances to public servants that they are authorized to disclose information to the Office, and would allow us to resolve more complaints informally. Section 34 provides:

At the request of the Ombudsman, an [authority] may provide information ... respecting any person who is receiving services from or dealing with [the authority] to the Ombudsman if it is satisfied that providing the information will assist the Ombudsman in fulfilling any of the Ombudsman's duties or in exercising any of the Ombudsman's powers pursuant to this Act.



C. Administrative Issues

The following recommendations concern administrative matters.

11. Requirement for authorities to maintain confidentiality of information originating with the Office of the Ombud - NEW

It is recommended that the Act be amended to include a new provision preventing the disclosure of information originating from the Office of the Ombud.

As noted above, section 25 of the Act provides that investigations are private, and section 39(2) of the Act provides that employees and contractors of the Office are not competent or compellable to give

evidence in court or other proceedings about information they have as a result of their work for the Office.

There is a concern that authorities that have copies of confidential documents originating with the Office of the Ombud might release them in response to access to information requests or other inquiries. This could compromise sensitive documents such as preliminary reports on investigations and notices of investigation. Confidential documents that cannot be obtained directly from the Office of the Ombud should not be obtainable indirectly through authorities.



12. Policies and procedures – subsection 42(2)

It is recommended that the requirement for the Ombud's policies and procedures to comply with administrative policies of the Clerk be removed from ss. 42(2).

Subsection 42(2) sets out the Ombud's powers and duties to establish policies and procedures for complaints and investigations. A requirement for these to comply with administrative policies of the Clerk is inconsistent with the independence of the office. The purpose of this provision is unclear, particularly since none of the other Legislative Assembly statutory offices are subject to a similar provision.



D. Clarification and Terminology Issues

13. Replacement of the term “authority”

It is recommended that the term “authority” be replaced with a term that would be more recognizable to members of the public.

The organizations that the Ombud can investigate are referred to as “authorities” in the Act. While the term “authority” is not incorrect, it sometimes creates confusion because its general meaning is not obvious. A term such as “government institution”, “government organization”, “public body” or “public authority” would more recognizable.



14. Clarity of subsection 15(1)

It is recommended that subsection 15(1) be revised for clarity.

Subsection 15(1) is a cornerstone of the *Ombud Act* and sets out the mandate of the office. It currently reads:

The mandate of the Ombud is to investigate any decision or recommendation made, or any act done or omitted to be done by an authority, with respect to a matter of administration, that aggrieves, or may

aggrieve, any person or body of persons in their personal capacity, *or by any officer, employee or member of any authority in the exercise of any power or duty conferred on that officer, employee or member by any enactment.* [Emphasis added]

By necessity, this is a complex provision. Each word and phrase provides important meaning, nuance and clarification that is needed to be able to interpret Ombud's mandate in the context of the rest of the Act. However, the section in italics appears to be in the wrong place.



**Jądízí ɔedzagħ nĕn ts'ı nı́e ts'ĕn k'aldhĕr nets'ĕn nezú náłthĕrle nıdhĕn-u?
ʔaxą nets'ıdı xa dúwéle t'osá.**

Chipewyan

**kıya ci kitáyan píkweyihtamowin nema kıya eká kwayask ka tótakowiyan ohci ôma GNWT
kwayaskasascikewin? nıyanân ahpo etikwe naki nısohkamâkanan.**

Cree

**Do you have a concern that you have been treated unfairly by a territorial government
organization? Maybe we can help.**

English

**Vous pensez avoir subi un traitement injuste de la part d'un organisme du GTNO?
Nous pourrions être en mesure de vous aider.**

French

**GNWT gwizhıt diiyeenjıt gòo'aii gwiinzii nits'at tr'iginiinjik kwaa, lĕe niindhanh?
Duuleh nits'at tr'ihıidandał.**

Gwich'in

Ihumaaluutiqaguvin Kavamatikkut ihuinaaqtitauguvin? Ikayuqtaaqtugut.

Innuiaqtun

**ΔɾĬŁJNɕbɕΛɕ ɔeɕɾΔɕ ıĕĒLɔɔɾɕɕ ΔɕbbɔΔɕɕΔ ɔɾɔɔɕ?ΛɕɾΔɕɕCDɾɾLɔɾɔɕɕJɕ?
ΔbɕɾɾɔɔΔɔɔɕLΔɕbɕ>Jɕ.**

Inuktitut

Ihumalutiqaqpiit kavamanun pilautangitilaaq GNWTnun? Ikayulaviariptigin.

Inuvialuktun

**Duhdá Elıgu Nĕné għa ʔeɔá kehtsı għa k'áowe ke nezó néhó eghálakıdá le? Eıȝ denets'ĕ
gwahde nıdé dúle nehats'ĕ nats'edı sóȝı.**

North Slavey

GNWT kádeɔa, nets'ĕ su k'eogeɔa híle meghȝ naenınedhe hĕlıı? Ka dúlee nets'adı.

South Slavey

**Dȝne GNWT għa eghàlagıdedȝ hotı nezı nets'ȝ eghàlagında-le xĕ weghȝ nàněwo nıı?
Nets'ats'edı ha díle hȝı.**

Tłıchȝ



Au service de l'équité

Rapport annuel 2019-2020
du Bureau du protecteur du citoyen
des Territoires du Nord-Ouest
Résumé

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Message de la protectrice du citoyen

Cette année aura été marquée de faits saillants et de dates à retenir, la plus importante d'entre elles étant le 18 novembre 2019, jour où la plupart des dispositions de la *Loi sur le protecteur du citoyen* sont entrées en vigueur et où le Bureau a commencé à accepter des plaintes.

À ce sujet, vous trouverez dans le présent rapport des informations sur notre Bureau et sur notre approche, notamment le travail réalisé pour nous préparer à ouvrir nos portes; notre rapport proposera chaque année un récapitulatif des demandes de renseignements et des plaintes que nous avons reçues, de nos publications et de nos activités de sensibilisation, d'autres faits saillants qui ont marqué l'année, ainsi qu'un portrait de notre situation financière. Finalement, nous y incluons également nos recommandations d'amendements à la *Loi sur le protecteur du citoyen*.

Toutefois, il me semble approprié de commencer ce rapport par quelques mots de gratitude aux nombreux contributeurs qui ont rendu possibles nos réalisations en cette première année d'activité.

L'établissement et l'ouverture d'une nouvelle institution constituent un travail considérable et gratifiant, qui peut parfois aussi se révéler accablant et solitaire. Les félicitations et les offres d'aide n'ont pas tardé, autant de mes confrères et consœurs du Conseil canadien des ombudsmans parlementaires que de leurs employés, ainsi que du milieu des protecteurs du citoyen. Peu importe les questions que j'ai eues – et j'en ai eu beaucoup –, j'ai toujours pu compter sur quelqu'un de gentil, patient et généreux, souvent fort de décennies d'expérience, pour me renseigner ou me conseiller. En tant que Bureau du protecteur du citoyen le plus jeune au Canada, et même de vingt ans plus jeune que tous les autres, nous avons beaucoup de retard à rattraper. Il est à la fois rassurant et inspirant d'avoir le soutien d'une communauté aussi forte et unie dans son dévouement à faire progresser l'équité administrative dans nos institutions.

Nombre d'entreprises du Nord ont déplacé des montagnes pour nous aider à ouvrir nos portes et à lancer nos services dans les délais prévus. Je ne les énumérerai pas toutes ici de peur d'en oublier quelques-unes, mais je tiens à souligner le travail d'un groupe en particulier, à savoir les traducteurs, interprètes et diffuseurs en langues autochtones qui ont travaillé avec nous pour faire passer notre message. Un nouveau bureau vient avec un vocabulaire et des concepts qui lui sont propres, comme *protecteur* et *procédure équitable*. Ceux d'entre vous qui ont accepté le défi de les traduire dans leurs langues pour la première fois sont de véritables innovateurs et pionniers. Merci d'avoir apporté votre expertise et votre créativité pour accroître la sensibilisation à l'équité administrative dans toutes les langues officielles.

Au cours de la dernière année, j'ai eu plusieurs discussions préliminaires avec des organismes de la fonction publique et des organisations non gouvernementales. Je remercie tous ceux qui ont participé à ces réunions pour leur réceptivité et leur intérêt à l'égard du Bureau et de son mandat, ainsi que pour leurs questions et commentaires judicieux. Je tiens à remercier tout particulièrement les fonctionnaires qui ont reçu nos premières plaintes et qui nous ont aidés à affiner nos procédures et à les rendre plus pratiques pour tous.

Finalement, je tiens à exprimer ma gratitude à tous ceux qui ont décidé de faire confiance au Bureau du protecteur du citoyen et qui nous ont fait parvenir une demande de renseignements ou une plainte au cours de nos premiers mois d'activité. Merci de votre courage.

Regard sur l'avenir

Le 8 avril 2019, lorsque j'ai pris mes fonctions en tant que première protectrice du citoyen des Territoires du Nord-Ouest, je n'imaginai pas qu'un peu plus d'un an plus tard, je finaliserais ce rapport en pleine pandémie. Au moment d'écrire ces lignes, nous sommes en télétravail depuis le 19 mars 2020. Je suis fière de mentionner que, malgré les perturbations de notre espace de travail physique, dans lequel nous étions à peine installés, nous avons continué à répondre aux demandes de renseignements et aux plaintes, tout en restant des plus accessibles au public. Le mérite revient au personnel du Bureau qui a fait preuve d'un dévouement, d'une flexibilité et d'une ténacité exceptionnels lors de la transition vers cette « nouvelle normalité ».

Bien que notre processus de plainte soit resté relativement inchangé, la pandémie aura malheureusement eu des répercussions sur nos publications et nos activités de sensibilisation prévues pour l'exercice 2020-2021 et peut-être au-delà. Cet hiver, alors que je me consacrais à la rédaction de ressources imprimées et en ligne et de campagnes publicitaires, je me préparais avec impatience à passer le printemps et l'été à faire – en personne – la promotion du Bureau lors de carnivals, festivals de musique, salons professionnels et autres événements communautaires partout aux TNO. Les sites Web et les annonces dans les médias sociaux permettent de joindre beaucoup de gens, mais ils ne sont pas pour tout le monde. Parfois, rien ne remplace une conversation en personne autour d'une tasse de thé ou d'un feu de camp.



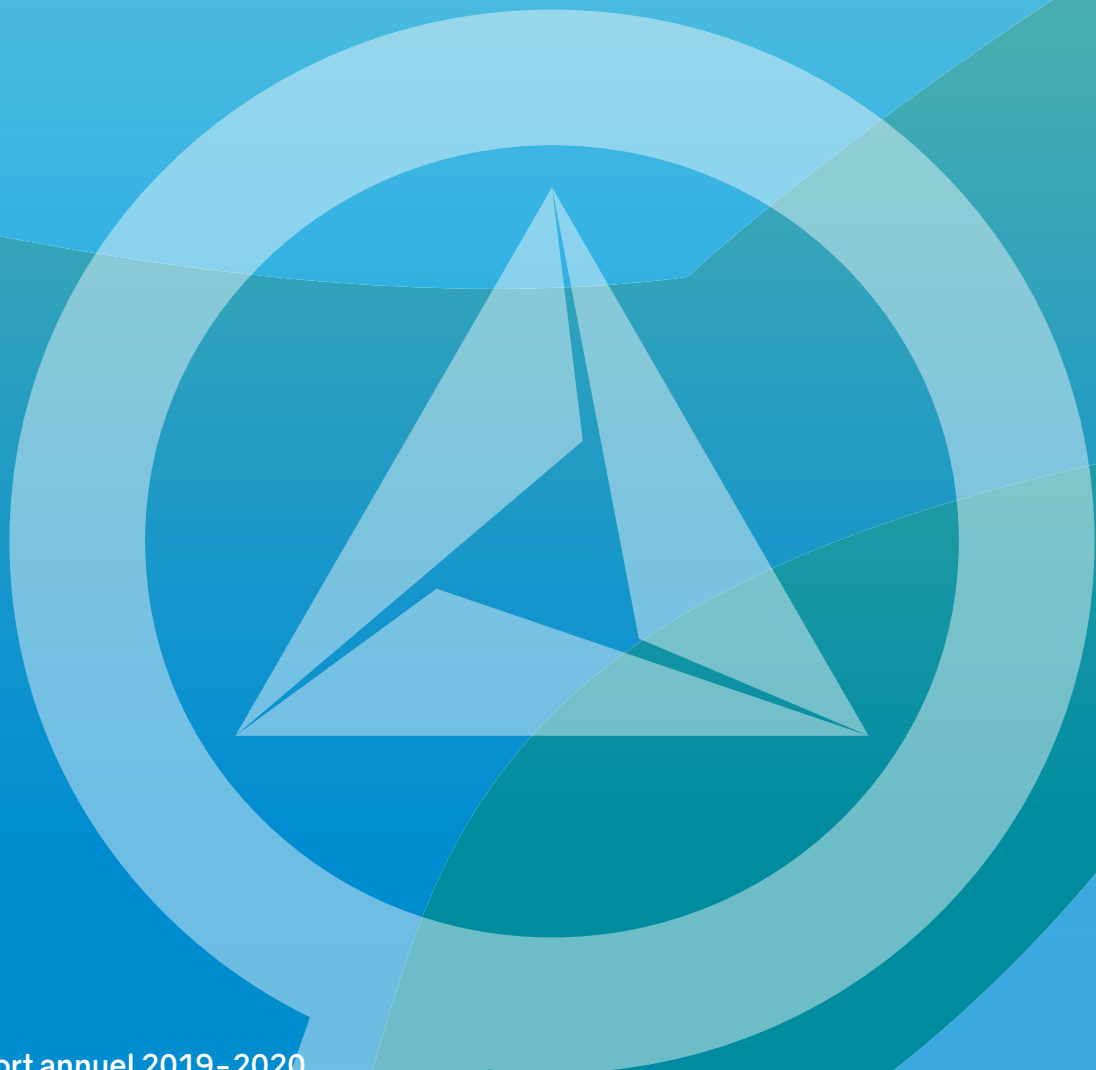
Pour l'instant, nous réajustons nos plans afin de favoriser la création de formations destinées à la fonction publique qui pourront être données en ligne, et nous intensifions les campagnes publicitaires pour faire connaître le Bureau.

J'espère qu'avant la fin de mon mandat, il sera à nouveau possible de rencontrer les Ténois dans leur collectivité de résidence. Quand ce moment viendra, nous serons prêts.

Colette Langlois

Protectrice du citoyen

À propos du Bureau du protecteur du citoyen





Le Bureau du protecteur du citoyen est un représentant indépendant de l'Assemblée législative qui défend l'équité au sein de l'administration et des services gouvernementaux aux TNO.

Il reçoit les plaintes de citoyens qui estiment avoir été traités de façon injuste par les organismes territoriaux et mène des enquêtes sur ces plaintes. Nous pouvons également faire enquête de notre propre initiative, sans avoir reçu de plainte. Le Bureau recherche des solutions dans le but d'améliorer les services gouvernementaux.

Sensibiliser le public au rôle d'un protecteur du citoyen et aux principes d'équité administrative fait partie de notre mandat.

Compétence du Bureau du protecteur du citoyen

Le Bureau du protecteur du citoyen a compétence sur les questions administratives. Celles-ci comprennent la majorité des interactions quotidiennes que les Ténos peuvent avoir avec les employés d'agences ou de ministères gouvernementaux. Les questions politiques comme les décisions du Conseil exécutif et des députés, les décisions des tribunaux, les actions des avocats qui représentent le gouvernement, ou les décisions cliniques des professionnels de la santé ne sont pas des questions sur lesquels le Bureau a compétence.

L'annexe de la *Loi sur le protecteur du citoyen* contient une liste des ministères et organismes qui relèvent de la compétence du Bureau du protecteur du citoyen.

Ces ministères et organismes sont :

- Ministères des TNO
- Conseils et administrations du secteur de l'éducation
- Administrations des services de santé et des services sociaux
- Collège Aurora
- Office inuvialuit des eaux
- Commission d'aide juridique
- Société des alcools et Commission des licences d'alcool
- Société d'investissement et de développement des TNO
- Sociétés d'habitation des TNO et organismes d'habitation
- Société d'hydro des TNO
- Société d'énergie des Territoires du Nord-Ouest
- Conseil sur la condition de la femme des TNO
- Office des droits de surface
- Agence de services communautaires Tłıchǫ
- Commission de la sécurité au travail et de l'indemnisation des travailleurs

Nous ne pouvons pas enquêter sur :

- Les ministères ou organismes du gouvernement fédéral
- Les gouvernements autochtones
- Les administrations municipales
- Les députés
- L'Assemblée législative et le Conseil exécutif
- Les tribunaux
- La police
- Les entreprises privées et les citoyens

QUI SOMMES-NOUS?

La première protectrice du citoyen, Colette Langlois, a été nommée le 8 avril 2019.

Mme Darlene Lamb, la préposée à l'accueil et gestionnaire du bureau, est entrée en fonction en octobre 2019. Elle est le premier point de contact pour la plupart des personnes qui ont des questions ou des plaintes. Elle écoute, note les renseignements sur la plainte, évalue la situation et oriente les demandeurs soit vers ses collègues, soit vers d'autres organismes qui pourraient être mieux outillés pour les aider. En tant que gestionnaire du bureau, elle coordonne également tout le soutien administratif, les systèmes et les services du Bureau.

Michelle Staszuk, l'agente responsable de la résolution précoce des plaintes et des enquêtes s'est jointe à notre équipe en décembre 2019. Elle assure un suivi auprès des plaignants et des instances gouvernementales afin de recueillir des informations, de discuter des options et de rechercher des solutions informelles aux problèmes soulevés. Elle mène également des enquêtes formelles.



De gauche à droite :
Darlene Lamb,
Michelle Staszuk,
and Colette Langlois

Darlene Lamb et Michelle Staszuk contribuent toutes deux aux projets et activités d'éducation et de sensibilisation du public du Bureau.

Notre approche



Nous sommes à votre écoute.

Lorsque les gens nous contactent pour la première fois, nous voulons savoir quel organisme est visé par la plainte et ce qui s'est passé. Nous leur demandons ce qu'ils ont déjà essayé de faire pour remédier à la situation et quelle résolution ils souhaitent.

Les réponses à nos questions nous aident à déterminer s'il y a matière à mener une enquête et s'il existe d'autres options qui permettraient de régler la plainte donnée plus rapidement. Par exemple, si les plaignants n'ont communiqué avec personne au sein de l'organisme concerné à propos du problème,

ou s'il existe une procédure d'appel qu'elles n'ont pas essayée, nous leur demandons généralement de le faire en premier. Si ces approches ne fonctionnent pas, nous leur demandons de communiquer à nouveau avec nous.

Notre processus d'admission est confidentiel. Nous ne communiquons pas votre nom ni vos renseignements personnels, et nous ne prenons pas non plus de mesures concernant votre plainte sans votre consentement.

Nous vous aidons à vous orienter.

Parfois, la bureaucratie peut être déroutante ou intimidante. Il n'est pas toujours facile de savoir par où commencer. Nous pouvons vous aider à vous orienter dans la bonne direction. Nous orientons souvent les personnes vers des personnes-ressources ou des procédures au sein d'organismes gouvernementaux

qu'elles ne connaissent pas forcément et qui peuvent régler certains problèmes. Nous orientons également les plaignants vers d'autres services et processus de plainte pour régler des questions qui ne relèvent pas de notre mandat.

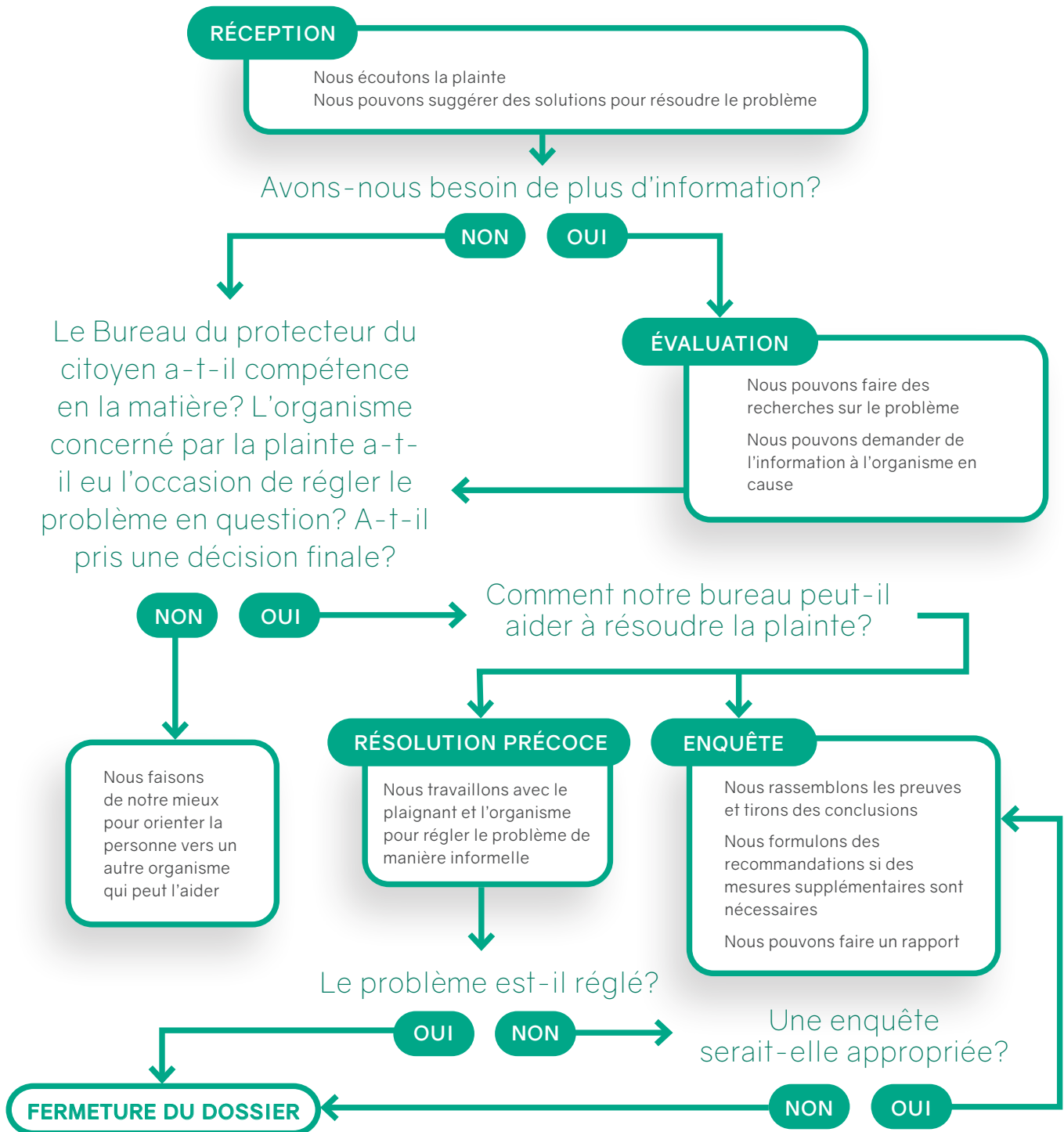
Nous aidons les Ténnois à trouver des solutions.

Les membres du public et les organismes gouvernementaux ne sont pas toujours capables de résoudre leurs problèmes eux-mêmes. Si la question relève de notre mandat, nous voyons ce que nous pouvons faire pour aider à résoudre le problème. Notre bureau demeure impartial et s'applique à défendre l'équité.

Nous pouvons souvent résoudre les problèmes de manière informelle grâce à notre processus de résolution précoce. Ce processus implique d'écouter les deux parties, de poser des questions, de recueillir de l'information et de discuter des options.

Parfois, nous décidons de mener une enquête formelle. Nous prenons cette décision en tenant compte d'un certain nombre de considérations, notamment le type de preuves dont nous pensons avoir besoin pour aller au fond des choses, et si nous pensons que des recommandations officielles pourraient être appropriées. À la fin d'une enquête, nous communiquons nos conclusions à la personne qui a porté plainte et à l'organisme gouvernemental visé. Suivant les résultats de l'enquête, nous pouvons alors formuler des recommandations pour régler le problème. Si l'organisme visé ne prend aucune mesure en conséquence, nous pouvons en faire rapport à l'Assemblée législative.

Notre approche



À propos de l'équité administrative



Le protecteur
du citoyen est
le défenseur
de l'équité
administrative.
Qu'est-ce que
cela signifie?

Chaque jour, les organismes gouvernementaux prennent des mesures et des décisions qui influencent la vie des gens. L'équité administrative est une norme de conduite que les organismes gouvernementaux d'une société démocratique sont tenus d'adopter.

On s'attend à ce que les organismes gouvernementaux traitent les gens de façon équitable et raisonnable. À titre d'exemple, ils doivent suivre des règles, fournir de l'information claire sur les processus et les décisions, et traiter les gens avec honnêteté et respect.

Bien qu'il n'existe pas de définition unique de l'équité, il existe certains principes et pratiques de base qui aident à définir le concept.



Le triangle de l'équité : trois aspects de l'équité¹

Décision

Qu'est-ce qui a été décidé?

- Est-ce que le gouvernement a l'autorité juridique pour prendre la décision?
- Est-ce que la décision s'appuie sur l'information pertinente?
- Est-ce que la décision est oppressive ou injuste?
- Est-ce que la décision est erronée en droit ou en fait?

PROCESSUS

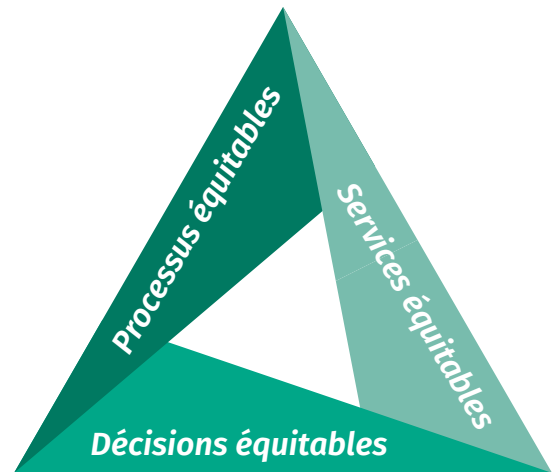
Comment la décision a-t-elle été prise?

- Est-ce que la personne a reçu suffisamment d'information pour savoir ce qui était exigé?
- Est-ce que la personne a eu la possibilité d'exprimer son point de vue?
- Est-ce que le gouvernement a pris le temps d'écouter?
- Est-ce que le gouvernement a donné les raisons de sa décision?
- Est-ce que la décision a été prise dans un délai raisonnable?
- Est-ce que le décideur a été impartial?

Entretien

Comment la personne a-t-elle été traitée?

- Est-ce que le gouvernement a fait preuve d'ouverture?
- Est-ce que la confidentialité a été respectée?
- Est-ce que le gouvernement a été franc et direct?
- Est-ce que le gouvernement a présenté des excuses si une erreur a été commise?



L'équité n'est pas toujours simple à définir. Le contexte est important pour juger si une situation est équitable. Le respect de l'équité n'implique pas que le gouvernement doit être d'accord avec toutes les demandes ou traiter tout le monde exactement de la même façon.

¹ Cette section s'inspire des documents élaborés par le protecteur du citoyen de la Saskatchewan. Le triangle de l'équité a été créé par le protecteur du citoyen de la Saskatchewan à partir du concept du triangle de la satisfaction dans : Moore, Christopher (2003). *The Mediation Process: Practical Strategies for Resolving Conflict* (Le processus de médiation : stratégies pratiques pour résoudre les conflits) (3e éd.). San Francisco : Jossey-Bass Publishers.

2019-2020

Installation du bureau



Le Bureau a officiellement ouvert ses portes le 18 novembre 2019, lorsque les parties 2, 3 et 4 de la *Loi sur le protecteur du citoyen* sont entrées en vigueur. Le Bureau est pleinement opérationnel depuis le 31 mars 2020; il compte deux employés à temps plein et s'occupe d'un nombre toujours croissant de dossiers d'enquête et de plaintes.

Voici quelques points saillants de l'installation du Bureau du protecteur du citoyen.

Embauche d'une équipe

Les deux premiers employés recrutés pour le Bureau du protecteur du citoyen sont la préposée à l'accueil et gestionnaire du bureau et l'agente responsable de la résolution précoce des plaintes et des enquêtes.

Installation du bureau

La division des services ministériels de l'Assemblée législative a négocié le bail et supervisé les rénovations des bureaux de Hay River. L'installation du bureau comprenait également l'achat d'équipement et de services informatiques, l'établissement de procédures opérationnelles internes et la conception d'un logo et de papier à en-tête.

Intégration du réseau des protecteurs du citoyen

Au cours de l'exercice 2019-2020, le Bureau a officiellement rejoint le Conseil canadien des ombudsmans parlementaires et le Forum canadien des ombudsmans. Nous avons également soumis une demande d'adhésion à l'Institut international de l'Ombudsman. La protectrice du citoyen a aussi visité les bureaux de ses homologues de la Colombie-Britannique, de l'Alberta et de l'Ontario.

Perfectionnement professionnel

En vue de l'ouverture du bureau, la protectrice du citoyen et son personnel ont suivi des cours sur les principes fondamentaux de la médiation, des enquêtes, de la résolution de conflits, ainsi qu'une formation sur la sécurité en milieu de travail.



Bureau
des chutes
Alexandra

2019-2020

Demandes de renseignements et plaintes en 2019-2020



Les **demandes de renseignements** comprennent toutes les communications avec le Bureau, qu'il s'agisse d'une demande d'information générale ou d'une prise de contact concernant une plainte éventuelle. Chaque question est comptabilisée comme une demande distincte. Par exemple, si une plainte porte sur des questions concernant trois administrations différentes, nous considérons qu'il s'agit de trois demandes de renseignements. Si une personne nous rappelle plusieurs fois au sujet de la même question, nous considérons qu'il s'agit d'une seule demande. Nous ne comptons pas les questions et les commentaires qui surviennent lors des présentations ou dans les forums publics comme les événements communautaires et les publications dans les médias sociaux.

C'est lors de **plaintes** que notre Bureau intervient en lançant soit un processus de résolution précoce, soit une enquête. De nombreuses requêtes sont résolues avant qu'une plainte ne soit officiellement déposée.

Les suggestions administratives sont des suggestions formulées à l'endroit des administrations par écrit pour résoudre une situation de manière informelle ou pour éviter que des situations similaires ne se reproduisent. Elles sont moins formelles que les recommandations, qui seraient présentées dans un rapport à la suite d'une enquête.

Du 18 novembre 2019, date d'ouverture de notre bureau, au 31 mars 2020, nous avons reçu 53 demandes de renseignements, dont 11 qui ont donné lieu à une plainte. À la fin de l'exercice, deux dossiers d'enquête et six plaintes n'étaient toujours pas réglés. Aucune recommandation n'a été faite; nous avons cependant formulé trois suggestions administratives que les administrations ont acceptées.

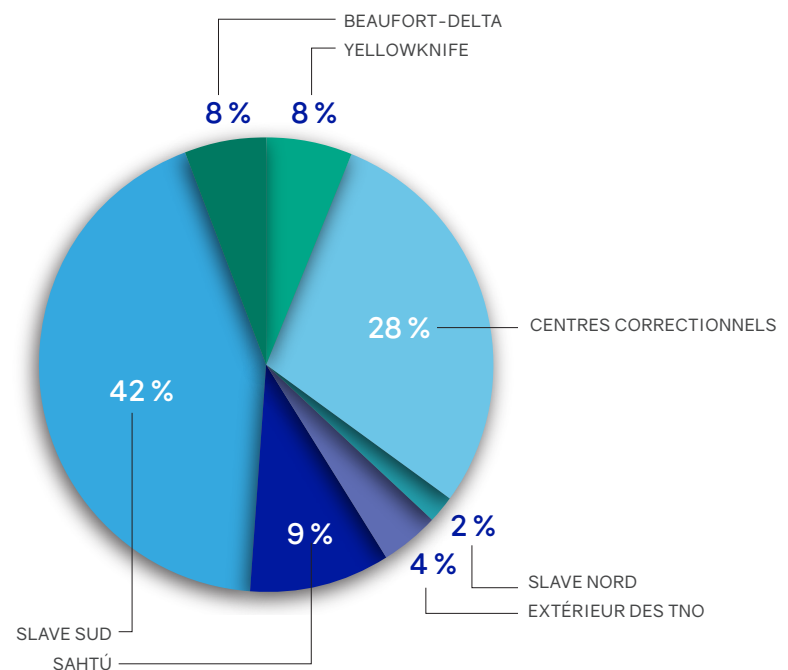


Demandes de renseignements reçues au cours de l'exercice 2019-2020

DEMANDES DE RENSEIGNEMENTS REÇUES EN 2019-2020	OUVERTES ET REPORTÉES	FERMÉE	REPORTÉES À L'EXERCICE FINANCIER SUIVANT	
Reportées d'un exercice financier précédent	0	0	0	
Demande de renseignements	5	5	0	
Plaintes potentielles	48	40	ÉTAT À LA FIN DE L'EXERCICE	
			Dépôt de la plainte	2
			En résolution précoce	2
			En cours d'enquête	4
TOTAL	53	45	8	

Demandes par provenance

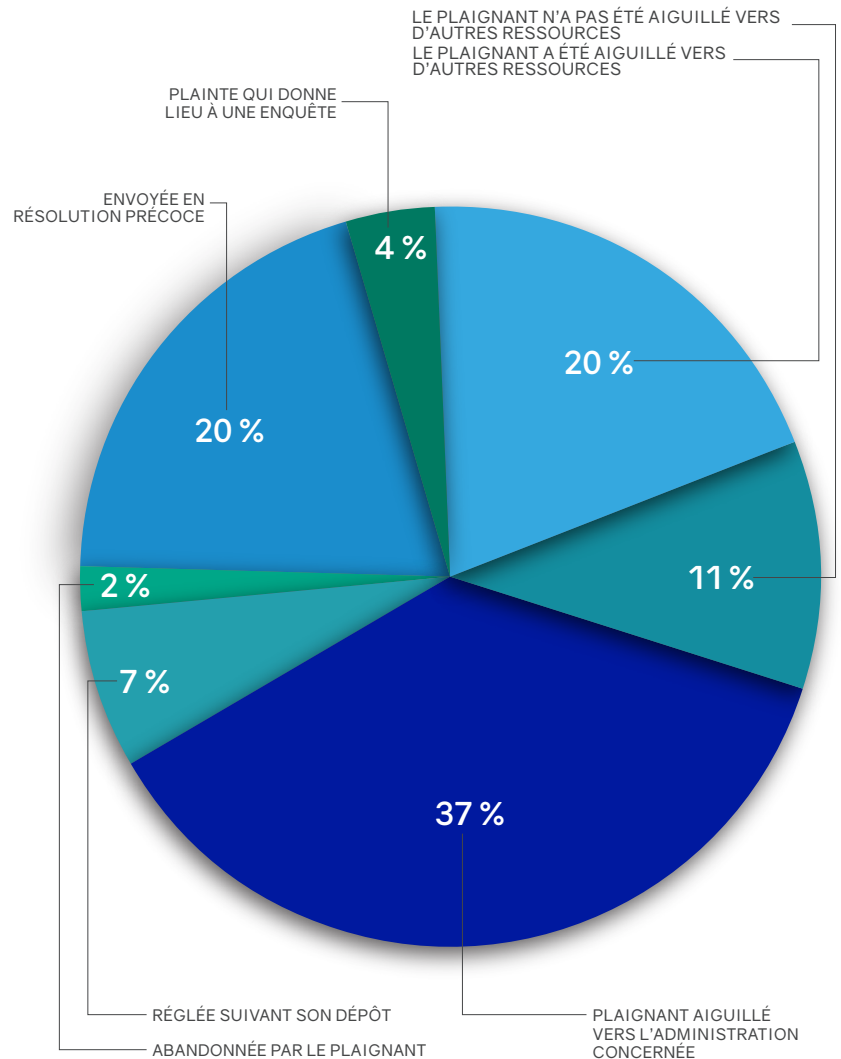
Beaufort-Delta	4
Centres correctionnels	15
Dehcho	0
Slave Nord	1
Extérieur des TNO	2
Sahtú	5
Slave Sud	22
Yellowknife	4
TOTAL	53





Plaintes potentielles selon le résultat

PLAINTES QUI NE RELÈVENT PAS DE LA COMPÉTENCE DU BUREAU	
• Le plaignant a été aiguillé vers d'autres ressources	9
• Le plaignant n'a pas été aiguillé vers d'autres ressources	5
PLAINTES QUI RELÈVENT DE LA COMPÉTENCE DU BUREAU	
• Plaignant aiguillé vers l'administration concernée	17
• Réglée suivant son dépôt	3
• Abandonnée par le plaignant	1
• Envoyée en résolution précoce	9
• Plainte qui donne lieu à une enquête	2
PLAINTÉ ENCORE AU STADE DU DÉPÔT À LA FIN DE L'EXERCICE	
	2
TOTAL	48





Plaintes potentielles selon le type d'organisme

ORGANISMES QUI NE RELÈVENT PAS DE LA COMPÉTENCE DU BUREAU	
• Autres paliers de gouvernement	4
• Particulier ou entreprise privée	4
• Employé d'une organisation non gouvernementale	1
• Administration territoriale	2
TOTAL DES PLAINTES QUI NE RELÈVENT PAS DE LA COMPÉTENCE DU BUREAU	11
ORGANISMES QUI RELÈVENT DE LA COMPÉTENCE DU BUREAU	
• Ministère des Finances	2
• Administration des services de santé et des services sociaux de Hay River	2
• Ministère de la Santé et des Services sociaux	5
• Ministère de l'Infrastructure	1
• Ministère de la Justice	15
• Commission d'aide juridique	1
• Ministère des Affaires municipales et communautaires	3
• Administration des services de santé et des services sociaux	1
• Société d'habitation des TNO	4
• Conseil scolaire de district du Sahtu	1
• Commission de la sécurité au travail et de l'indemnisation des travailleurs	2
TOTAL JURISDICTIONAL	37
TOTAL	48



Plaintes selon le résultat

RÉSOLUES AU STADE DE LA RÉOLUTION PRÉCOCE	
• Résolution volontaire de l'administration qui satisfait le plaignant	4
• Résolution volontaire de l'administration qui satisfait la protectrice du citoyen	1
NON RÉSOLUES À LA FIN DE L'EXERCICE FINANCIER	
• En résolution précoce	2
• Enquête en cours	4
TOTAL	11

2019-2020

Exemples de notre travail en 2019-2020

Je ne sais pas par où commencer.

Personne n'écoute.

J'ai du mal à comprendre.

Ils ne m'ont jamais rappelé.

J'ai peur qu'ils disent non.

Les raisons qu'ils m'ont données,
c'est vraiment n'importe quoi.

Voilà quelques-unes des choses que nous entendons de la part des personnes qui communiquent avec notre Bureau. Bien que nous recevions des demandes de renseignements qui touchent un large éventail de problèmes, nous avons remarqué, comme dans les exemples précédents, que beaucoup semblent être reliés à des problèmes de communication.

Quelqu'un a promis de rappeler et ne l'a jamais fait; la formulation d'une politique est déroutante; une décision n'a pas été clairement expliquée; les informations sur

des programmes ou des procédures ou les coordonnées pour communiquer avec un responsable sont difficiles à trouver.

Donner suite aux appels téléphoniques et aux courriels, rendre l'information facile à trouver et prendre le temps d'expliquer les choses à l'aide d'un vocabulaire accessible sont autant de moyens à la disposition des administrations pour rendre leurs programmes et services plus équitables et réduire la probabilité de plaintes.

Voici quelques exemples de cas que nous avons résolus au cours du dernier exercice :

- 1.** Nous avons aiguillé une personne vers les centres de services de Service Canada et du GTNO pour de l'information au sujet des régimes de retraite et autres prestations aux personnes âgées. Nous avons également aidé la personne à formuler les questions qu'elle allait poser au personnel de ces centres.
- 2.** Nous avons orienté une personne vers le processus d'appel du régime d'assurance-maladie. On lui avait refusé une carte sous prétexte que son conjoint continuait de résider dans une province. Elle a eu gain de cause.
- 3.** Nous avons examiné les politiques des services correctionnels qui régissent l'usage de la suboxone dans le traitement des dépendances aux opioïdes. Ce dossier a été classé grâce à notre processus de règlement précoce. Elle a donné lieu à trois suggestions administratives visant à clarifier les exigences en matière d'analyse d'urine pour les détenus recevant un traitement à la suboxone et pour le personnel médical.

2019-2020

Publications et sensibilisation en 2019-2020



Au cours de l'année 2019-2020, nos publications et nos activités de sensibilisation ont surtout été axées sur la sensibilisation du grand public à l'ouverture récente du Bureau, et sur la présentation aux fonctionnaires du rôle de la protectrice du citoyen et des principes de l'équité administrative. Pour ce

faire, nous avons eu recours à des ressources imprimées et en ligne, à des présentations, à des réunions avec des représentants de diverses organisations et à de la publicité. Certaines réunions et présentations prévues pour la fin de l'exercice financier ont dû être reportées en raison de la pandémie.

Voici quelques faits saillants :

- Lancement de notre site web nwtombud.ca/fr/ en décembre 2019
- Création de la page Facebook NWT Ombud – Protecteur du citoyen TNO en janvier 2020
- Rédaction de brochures d'information générale, de cartes de visite et d'un guide à l'intention des administrations publiques

Nous avons également pris des dispositions avec le ministère des Finances pour donner accès, par l'intermédiaire de la plateforme de formation en ligne du GTNO, à un webinaire d'introduction à l'équité (Fairness 101), conçu par notre homologue de la Colombie-Britannique; au cours de l'exercice, 83 employés du gouvernement l'ont suivi.

La protectrice du citoyen a fait des présentations en personne aux résidents de Fort Smith et de Hay River, et à

un certain nombre de groupes, dont plusieurs équipes de cadres supérieurs d'administrations gouvernementales. Elle a également rencontré des représentants de plusieurs agences et organisations non gouvernementales pour se présenter et présenter le poste qu'elle occupe.

Autres faits saillants en 2019-2020

Le Bureau a reçu sa toute première visite officielle en février 2020. Notre amie et consœur Renée Gavigan, protectrice du citoyen adjointe de la Saskatchewan,

a passé deux jours avec nous pour partager conseils et perspectives, puisés dans ses décennies d'expérience.

La protectrice du citoyen a assisté aux conférences suivantes :

- Conférence du Forum canadien des ombudsmans, Toronto, avril 2019
- Conférence du Conseil canadien des ombudsmans parlementaires (CCPO), Victoria, juin 2019
- Regard vers l'avenir : Symposium sur l'avenir des fonctions et services de l'ombudsman parlementaire, Victoria, juin 2019

RAPPORT FINANCIER POUR 2019-2020

POSTE DE DÉPENSE	MONTANT (\$\$)
RÉMUNÉRATION ET AVANTAGES SOCIAUX	<u>326 862</u>
AUTRES DÉPENSES	
Déplacement et transport	51 624
Équipement et fournitures	20 661
Services achetés	26 569
Services contractuels	91 388
Frais et paiements	12 226
Actifs contrôlables	81 084
Informatique	21 892
TOTAL DES AUTRES DÉPENSES	<u>305 444</u>
TOTAL	<u>632 306</u>

Recommandations de changements à la *Loi sur le protecteur du citoyen*

La protectrice du citoyen soumet respectueusement les recommandations suivantes pour la modification de la *Loi sur le protecteur du citoyen*.



A. Points de compétence

Les recommandations suivantes concernent la compétence de la protectrice du citoyen de faire enquête sur les plaintes.

1. Définition des « administrations » : article 1 et annexe

On recommande d'élargir la définition des « administrations » pour y inclure les bureaux des gouvernements territoriaux actuellement exclus de l'annexe.

2. Administrations créées en vertu de la Loi sur les droits de la personne : annexe

On recommande d'élargir la définition des « administrations » pour y inclure les bureaux des gouvernements territoriaux actuellement exclus de l'annexe.

3. Compétence dans les cas où un appel ou une autre procédure est possible : article 17

On recommande de supprimer les références au « contrôle judiciaire » dans l'article 17.

4. Compétence où le plaignant ne s'est pas prévalu du processus d'appel en place ou d'un processus similaire : paragraphe 17(2)

5. Compétence dans le temps

On recommande de remplacer le paragraphe 17(3) par une disposition qui autorise la protectrice du citoyen à faire enquête sur des faits survenus avant l'entrée en vigueur de la loi, sans délai de prescription.

6. Compétence pour faire enquête sur les questions relatives aux droits de la personne : article 23

On recommande de supprimer la référence à la directrice des droits de la personne de l'article 23.



B. Points de procédure

Les recommandations suivantes concernent des questions qui ont une incidence sur nos procédures de résolution précoces et sur nos enquêtes.

7. Refus d'enquêter lorsque le plaignant dispose d'un autre recours ou d'un droit d'appel adéquat : sous-alinéa 22(1)(g)(i)

On recommande de modifier le sous-alinéa 22(1)(g)(i) afin qu'il s'applique avant et pendant l'enquête.

8. Avis du refus d'ouvrir une enquête : alinéa 22(2)(a)

On recommande de modifier le paragraphe 22(2)(a) afin de supprimer l'obligation du protecteur du citoyen d'informer l'administration concernée chaque fois qu'il refuse de faire enquête sur une plainte.

9. Application d'autres lois régissant la divulgation et la confidentialité : article 29

On recommande de remplacer l'article 29 par une disposition similaire au paragraphe 25(7) de la Loi sur l'ombudsman de la Saskatchewan afin de supprimer les obstacles potentiels à l'enquête sur certaines plaintes lorsque les plaignants ne peuvent pas consentir par écrit à la divulgation de leurs informations, ou lorsque des informations concernant un tiers sont nécessaires.

10. Divulgation volontaire d'informations à la protectrice du citoyen - NOUVEAU

On recommande de modifier la loi pour y inclure une nouvelle disposition qui garantisse aux administrations l'autorisation de fournir volontairement des informations à la protectrice du citoyen.



C. Points administratifs

Les recommandations suivantes concernent les points administratifs.

11. Obligation aux administrations de préserver la confidentialité des informations provenant du Bureau du protecteur du citoyen - NOUVEAU

On recommande de modifier la loi pour y inclure une nouvelle disposition empêchant la divulgation d'informations provenant du Bureau du protecteur du citoyen.

12. Politiques et procédures : paragraphe 42(2)

On recommande que l'obligation imposée aux politiques et procédures de la protectrice du citoyen [paragraphe 42(2)] d'être conformes aux politiques administratives du greffier soit supprimée.

D. Clarification et points de terminologie

13. Remplacement du terme « autorité »

On recommande de remplacer le terme « autorité » par un terme plus accessible aux membres du public.

14. Clarté du paragraphe 15(1)

On recommande de réviser le paragraphe 15(1) pour le clarifier.