



ALBERTA OMBUDSMAN

# Focused on Fairness



## 42nd Annual Report

April 1, 2008 through March 31, 2009





ALBERTA OMBUDSMAN  
*Focused on Fairness*

October 2009

Dr. David McNeil  
Clerk of the Legislative Assembly  
801 Legislature Annex  
9718 107 Street NW  
Edmonton, AB T5K 1E4

Dear Dr. McNeil:

The Office of the Ombudsman is pleased to present its 42nd Annual Report to you and through you, to the Legislative Assembly.

The Report has been prepared in accordance with Section 28(1) of the *Ombudsman Act* and covers the activities of the Office of the Ombudsman for the period April 1, 2008 through March 31, 2009.

Respectfully,

G. B. (Gord) Button  
Alberta Ombudsman



# ALBERTA OMBUDSMAN

*Focused on Fairness*

VISION, MISSION AND VALUES

## VISION

The Alberta Ombudsman is the recognized leader for independent investigation, promotion and support of administrative fairness.

## MISSION

The Alberta Ombudsman independently and impartially promotes high standards of administrative fairness through investigations, recommendations for change and education.

## VALUES

To obtain our Vision and deliver our Mission, our Values are fundamental to all our interactions and communications.

We Value:

Fairness  
Competency  
Respect  
Integrity  
Equity and  
Confidentiality

We also value a working environment that fosters personal and professional growth and development, collaboration and teamwork, and innovation and creativity.



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# MESSAGE FROM THE OMBUDSMAN

## INTRODUCTION

It is once again my pleasure to present the Annual Report of the Alberta Ombudsman. This represents our 42nd Annual Report and my seventh such report since becoming Alberta's Ombudsman in 2003. The report outlines the efforts this Office has made in the last year to promote fairness for Albertans. Both the quantity and complexity of the complaints investigated this year have increased which is making it ever more difficult to deliver a thorough and timely service to Albertans and the investigated authorities. We pursued innovative and flexible approaches to investigations in an effort to respond to those demands while also undertaking large systemic investigations of significant issues which arose during the year. Overviews of some of these investigations and outcomes are included later in this report.

2009 marks the 200th Anniversary of the creation of the first parliamentary or classical Ombudsman office in Sweden in 1809. Today, there are Ombudsman offices in over 140 countries around the world. While the "Swedish recipe" remains the foundation of the Ombudsman concept, many variations have evolved to reflect differences in political culture, styles of democracy, bureaucratic structure, degree of economic development, types of legal systems and a myriad of other factors. A celebration of this great milestone occurred at the World Congress of the International Ombudsman Institute in Stockholm, Sweden in June 2009. To recognize the bicentennial, we are preparing a special celebration to promote fairness for all Albertans.

## THE YEAR IN REVIEW

Complaints received from citizens increased again this year. Oral complaints were up 5% to 4,614 while written complaints, which are the mainstay of the workload, rose to 819 from 708 last year. This represents an increase in workload of about 16%. We used an informal problem resolution technique to facilitate discussion amongst my staff, the complainant and the authority to resolve 182 oral complaints thereby eliminating the need for a written complaint and a formal investigation. We increased the use of Alternative Complaint Resolution to resolve 40 written complaints, up from 25 last year. I initiated these two techniques in recent years in an effort to manage the ever-increasing workload more efficiently and effectively. As a direct result of the increased number of complaints received, 299 active files were carried forward into 2009/10, compared to 278 last year. A recap of complaints received about various authorities is located in the section Year in Review.

While I continue to stress timely completion of investigations, I am constantly monitoring the quality of investigations to ensure it does not suffer. To focus our attention on this objective last year, I set a goal for the number of investigations each investigator was expected to conclude during the year. Although 100% success was not achieved, it did help us gain efficiency and effectiveness in the investigative process. I made a significant number of recommendations to investigated authorities and received excellent support to implement changes and bring about fairness.

**Robert O'Handley, Manager of Program Compliance and Investigations, Alberta Advanced Education and Technology, took our recommendations on specific issues involving the Learner's Assistance program and applied the principles of administrative fairness more generally to his department's overall policies and processes.**

Several case summaries are included in this report describing the issues investigated, the recommendations made and the outcomes achieved. These summaries are provided in the context of our Administrative Fairness Guidelines that have evolved over the years from court decisions at various levels to provide the framework for determining administrative fairness.

## SIGNIFICANT DEVELOPMENTS

Over several years, this Office investigated numerous complaints about the out of country health services program provided by Alberta Health and Wellness. Despite repeated recommendations for improvements to how the Out-of-Country Health Services Committee and the Out-of-Country Health Services Appeal Panel discharged their responsibilities, significant improvements were not evident and we arrived at an impasse. In December 2008, I announced a systemic investigation of the program under my own motion as authorized by Section 12(2) of the *Ombudsman Act*. An overview of that investigation is provided in this report and the complete report is available on our website at [www.ombudsman.ab.ca](http://www.ombudsman.ab.ca). While this investigation was very successful and will lead to meaningful changes to the program, it was labour intensive and impacted my Office's ability to attend to the rest of the workload. As it is important that I undertake similar investigations in the future, I requested funding for additional resources to pursue such investigations in my budget submission to the Standing Committee on Legislative Offices. Unfortunately, due in large part to the difficult economic situation we find ourselves in, my budget request for additional resources was denied. In fact, in order to manage my Office within the 2009/10 budget allocation, I vacated one investigator position. I will be hard pressed to undertake a similar own motion investigation next year with the current available resources.

A significant investigation was also launched into the Assured Income for the Severely Handicapped (AISH) program. This investigation looked into how Alberta Seniors and Community Supports implemented and communicated a 2005 change to AISH policy that resulted in AISH recipients no longer being required to apply for a reduced Canada Pension Plan - Retirement (CPP-R) benefit at the age of 60. The policy prior to the change resulted in no benefits paid to AISH recipients after CPP-R benefits began because CPP-R was deducted dollar-for-dollar from AISH benefits. However, this policy sometimes resulted in recipients receiving less funding when transitioning off AISH at age 65. My Office worked very closely with former Deputy Minister Tim Wiles and his staff to come to a mutually-agreeable resolution resulting in the department developing a process to compensate adversely-affected recipients upon reaching age 65. This is an excellent example of the good results obtained when authorities and my Office work together to create fair resolutions to problems. An overview of this investigation is also included in this report.

As I reported last year, I petitioned the courts in 2007 to resolve a jurisdictional dispute between my Office and the Chief Commissioner of the Alberta Human Rights and Citizenship Commission. Despite the

**Antonella Soria,**  
Assistant Director  
of Legal Services,  
Alberta Children  
and Youth  
Services, carefully  
considered the  
principles of  
administrative  
fairness and  
the need for  
transparency in  
acting as a resource  
between my Office  
and the department  
on a number of  
files.

**Guy Kerr,**  
President and  
Chief Executive  
Officer, Workers'  
Compensation  
Board, undertook  
direct involvement  
to resolve a  
highly complex  
matter which  
led to systemic  
improvements  
in claims  
management  
processes.

**Tim Wiles**, former Deputy Minister of Alberta Seniors and Community Supports, and the entire team responsible for delivery of the Assured Income for the Severely Handicapped program, went above and beyond to implement recommendations, ensuring administrative fairness for their clients.

decision of the Alberta Court of Queen's Bench that I have authority to investigate the actions and decisions of the Chief Commissioner and he has the authority pursuant to the *Ombudsman Act* to implement my recommendations at his discretion, we still have not moved a significant number of formal investigations forward. The newly-appointed Chief Commissioner, Blair Mason, continues to resist my investigations and we are not receiving timely responses from the Commission to my requests for information about new complaints received. I am working with the Minister of Culture and Community Spirit, the Minister of Justice and Attorney General and Mr. Mason to reach a resolution to this situation. Meanwhile, several investigations are on hold, some for several years, as I am unable to pursue them until this issue is resolved. As the watchdog for administrative fairness for the Legislative Assembly of Alberta, it is important that I have the ability to investigate the fairness of actions and decisions of all jurisdictional agencies, boards and commissions created by the government to discharge its responsibilities while ensuring the highest degree of procedural fairness for Albertans.

My first five-year term as Alberta's Ombudsman expired in 2008. After very constructive discussions with the Standing Committee on Legislative Offices, the Committee recommended to the Legislative Assembly that I be reappointed for a second five-year term. The Legislative Assembly passed a motion to that effect in November 2008 and I am honoured to continue this very important work on behalf of all Albertans and the Legislative Assembly.

### IN CONCLUSION

For the most part, I continue to experience excellent cooperation from the authorities subject to my investigations. I commend their willingness to cooperate with my investigators and receive and implement my recommendations in the interests of pursuing administrative fairness. This cooperative, non-adversarial approach is in the best interests of all involved.

As I look ahead, I certainly have some reservations and concerns. The world is facing very difficult economic challenges and Alberta has not been spared. I expect the new economic realities in Alberta will impact our workload and available resources for the foreseeable future. However, my staff and I are committed to continuing to provide the best service possible and will seek innovative methods to deliver on our mandate as the watchdog for administrative fairness for all Albertans.



G. B. (Gord) Button  
Alberta Ombudsman



**200<sup>TH</sup> ANNIVERSARY  
OF OMBUDSMANSHIP**

## 200<sup>TH</sup> ANNIVERSARY OF OMBUDSMANSHIP

2009 is the 200th Anniversary of the founding of the modern day Ombudsman institution which was created in Sweden in 1809. The basic premise of the Ombudsman institution in Sweden was the appointment by parliament of a person, independent of government, whose primary responsibility was to ensure government departments and agencies acted in compliance with the law. The most common definition of a legislative Ombudsman is a public official appointed by the legislature to receive and investigate citizen complaints about administrative acts of government.

Barón Lars Augustin Mannerheim was the first Parliamentary Ombudsman in Sweden. He served in that capacity until retiring in 1823.

In 1919, the concept of a parliamentary Ombudsman spread beyond Swedish borders to Finland. A similar office was created in Denmark in 1955 and in Norway in 1963.

In 1962, New Zealand became the first country outside Scandinavia to appoint an Ombudsman. Sir Guy Powles was New Zealand's first Ombudsman and held the office until he was appointed Chief Ombudsman in 1975. He held that post until his retirement in 1977.

The Ombudsman concept spread to the Caribbean in 1966 with the appointment of the first Ombudsman in Guyana. In 1967, the first United Kingdom Ombudsman, known then as the Parliamentary Commissioner for Administration, was appointed.

In Tanzania, Africa, the Permanent Commission of Inquiry, also known as the Ombudsman, was created in 1966.

The concept of ombudsmanship was introduced to North America in 1967 when the first Canadian office opened in Alberta in September, followed closely by New Brunswick in October 1967. George McClellan was appointed the first Alberta Ombudsman and held that position until his retirement in 1974. In the United States, Hawaii established the first public sector Ombudsman in 1976, but the concept was not widely adopted. At the state level, legislative Ombudsman have been appointed in only a handful of states.

The concept of ombudsmanship continued to grow in the Commonwealth and in other countries, as many adopted an Ombudsman institution. For example: Australia (1977 at the federal level, 1972-1979 at the state level); France (1973); Portugal (1975); Austria (1977); Spain (1971); the Netherlands (1981); Israel (1971) and Puerto Rico (1977).

According to the International Ombudsman Institute, by mid-1983, there were only 21 countries with Ombudsman offices at the national level and six other countries with Ombudsman offices at the provincial/state or regional levels. The transition of many countries to democratic governance

structures over the past two decades has led to the establishment of many more Ombudsman offices. This government reform has included the establishment of the classical Ombudsman, human rights Ombudsman and other Ombudsman-like functions in countries in Latin America, Central and Eastern Europe, parts of Africa and the Asia-Pacific. Countries that have established national offices include Argentina, Costa Rica, Colombia, Guatemala, Peru, Namibia, South Africa, Poland, some francophone African countries, Hungary, Lithuania, Slovenia, the Czech Republic, Thailand and the Philippines. The European Union has created a European Ombudsman under the Maastricht Treaty and the first European Ombudsman was appointed in 1995.

The role of the Ombudsman has evolved over the years. In Alberta it was Chief Justice J.V.H. Milvain of the now-Court of Queen's Bench of Alberta, in a 1970 decision concerning the jurisdiction of the Alberta Ombudsman, who said:

I am satisfied that the basic purpose of an Ombudsman, is provision of a “watch-dog” designed to look into the entire workings of administrative laws ... he can bring the lamp of scrutiny to otherwise dark places, even over the resistance of those who would draw the blinds. If his scrutiny and observations are well-founded, corrective measures can be taken in due democratic process, if not, no harm can be done in looking at that which is good.



**G. B. (Gord) Button**  
*2003 - Present*



**G. G. S. (Scott) Sutton**  
*1998 - 2003*



**Harley A. Johnson**  
*1990 - 1997*

**Alberta Ombudsman**  
**1967 - Present**



**Aleck H. Trawick**  
*1987 - 1989*



**Brian Sawyer**  
*1984 - 1987*



**Dr. Randall E. Ivany**  
*1974 - 1984*



**George B. McClellan**  
*1967 - 1974*

A graphic with a warm orange background. In the center, a brown folder is open, showing a document with the words "BUSINESS PLAN" printed in large, light-colored letters. To the right, a stack of white papers is visible, with a pen resting on top. The pen is dark and has a silver clip. The overall scene suggests a professional or business setting.

BUSINESS  
PLAN

**BUSINESS PLAN UPDATE**

## BUSINESS PLAN UPDATE

Our 2007/08 - 2009/10 Strategic Business Plan is a tool we use for guidance and future direction. We review and update the Plan annually.

We identified four core objectives to accomplish our goals. They are:

- manage the workload in an efficient and effective manner;
- excel in investigations;
- support workplace wellness and staff development; and
- enhance the knowledge and understanding of the role of the Ombudsman.

Following are highlights of initiatives undertaken this year to meet our objectives.

### **Objective #1: To Manage the Workload in an Efficient and Effective Manner.**

1. Oral and email inquiries are responded to appropriately and promptly, as follows:

Target	2008/09 Actual	2007/08 Actual
90% of email inquiries responded to within 24 hours	100% response within 24 hours	100% response within 24 hours
90% of telephone inquiries responded to within 4 hours	95% within 2 hours 100% within 4 hours	96% within 2 hours 100% within 4 hours

2. The investigation report guidelines and template were improved, resulting in a simplified document with defined use of appendices.
3. We reviewed the use of dedicated staff for intake but continued intake on a rotational basis by all investigators. Intake is a valuable learning tool for new investigators and provides current staff the ability to maintain knowledge of authority contacts and responsibilities.

4. The investigators carried an equitable assignment of investigation files, averaging 23 open files per investigator.
5. Staffing levels were reviewed to ensure our ability to effectively manage anticipated increased workload due to expanded jurisdiction and completion of own motion investigations. Due to negative economic conditions, our budget request for dedicated staffing for own motion investigations and a mediation program was denied. In addition, one investigator position was unfunded due to budgetary restraint.

Our achievements are as follows:

<b>File Closure – All Written Files Target</b>	<b>2008/09 Actual</b>	<b>2007/08 Actual</b>
75% of files completed within 90 days	82%	77%
80% of files completed within 180 days	87%	81%
90% of files completed within 1 year	94%	89%
100% of files completed within 2 years	99%	98%

<b>Complaints Resolved – Formal Investigations &amp; Alternative Complaint Resolution Target</b>	<b>2008/09 Actual</b>	<b>2007/08 Actual</b>
32% of files completed within 90 days	30%	23%
50% of files completed within 180 days	50%	37%
75% of files completed within 1 year	75%	63%
100% of files completed within 2 years	98%	95%



## **Objective #2: To Excel in Investigations.**

1. We continue to focus on achieving a balance of timely and thorough investigations.
2. There was a 10% increase in the number of active files as of March 31, 2009.
3. 100% of complainants are contacted within 14 days of receipt of their written complaint (target: 90%).
4. 92% of complainants are contacted within 10 days of assignment of the file to an investigator (target: 85%).
5. 78% of complainants are updated on the status of investigations within 90 days on second contact and 77% are contacted every 60 days thereafter (target: 90%).
6. As part of the orientation and skill development process, new investigators are mentored by an assigned Senior Investigator and/or a Team Leader/Senior Investigator.
7. Investigator resources dedicated to the own motion investigation and staff on special leave resulted in up to one-third of the investigative staff unable to perform their regular investigative duties for part of the year. Investigators not involved in the own motion investigation were required to double their intake duties and increase their workload.



## **Objective #3: To Support Workplace Wellness and Staff Development.**

1. All staff participated in annual performance reviews. Appropriate performance targets link performance evaluation with achievement awards. The file completion benchmark for investigators is 25 files per year. Achievement awards will not be funded in 2009/10.
2. Staff development opportunities were identified within individual learning plans, including:
  - University of Alberta Management and Executive Management Development Program;
  - office-wide training on Canadian Press Stylebook writing workshop and Microsoft Office 2007;
  - Ontario Ombudsman Sharpening Your Teeth program for advanced investigative training;
  - Canadian Bar Association lectures;
  - Administrative Law & Practice forum from Osgoode Professional Development; and
  - Forum of Canadian Ombudsman Behind Prison Walls correctional training for investigators.
3. We assessed position classifications to ensure relevancy and competitiveness to enhance employee attraction and retention. Human Rights Officers were successful in their classification appeal to the Classification Appeal Board. Subsequently, Corporate Human Resources removed this position as a benchmark for our investigators. An external review of investigator classifications is currently underway.
4. Ergonomic consultants evaluated and improved staff workspaces.



## **Objective #4: To Enhance Knowledge and Understanding of the Role of the Ombudsman.**

1. The Ombudsman performed an outreach tour to the Peace River area in June 2008, visiting MLA constituency offices.
2. The own motion investigation resulted in positive media coverage across the province, increasing the profile of our Office. This greater visibility resulted in an increased number of public complaints.
3. Our Office is promoting greater awareness of our services through:
  - authority consultations;
  - advertising in public transit;
  - stakeholder mail-outs of posters and brochures; and
  - 69 presentations to various groups, including:
    - Health Quality Council of Alberta workshop on Establishing an Effective Complaints Resolution Process in the Health Professions;
    - School-at-the-Legislature program to educate grade six students on the role of the Alberta Ombudsman office;
    - Protection for Persons in Care contract investigators and staff, Alberta Government Civil Lawyers Association, the Ministry of Supervision of the People's Republic of China organized by the Sheldon Chumir Foundation for Ethics in Leadership and the York University Centre for Practical Ethics; and
    - other service groups and conferences.





OUR ROLE

## OUR ROLE

The Alberta Ombudsman has the authority to investigate decisions, actions and recommendations made by a jurisdictional authority. Individuals who have concerns or complaints about the fairness of administrative actions by Alberta government departments, agencies, boards, commissions, designated professional organizations and the patient concerns resolution process of Alberta Health Services may bring these matters to the Ombudsman. Contact may be made by a phone call to the Office, through a letter, through the online complaint form located on our website or in person.

If the initial contact is made by phone, the call will be directed to an intake officer who determines the caller's issues and whether the concern is with an agency jurisdictional to the Ombudsman. If the concern is not jurisdictional, the caller is referred to the appropriate source for information or assistance.

## APPEAL MECHANISMS

The caller may have a concern regarding the actions of a jurisdictional body but may not have used all available appeal processes. The *Ombudsman Act* requires complainants to pursue resolution through these processes before seeking help from the Ombudsman. If all appeal processes are not exhausted, the intake officer will provide information on options and processes available to the caller.

Callers with a jurisdictional complaint who have completed the appeal processes may be able to resolve their complaint through Informal Resolution. For example, the caller may be an inmate who brought a concern to the correctional centre director but has not received a response. Rather than ask the inmate to make a formal written complaint to the Ombudsman, the intake officer may contact the director, provide information and inquire about the status of the inmate's concern. The intake officer may determine the director's response was sent but not received or the call may prompt a more timely response to the inmate. Whatever the outcome, such informal action by our Office is an attempt to successfully resolve the issue in a timely fashion.

For all other oral complaints, the intake officer explains the process of making a written complaint by online complaint form or by letter. The caller is advised of the process that occurs once the Ombudsman receives a written complaint.



## COMPLAINT ANALYSIS

The *Ombudsman Act* states all complaints to the Ombudsman shall be in writing. A complaints analyst reviews written complaints. The analyst will consider whether:

- the complaint is about a department or agency under the authority of the *Ombudsman Act*;
- the complainant has exhausted all avenues of appeal;
- the complaint is a matter before the courts;
- the complainant has been directly affected by the action or decision being complained about;
- the complainant has third party representation; and
- the complainant has come forward in a timely manner.

The analyst will also identify the issues within the complaint. Anonymous complaints are not acted upon.

If the Ombudsman accepts the complaint, there are two options for resolution: an Alternative Complaint Resolution may be attempted or the matter may proceed to a formal investigation. In both cases, the file is assigned to an investigator.

## ALTERNATIVE COMPLAINT RESOLUTION

The Alternative Complaint Resolution (ACR) process is a less formal process for handling complaints. It may be pursued for the following complaints:

- those which may have a reasonable chance of resolution within 21 days;
- those which involve fewer or less complex issues and are specific to the complainant; and
- where a less formal complaint resolution would be appropriate.

In order to proceed with ACR, the process must be agreed to by both the complainant and the complained-about department. After the issues are clarified with the complainant, a department representative is contacted and possible avenues of resolution are discussed. Examples of potential resolutions include the provision of additional information exchanged between parties or negotiation of further actions by either party. The Ombudsman's investigator facilitates the complaint resolution but does not advocate for the interests of either party. If the matter is successfully resolved, the file is closed. If ACR is unsuccessful, the matter is reconsidered for formal investigation.



## FORMAL INVESTIGATION

A formal investigation begins with correspondence to the complainant and the Deputy Minister responsible for the department or the head of the agency. If the complaint involves actions of more than one department, files are opened with each department. The correspondence outlines the parameters of the issues for investigation and the letter to the department usually includes a copy of the complaint letter or the details from the online complaint form. The department is asked to provide a written response, which should include all relevant documentation, policy and legislation. The investigator reviews this response and file materials relevant to the complaint and interviews appropriate department staff members to determine if there is additional information related to the identified issues. The investigator also interviews the complainant to obtain any additional information or clarification of the issues. The investigator may interview anyone believed to have information relevant to the investigation and request copies of all pertinent documents that the complainant or others may have in their possession.

Once all information is gathered, the investigator analyzes the information based on the principles of administrative fairness and prepares an Investigation Report. This report identifies the issues investigated and provides background for the complaint. Information relevant to each issue is described and analyzed and conclusions are explained. Based on the analysis and conclusions, the investigator recommends a resolution for each issue to the Ombudsman.

## ADMINISTRATIVE UNFAIRNESS

If administrative unfairness is identified, the issue is supported. The issue is not supported if the actions or decision did not demonstrate administrative unfairness and were consistent with legislation, policy and the principles of administrative fairness. For administratively unfair issues, the Ombudsman recommends a remedy which must be consistent with the nature of the unfairness. For example, if a decision was written in an administratively unfair manner, the Ombudsman may recommend the decision be rewritten or amended to rectify the deficiencies. If a hearing was conducted in an administratively unfair manner, the Ombudsman may recommend the decision be set aside and a new hearing held.

## INVESTIGATION CONCLUSION

At the conclusion of the investigation, the Ombudsman reports his findings on unsupported complaints to the complainant and the department or agency investigated. The decision identifies each issue investigated and the findings or conclusions.

On supported complaints, the Ombudsman shares his findings and recommendations with the Deputy Minister of the department or agency head and gives that person the opportunity to respond. When the Ombudsman makes a recommendation, he relies on the power of persuasion as he does not have the authority to require an action. There are occasions when the Deputy Minister or agency head agrees with the findings of administrative unfairness but will offer a different option for resolution. The recommendation for final resolution will be one which is acceptable to both the Ombudsman and the Deputy Minister or agency head. Once agreement is reached on a resolution, the conclusion is shared with the complainant. On the very rare occasion when no agreement is reached between the Ombudsman and the Deputy Minister or agency head, the Ombudsman has the power to report to the Minister, the Lieutenant Governor in Council and ultimately to the Legislature.

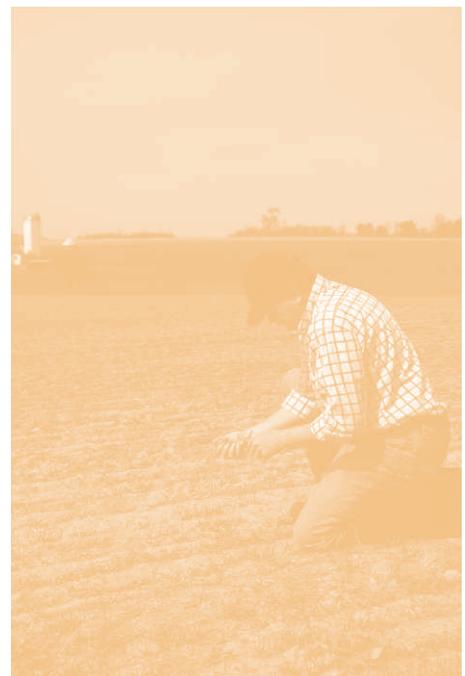
Most recommendations for resolution result in an action that directly impacts the complainant. Other recommendations correct a systemic issue that affects more than one person and improves the process or system within a department or agency.

## OWN MOTION INVESTIGATIONS

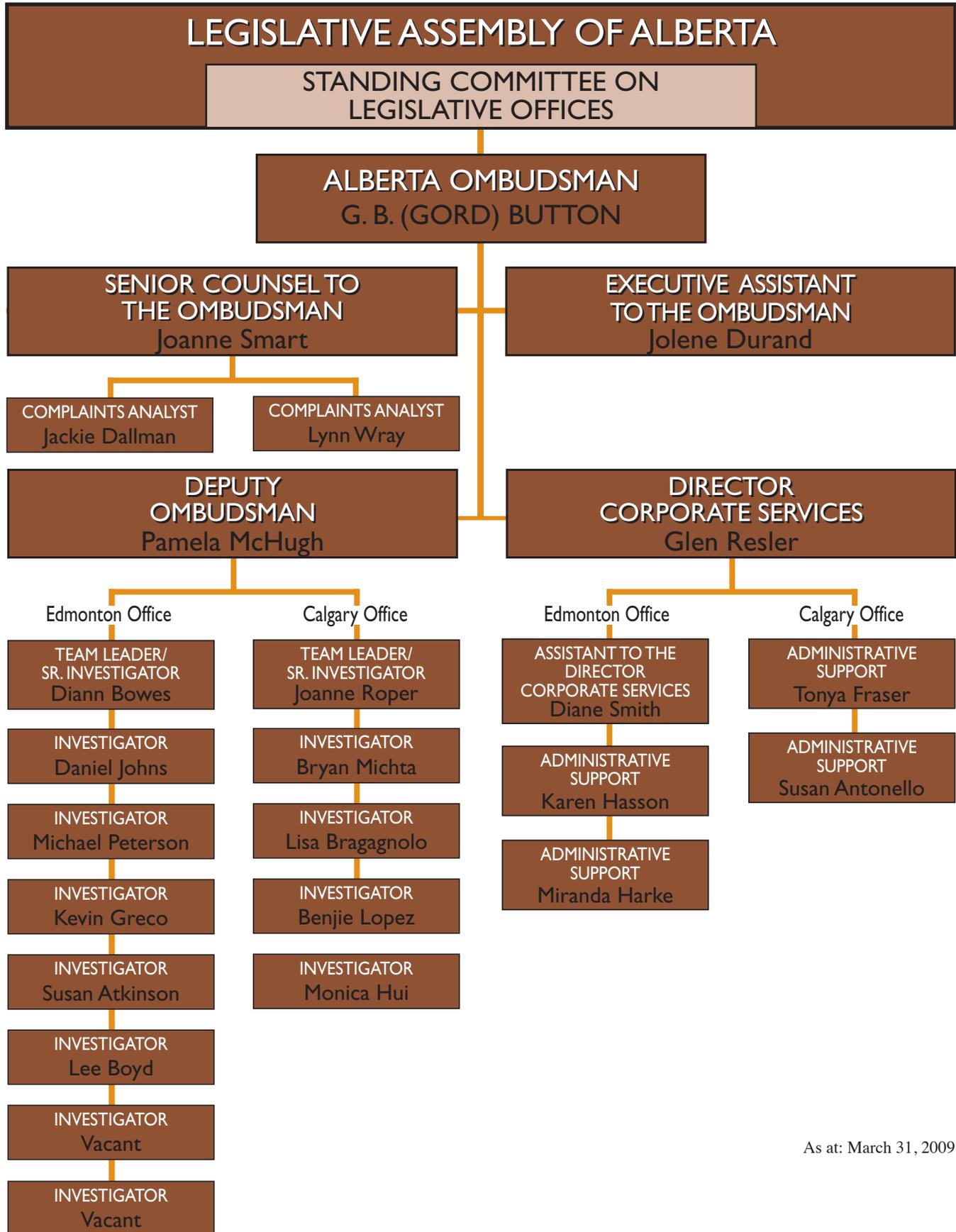
The Ombudsman has an additional investigative power to conduct an own motion investigation, initiated at his own discretion. For example, an own motion investigation may result from a number of questions about the administrative fairness of a program that have come to the Ombudsman's attention through various investigations. When commencing an own motion investigation, the Ombudsman advises the Minister and the public and reports publicly on his findings upon conclusion.

## COMMITTEE-REFERRED OR MINISTERIALLY-ORDERED INVESTIGATIONS

The *Ombudsman Act* contains two other ways in which the Ombudsman may commence an investigation: a committee of the Legislative Assembly may refer a matter to the Ombudsman for investigation or a Minister of the Crown may order the Ombudsman to conduct an investigation.



# ORGANIZATIONAL CHART



As at: March 31, 2009

2008/2009

YEAR IN REVIEW

## YEAR IN REVIEW

April 1, 2008 through March 31, 2009

Of the 819 written complaints received, the most common authorities by volume of complaints are:

*Alberta Solicitor General and Public Security*

**12%**

*Workers' Compensation Board*

**7%**

*Alberta Children and Youth Services*

**6%**

*Alberta Employment and Immigration*

**5%**

*Alberta Justice and Attorney General*

**5%**

*Appeals Commission for Alberta Workers' Compensation*

**5%**

*Alberta Health and Wellness*

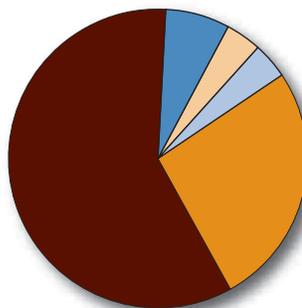
**5%**

*Alberta Seniors and Community Supports*

**3%**

**4,614** Oral complaints received, up 5% from 2007/08

- 182 Informal Resolution \*
- 1,226 Referred to other remedy or appeal
- 2,713 Non-jurisdictional
- 325 Written correspondence requested
- 168 Other

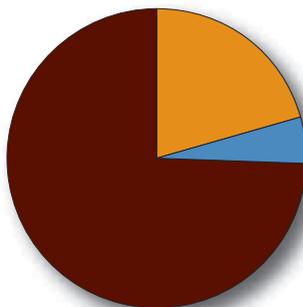


### ORAL COMPLAINTS

- Informal Resolution
- Referred to other remedy or appeal
- Non-jurisdictional
- Written correspondence requested
- Other

**819** Written complaints received, up 15.7% from 2007/08

- 169 New formal investigations
- 42 New Alternative Complaint Resolution (ACR) files containing 51 issues
- 608 Declined for investigation (referred to other remedy or non-jurisdictional)

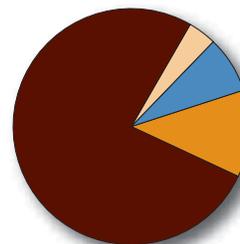


### WRITTEN COMPLAINTS

- New formal investigations
- New Alternative Complaint Resolution (see next chart)
- Declined for investigation

**51** Total ACR issues

- 39 Successfully resolved through ACR
- 2 Unsuccessful; transferred to formal investigation
- 4 Discontinued
- 6 Carried forward to 2009/10



### ACR ISSUES

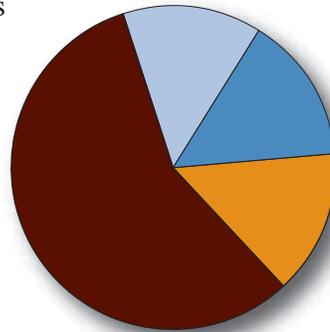
- Successful
- Unsuccessful
- Discontinued
- Carried forward

**278** Files carried forward from previous years

**798** Files closed as of March 31, 2009

**168** Formal investigations completed containing 283 issues

- 42 Supported issues
- 41 Partially supported issues
- 161 Unsupported issues
- 39 Discontinued issues

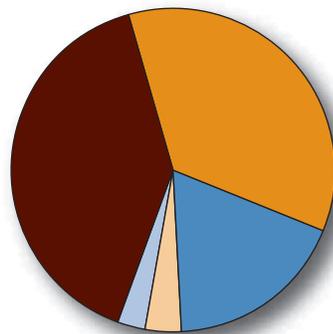


**ISSUES CLOSED - FORMAL INVESTIGATIONS**

- Supported
- Partially supported
- Unsupported
- Discontinued

**590** No investigation initiated

- 236 Referred to other remedy or appeal
- 211 No authority to investigate
- 106 Information requests
- 22 Declined on discretionary grounds
- 15 Otherwise resolved (without completing a full investigation)



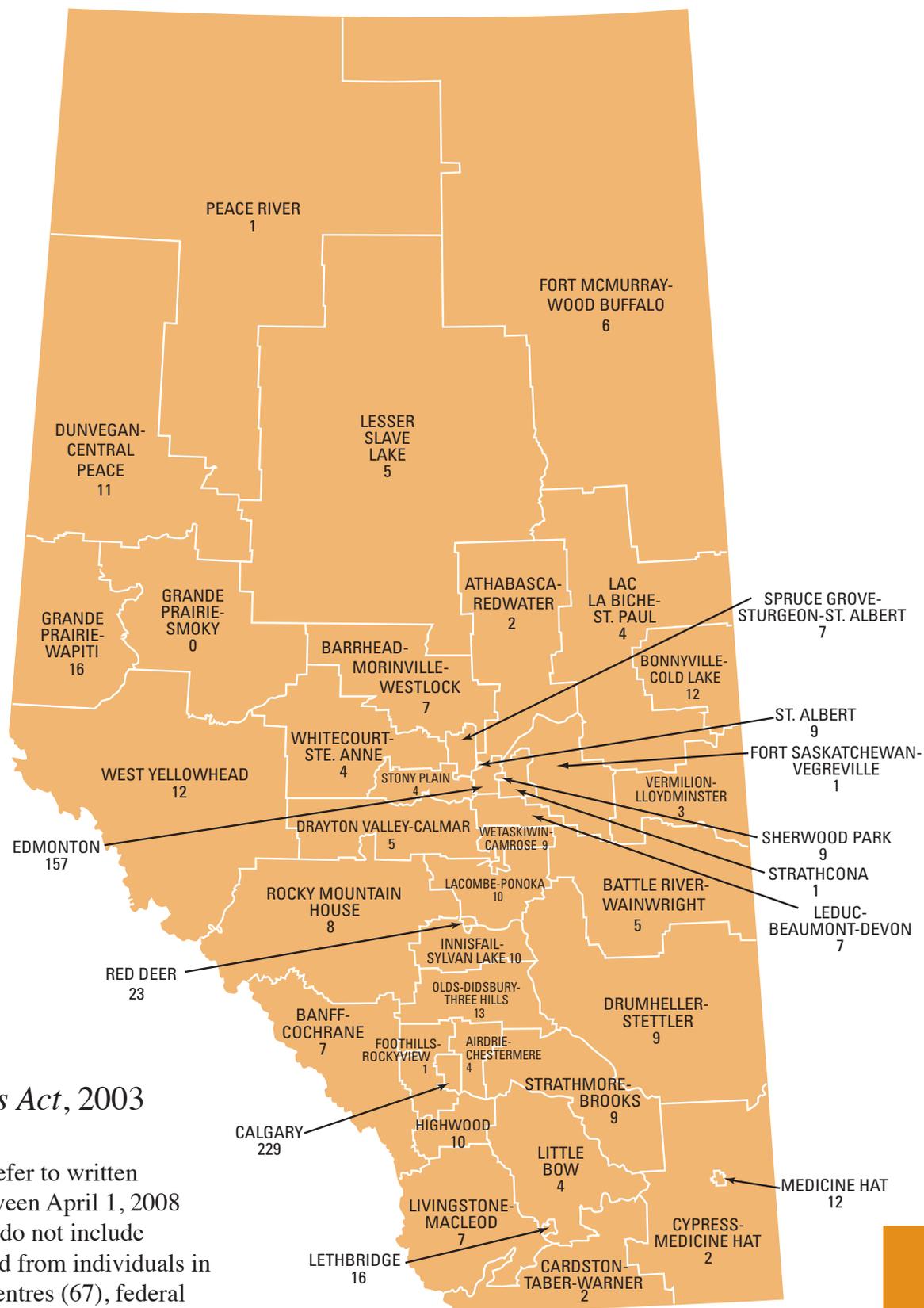
**FILES CLOSED - NO INVESTIGATION**

- Referred to other remedy or appeal
- No authority to investigate
- Information requests
- Declined on discretionary grounds
- Otherwise resolved

**40** ACR files closed

**299** Files carried forward to 2009/10

\*4% of oral complaints received were resolved in discussion with the authority without requiring a formal investigation



## PROVINCIAL ELECTORAL DIVISIONS

as defined by the *Electoral Divisions Act, 2003*

The figures on the map refer to written complaints received between April 1, 2008 and March 31, 2009 and do not include complaints that originated from individuals in provincial correctional centres (67), federal penitentiaries (6) and out of province (73).



# ADMINISTRATIVE FAIRNESS

## ADMINISTRATIVE FAIRNESS GUIDELINES

Through the investigative process, we determine whether the actions or decisions that resulted in a complaint are administratively fair. We determine fairness by applying the following guidelines to each case.

1. ***Chain of legislative authority.*** What legislation created the authority or power to make a decision and to which decision-maker was the power granted?
2. ***Duty of fairness.*** The courts require that decision-making that affects the rights of individuals must follow a fair process. This duty of fairness means there must be procedural fairness in decision-making. We look for greater procedural protection if there is:
  - no right of appeal established within the statute;
  - no further appeal mechanism within the department, agency, board or professional body; and
  - a substantial effect on the individual's rights (i.e., loss of financial benefits).
3. ***Participation rights.*** Was the complainant given a full and fair opportunity to present the case to the decision-maker? Was the case against the person fully disclosed to the person?
4. ***Adequate reasons.*** There must be a rational connection between the evidence presented and the conclusions reached by the decision-maker. The decision-maker must identify and clearly communicate the decision and the reasons for the decision.
5. ***Reasonable apprehension of bias.*** We look for impartiality and independence of the decision-maker including relationships to all parties in the matter, both internally and externally.
6. ***Legitimate expectation.*** Did the decision-maker fail to honour a commitment or follow regular procedures?
7. ***Exercising discretionary power.*** We look at how discretion is established in the Act, Regulation, Policy, Guidelines, etc. Discretionary decisions are reviewed to determine if there is evidence of bad faith, improper purpose or irrelevant considerations.
8. ***Was the decision reasonable?*** A reasonable decision does not equate to whether the decision is wrong or whether a different conclusion could have been reached. A reasonable decision shows how the decision-maker considered and assessed the arguments and evidence.

## ADMINISTRATIVE FAIRNESS CASE SUMMARIES

This section explains how the administrative fairness principles are applied by the Alberta Ombudsman and illustrates examples of cases where recommendations by the Ombudsman resulted in improved processes.

### 1. CHAIN OF LEGISLATIVE AUTHORITY

When commencing an investigation, we examine the relevant legislation since all powers of government departments, agencies, boards, commissions, designated professional organizations and the patient concerns resolution process of Alberta Health Services are derived from statute. We determine whether the legislation has delegated decision-making powers to a legislated entity or an individual. A statute may grant the organization the ability to make regulations and grant decision-making power or it may grant the decision-maker the authority to exercise discretion based on parameters set out in regulation or in directives and policy.

If there are no specific powers in the legislation, we look at the *Government Organization Act*. This Act establishes the general authority of a department or agency to create programs, delegate powers, enter into agreements and establish boards or tribunals.

Once legislative authority is determined, we determine whether the decision-maker had the authority or understood he or she had the authority to make the decision and whether it was made in a process consistent with that required in legislation, regulation or policy. We also confirm the relied upon legislation, regulation or policy was valid at the time of the decision.



#### *Case summary: Workers' Compensation Board*

An injured worker complained he was unfairly denied a change of case manager by the **Workers' Compensation Board (WCB)**. The WCB's written procedures outline the process for evaluating a request for a new case manager. The Ombudsman found not all steps in the guidelines were followed which was administratively unfair. The Ombudsman also found administrative unfairness in a letter the WCB sent the complainant because it did not advise the complainant of the right to appeal the decision to a manager and did not provide the manager's contact information. The Ombudsman also identified gaps in the documentation of specific actions and information about the complainant's claim. The Ombudsman recommended the WCB change its written procedures to ensure the claim file record reflects any steps taken in the review of a request for a change in case manager. Following this investigation and

the Ombudsman's recommendations, the WCB wrote the complainant acknowledging the administrative error and offered an apology. The WCB also undertook to change its written procedures to ensure the process is administratively fair.

## 2. DUTY OF FAIRNESS

The courts require decisions affecting the rights of individuals must follow a fair process. Decisions made by administrative bodies often have a more immediate and profound impact on people's lives than a court decision. Flowing from these decisions is a duty to act fairly and to make procedurally fair decisions. It is the Ombudsman's legislative mandate to investigate complaints about the administrative fairness of decisions made by Alberta government departments, agencies, boards, commissions, designated professional organizations and the patient concerns resolution process of Alberta Health Services.

The duty of fairness is flexible and variable, depending on the statute involved and the nature of the decision. The degree of fairness required is dependent on the effect of the decision on the rights of the individual and whether legislation established an avenue of appeal. If there is no established right of appeal, or if the individual has appealed to the final level of decision-making, the requirement for procedural protection, or fairness, is greater.

Procedures used by decision-makers vary depending on several factors, including:

- the nature of the decision;
- the level of legal sophistication and expertise of the decision-makers; and
- whether this is the last level of consideration.

For example, a government employee's decision in response to a citizen's request may be communicated differently from the decision of an administrative tribunal. The **Maintenance Enforcement Program** frequently communicates with clients through email due to the high volume of interactions with clients. An email response in some situations is deemed sufficient and administratively fair. In other situations, email is inadequate and therefore unfair.

Greater procedural protection is required when there is a substantial effect on an individual's rights such as loss of financial benefits, licence cancellation, disciplinary suspension or the right to continue in a profession or employment. Professional regulatory bodies under the *Health Professions Act* have stringent discipline procedures for their members set out in legislation and regulation. Administrative fairness requires strict adherence to the rules.

A decision of the **Appeals Commission for Alberta Workers' Compensation** is an example of a final avenue of appeal where the decision has a significant impact on the individual worker. The Appeals Commission Rules of Procedure include rules such as notice and disclosure, recording of proceedings and requirements of written decisions. The Appeals Commission meets the duty of fairness by following the established rules.

### *Case summary: Alberta Employment and Immigration*

The Ombudsman investigated a student's complaint about the collection of an over-award of funding for **English as a Second Language** and upgrading courses. By not advising the complainant of the available appeal process, the Ombudsman found the department acted unfairly. The Ombudsman did not make any recommendations as the department reviewed further information submitted by the complainant and made a new decision. The department advised the complainant of the new decision and provided full information about the available appeal process.

### *Case summary: Alberta Employment and Immigration*

A complainant conducted workplace safety audits for employers which were then reviewed by a Certifying Partner (CP). These CPs operate under the Workplace Partnerships program as non-profit organizations which are outside the Ombudsman's authority. Nevertheless, **Alberta Employment and Immigration**, through Workplace Partnerships, is responsible for the overall process by setting standards for the program. Passing a safety audit may be a condition for companies bidding on contracts and may also result in a reduction of Workers' Compensation Board premiums. In this case, a CP refused to pass an audit completed by the complainant. As a result of the Ombudsman's investigation, the following recommendations were accepted by the department:

- CPs should have a complaint handling process;
- CPs should have a process for determining when a safety audit should be redone;
- CPs should develop policy concerning contact between an auditor and a reviewer where prior conflict has occurred;
- safety auditors should be informed of changes in reviewing standards by the department before they submit audits;
- industry professionalism will improve if a process is developed for CPs to share information with one another about audit process disputes; and



- the roles of safety auditor and reviewer should be separated as much as possible to ensure the same person does not perform both functions.

Regarding the individual complaint, the Ombudsman concluded the unfairness occurred in the relationship between the CP and the auditor, not with the department. The Ombudsman's recommendations were restricted to improving the overall process and could not address the individual complaint.

#### *Case summary: Alberta Solicitor General and Public Security*

An inmate complained his request for a bus ticket to return to his place of residence upon release was unfairly denied. The inmate paid for a bus ticket with personal funds upon release and contacted the **correctional centre** director after the fact to request reimbursement. The Ombudsman found the director's decision to deny the inmate's request was supported by policy that requires inmates to pay for their own transportation to their place of residence if they have the funds to do so. However, the investigation identified process issues with how the correctional centre handled the inmate's request for transportation upon release. The director proactively implemented changes to the casework process and Inmate Handbook to clarify the process for transportation requests upon release for both inmates and correctional centre staff.

#### *Case summary: Workers' Compensation Board*

The Ombudsman investigated a complaint that the Workers' Compensation Board (WCB) delayed in submitting a request to the **Medical Panel Office** (MPO) to convene a Medical Panel. The Ombudsman found the referral process from the WCB to the MPO was delayed by four months without a reasonable explanation for the delay. When the referral was made, there were no timelines in place governing this process. Prior to the Ombudsman opening this investigation, the WCB implemented a new requirement that referrals to the MPO must be completed within 21 days. On the Ombudsman's recommendation, the complainant received a letter of apology from the WCB for the delay.

### 3. PARTICIPATION RIGHTS

There are two elements to participation rights. First, a person is entitled to a full and fair opportunity to present his or her case to the decision-maker. A government department, agency, board, commission, designated professional organization or the patient concerns resolution process of Alberta Health Services demonstrates this by requesting information from the person and ensuring sufficient time for the person to respond. A tribunal

invites all parties to provide written submissions or present orally at a hearing, ensuring there is sufficient notice of the hearing. The tribunal provides a meaningful opportunity to be heard when all parties have sufficient time to state their position.

**Citizens' Appeal Panels** protect participation rights in a tribunal process. Persons who disagree with decisions about certain financial benefits have the right to appeal those decisions to the Panel. Appellants are notified in writing of the hearing time, date and place. At the hearing, appellants may make a presentation, either orally or in writing, and may make a final statement prior to the hearing's conclusion.

Another example is the **Alberta Human Rights and Citizenship Commission** process. During the Commission's investigative process, information obtained during interviews is transcribed and submitted to the interviewee. The person may then correct errors or omissions before decisions are made about the issue under investigation.

The second element of participation rights is a person's entitlement to full disclosure of the case. This includes access to any report or information that a decision-maker has relied upon to make a decision.



### *Case summary: Alberta Children and Youth Services*

An **Alberta Children and Youth Services** client complained his request for a new caseworker was unfairly denied. The investigation found there was no written or formalized process for handling requests for a new caseworker. The department followed an informal review process but there was no evidence the client was informed of this process. There was also a lack of documentation detailing what had occurred. The Ombudsman recommended the development of guidelines to deal with requests for caseworker changes. This recommendation was accepted and guidelines were written and implemented.

## 4. ADEQUATE REASONS

Canadian courts imposed a common law obligation on administrative decision-makers to provide adequate written reasons. It is not enough to outline the evidence and arguments made by the parties. There must be a rational connection drawn between the evidence and the conclusions, including a clear explanation of how the relevant legislation, regulation or policy was applied. Decision-makers should not only explain what evidence was relied on to make the decision, but also what evidence was

rejected and why it was rejected. A well-written decision must address the major arguments raised by all parties. Generally, it is only necessary to refer explicitly to evidence directly relevant to the issue. Decision-makers are not required to address every point or piece of evidence but they must address the major evidence they relied on or rejected to reach their decision.

The decision and reasons must be clearly communicated in language easily understood by a reasonably informed person. The decision should answer the question, “Why did the decision-maker make that decision?”

### *Case summary: College of Licensed Practical Nurses of Alberta*

A complainant raised several concerns about how the **College of Licensed Practical Nurses of Alberta** (CLPNA) handled his complaint about a Licensed Practical Nurse. As a result of this investigation, the Ombudsman made five recommendations:

- the Complaints Director’s decision should cite the legislative authority to undertake an investigation and make a decision;
- the Complaints Director’s decision should relate the evidence gathered during the investigation to the definition of “unprofessional conduct” as defined in Section 1(1)(pp) of the *Health Professions Act*;
- the Complaints Director or appointed investigator should document all contact with all parties to the investigation during the investigation;
- the Documents for Appeal should be provided to the complainant and the investigated person within a reasonable time prior to the date of the hearing; and
- the complainant should receive an addendum to a decision of the Complaint Review Committee correcting two clerical errors that caused confusion in the decision.

The CLPNA accepted all five recommendations to improve the complaint handling process under the *Health Professions Act*. The CLPNA has adopted the practice of providing the complainant and the investigated person with at least 30 days notice of the hearing to allow for review of the materials prior to the hearing.

### *Case summary: Maintenance Enforcement Program*

The Ombudsman investigated the administrative fairness of the **Maintenance Enforcement Program** (MEP) garnishee process and the application of default penalties to a debtor’s account. It was determined the debtor was adequately informed about the garnishee process and that the MEP commenced garnishee proceedings in an administratively fair manner. However, the Ombudsman’s investigation identified errors in the administration of default penalty payment due dates which are not always explicit in court orders. Subsequent to the MEP correcting the

errors, the Ombudsman recommended the MEP provide the debtor with a detailed explanation of the changes made to the default penalties. The MEP agreed and provided a full written explanation of the account details, an apology for the errors made and the inadequate explanation previously provided.



## 5. REASONABLE APPREHENSION OF BIAS

Decision-makers must demonstrate impartiality and independence in making decisions. “Impartial” applies to the state of mind or attitude of the decision-maker so there is no bias, either real or perceived. Impartial decisions are based on objective criteria. To be “independent”, the decision-maker must be free from interference by the executive and legislative branches of government and from other external forces such as business interests, corporate interests or other pressure groups.

A widely-quoted excerpt from a 1978 decision of the Supreme Court of Canada established the test for reasonable apprehension of bias:

What would an informed person, viewing the matter realistically and practically ... conclude? Would he think that it is more likely than not that (the decision-maker), whether consciously or unconsciously, would not decide fairly?

To be impartial and independent, decision-makers should declare real or perceived conflicts of interest. The appearance of impartiality is necessary to maintain confidence in the decision-making process. In cases where it appears decision-makers are not objective even when they feel they could make an unbiased and fair decision, they are obligated to disclose the potential conflict or excuse themselves from the case.

Decision-makers should guard against forming opinions about the person or the case before reviewing the documentation and hearing from all parties. An appearance of bias might result from the behavior of a decision-maker at a hearing, such as repeatedly silencing a party or behaving in an overly aggressive or sarcastic manner. If the decision-maker was involved in the case prior to the hearing, it may appear to a reasonable person the decision-maker has prejudged the matter.

### *Case summary: Workers' Compensation Board*

An individual complained about an inadequate response from the **Medical Panel Commissioner**. The complainant alleged there were violations of the *Medical Panels Regulation* about documents considered by a Medical Panel convened in 2005 and other violations due to the composition of the Panel. It was also alleged the entire

Panel did not consider an addendum to the Medical Panel Report. The Ombudsman's investigation found the Commissioner did not respond to the complainant's argument about violations of the Regulation. The Commissioner had advised the complainant the Report addendum represented the view of the entire Panel when it was unclear whether the entire Panel had viewed the addendum. The Ombudsman recommended the Commissioner clarify his legislative mandate to the complainant in writing by responding to the complaint about violations of the Regulation. In this case, the Regulation was not in effect until January 1, 2007. Therefore, this Regulation did not bind the Commissioner at the time of the 2005 Panel. The Ombudsman also recommended the two Panel members who did not review the addendum read it and provide their opinions. This was done and the Commissioner provided copies of the opinions of the two Panel members to the complainant.

## 6. LEGITIMATE EXPECTATION

The principle that regular practices or promises of the administrative decision-maker should be taken into account forms the basis of legitimate expectation. A person has a legitimate expectation when an application form is submitted, the government department, agency, board, commission, designated professional organization or the patient concerns resolution process of Alberta Health Services will actually process the application. When a person challenges a decision, it is important and administratively fair for the decision-maker to honour promises made about following procedure, unless the decision-maker provides a high level of procedural rights in a different form. Failing to meet legitimate expectations in decision-making may be as simple as an official failing to follow through after agreeing to take action or write a decision letter; it becomes more complex if the authority fails to follow what may be considered a regular procedure, therefore treating an individual in an unfair manner.

When an inmate in a **correctional centre** is charged with an institutional violation, he or she receives a Notice to Offender/Inmate of Disciplinary Hearing Procedure stating procedural expectations for the disciplinary hearing, such as:

The hearing adjudicator will ask you questions relating to the information they have received and you shall direct your replies to the hearing adjudicator. If you have questions you wish to ask any witnesses that are called at the hearing, you may direct them to the hearing adjudicator who will then ask the witness the question. The hearing adjudicator will allow you to present relevant evidence on your own behalf and it may be checked by the hearing adjudicator to verify its accuracy.

These are procedural expectations for both parties and Ombudsman investigations examine whether those legitimate expectations are met.

*Case summary: Workers' Compensation Board*

An individual complained the **Workers' Compensation Board (WCB)** did not deal fairly with several service and appeal issues. The individual submitted a letter of appeal to the Office of the Appeals Advisor outlining several decisions he wished to appeal. Two of the decisions included in the letter were already appealed to the Dispute Resolution and Decision Review Body (DRDRB) and needed to be forwarded to the Appeals Commission for Alberta Workers' Compensation, which is the next and final step in the appeal process. WCB Customer Service staff and the Office of the Appeals Advisor failed to provide this information to the individual. As a result, the legislated one-year timeframe allowed to appeal the two DRDRB decisions to the Appeals Commission expired. The WCB accepted the Ombudsman's recommendation to write the complainant, acknowledging the error. The WCB agreed to write the Appeals Commission on behalf of the individual to request waiving of the time limitation and to consider an Independent Medical Examination to address several of the individual's ongoing medical issues.

**7. DISCRETIONARY POWERS**

Although decision-makers enjoy considerable deference which allows them to make their own decisions and determine the scope of their jurisdiction, discretion must still be exercised within a reasonable interpretation of legislation. We examine how the statute, regulation or policy establishes discretion. We review or question discretionary decisions on limited grounds such as evidence of bad faith, discretion used for an improper purpose or the use of irrelevant considerations. There may be more than one way to decide a matter, but whatever the decision, it must be made properly.

It is important to ensure the discretion is not incongruent with the power established in legislation and the person making the decision has the proper authority to exercise discretion. When exercising discretionary decision-making powers, the decision-maker must proceed only under his own legislation, must make a decision and must undertake only what he or she is authorized to carry out.

In many statutes governing department actions, senior executives or an appeal panel may exercise discretionary power. The Ombudsman will comment when he finds errors occurred or when an inappropriate interpretation or use of the delegated discretionary power is identified.

*Case summary: Maintenance Enforcement Program*

An individual complained the **Maintenance Enforcement Program (MEP)** was no longer collecting payment of Section 7 expenses. The courts have the authority to order a debtor to contribute to child care, health care, education and extracurricular activity expenses, known as Section 7 expenses, which are typically included in the orders enforced

by the MEP. The Ombudsman’s investigation found different MEP staff interpret the “vague orders” policy in different ways which resulted in discrepancies in the collection of these expenses. The MEP advised the complainant in writing it could no longer allow certain Section 7 expenses because of difficulties in correctly interpreting the order and the complainant was advised to seek clarification of the order from the courts. While the Ombudsman’s investigation found the letter provided a decision, a rationale for the decision and an option should the complainant disagree, it was not clearly explained whether the decision had a retroactive application. The Ombudsman observed to the MEP the necessity for ensuring correspondence is transparent to all parties.

## 8. WAS THE DECISION REASONABLE?

A reasonable decision should indicate how the decision-maker considered and assessed arguments. To assess a decision’s reasonableness, it is important to relate how the evidence was weighed and give reasons about how the decision-maker considered and assessed the arguments and evidence. A reasonable decision is made within the statutory mandate and is grounded in the evidence presented.

The Ombudsman is not a substitute decision-maker; rather, he assesses the reasonableness of decisions based on available evidence. When the Ombudsman concludes a decision was reasonable, he is not making a determination whether the decision was right or wrong or whether a different decision was possible. If the decision is not reasonably based on arguments and evidence presented and accepted by the decision-maker, the Ombudsman may find the decision unreasonable. In the majority of cases, decisions are not found to be unreasonable although there may be administratively unfair components of the decision.

### *Case summary: Workers’ Compensation Board*

A worker complained the **Workers’ Compensation Board** (WCB) unfairly labelled him uncooperative for not attending a case conference with doctors, his personal representative, a union representative and the case manager, which was arranged to discuss return-to-work options. Subsequently, the worker’s compensation benefits were terminated for not attending an Independent Medical Examination (IME) with a psychiatrist.

The Ombudsman’s investigation found the worker’s compensation benefits were initially terminated when he failed to attend the case conference, even though medical evidence on file indicated the worker was not ready to return to work in any capacity because of persistent debilitating symptoms of Post Traumatic Stress Disorder (PTSD). Those benefits were subsequently reinstated pending completion of a psychiatric assessment. The reinstatement of benefits and provision of a reasonable explanation for the decision remedied this matter.



However, the investigation determined compensation benefits were terminated again on the grounds the worker failed to comply with the requirement to attend the psychiatric assessment. The Ombudsman found the WCB acted administratively unfairly when the worker's benefits were terminated. A precipitating issue was the WCB's decision to refuse to refer the worker to another psychiatrist when the worker's representative requested the referral in 2002. Benefits were stopped from 2002 until 2005 when a senior management review of the file resulted in benefit reinstatement and retroactive reimbursement of unpaid benefits.

Prior to this investigation, the quality assurance process was applied to those claims receiving full compensation benefits, which included the complex claims. Because of this investigation and the Ombudsman's recommendations, the WCB expanded its quality assurance process to include not only complex claims receiving full benefits, but also those claims being adjudicated for entitlements. The WCB also changed the IME referral process to offer claimants more choice of examiners.

Denial of claims for PTSD now requires supervisory review, including when a difference of medical opinion exists. To effectively manage PTSD claims, the WCB's psychological consultants developed a Traumatic Psychological Injury model focused on the continuum of care which includes a resource guide for individuals working on PTSD claims.

To comply with the Ombudsman's recommendation, the WCB's Vice President, Customer Service and Disability Management, sent the complainant a formal letter of apology. The complainant also received a full written explanation from the Manager of Customer Service of the sequence of events and the decision-making that resulted in the reinstatement of benefits.

The WCB agreed with the Ombudsman that while complex claim files can be very challenging, recommendations resulting from this investigation and the actions taken by the WCB to rectify the administrative unfairness will make a significant difference in how the WCB manages both this claim file and files for other workers with a clinical diagnosis of PTSD.

The Ombudsman also noted he was impressed that in accepting his observations and recommendations on this file, the WCB initiated action to change processes to prevent future administrative unfairness as occurred in this case. The Ombudsman commended the WCB for recognizing these serious administrative errors in the management of this claim and for taking a proactive approach to remedy these errors.

## ALTERNATIVE COMPLAINT RESOLUTION

The Alberta Ombudsman established an Alternative Complaint Resolution (ACR) process in 2005 for the quick resolution of matters that would otherwise be assigned for formal investigation.

As in previous years, almost half the ACR issues involved complaints from inmates in correctional centres. This year, 24 of the 51 ACR issues addressed were complaints from inmates. The following case illustrates the suitability of ACR to address certain issues in the correctional system.

### *Case summary: Alberta Solicitor General and Public Security*

An inmate complained he was denied open visits and the **correctional centre** director did not provide an adequate reason for his decision. After discussions with the complainant and the director, the director moved up the decision review date by three weeks, with the revised date scheduled for the following week. The complainant was satisfied with this outcome.

Many complaints are the result of inadequate communication.

### *Case summary: Alberta Human Rights and Citizenship Commission*

An individual complained she received no response in over two months to a written request to the **Alberta Human Rights and Citizenship Commission** to investigate a discrimination matter. Another individual complained he did not receive an answer to his written inquiry about the Commission's decision to decline investigation of discrimination allegations. In both cases, after discussion with the complainant and the Commission's Executive Director, the Commission agreed to send written responses. In the first case, the response provided a timeline of when the complainant could expect a response to the discrimination complaint and in the second case, the questions raised by the complainant were answered.

There were also communication problems in other areas of government.

### *Case summary: Alberta Children and Youth Services*

A complainant alleged unfair denial of a review of the communication problems experienced with the complainant's caseworker. As part of the ACR process, the **district office** manager was contacted to facilitate a response to the complainant. The manager agreed to contact the complainant to suggest he and the caseworker participate in mediation to open the lines of communication. This file was closed with a successful outcome.

## *Case summary: Alberta Employment and Immigration*

An applicant for **income support benefits** complained his application for financial assistance to cover funeral costs was denied and the caseworker's supervisor failed to return telephone calls seeking clarification of the decision. The supervisor was contacted to facilitate a response to the complainant which the supervisor agreed to undertake. Once that contact was made, the complainant was able to appeal the decision.

## *Case summary: Maintenance Enforcement Program*

An individual complained about a lack of response by the **Maintenance Enforcement Program (MEP)** to a complaint submitted to the MEP's Complaint Review Process. After discussions with both parties, the MEP agreed to send a response letter to the complainant and provide a contact for the complainant to telephone to raise questions about the response letter.

The value of ACR is demonstrated in the following cases.

## *Case summary: Alberta Education*

A former student complained about the unfair assessment of an overpayment of a student grant for education below the post-secondary level. Resolution was complicated because the file was administered by **Alberta Education (AE)** but funded by Alberta Employment and Immigration (EI). As the program administrator, AE agreed the letter it sent the complainant about the overpayment assessment was not clearly written. For that reason, the complainant likely did not properly understand the appeal process and deadlines. However, because the funding was provided by EI, the file was subject to the EI appeal process, not the AE appeal process. The deadline for EI appeals had passed. AE discussed the situation with EI and it was agreed the complainant should write to EI requesting a deadline waiver to allow the appeal. The complainant agreed to this process.

## *Case summary: Regional Health Authority (now Alberta Health Services)*

An individual complained about a lack of answers from a **regional health authority** to a complaint about issues during a surgical procedure. After discussions with both parties, the health authority agreed its patient relations section would review the matter again and contact the complainant to resolve the concern. If unresolved, the health authority agreed to refer the complainant to its patient concerns resolution process.



*Case summary: Alberta Transportation*

An individual requested assistance to obtain a reason for continuation of a medical restriction code on her driver's licence issued by **Driver Fitness and Monitoring (DFM)**. It was determined the individual only recently contacted DFM to request removal of the medical condition code on her driver's licence. DFM obtained medical information from the treating physician and the request was under review. This information was communicated to the individual along with the available appeal process should the DFM render an unfavourable decision.

**INFORMAL RESOLUTION**

Another process designed for timely resolution is the **Informal Resolution (IR)** process. IR is attempted with oral inquiries where the intake officer believes a caller's issues can be resolved through assistance from our Office. The intent is not to advocate for the position of the caller but to assist in communication to arrive at a timely resolution.

*Case summary: Alberta Solicitor General and Public Security*

An individual jailed for less than a week was released without the return of personal property turned over to the **correctional centre** for safekeeping upon admission. The personal property included identification papers, a cellphone and clothing. The individual was released with a pair of damaged, oversized beltless pants, a ripped shirt and badly stained shoes. This individual was scheduled to depart in two days for a job out of town. Our intake officer spoke to the correctional centre director. Subsequently, the deputy director advised the correctional centre took full responsibility for their failure to turn over the personal property when the individual was released. The deputy director also accepted financial responsibility for the costs of returning the property. The complainant was advised to contact the deputy director to arrange return of the property.

**IN CONCLUSION**

The Alberta Ombudsman continues to work with departments, agencies, boards, commissions, designated professional organizations and the patient concerns resolution process of Alberta Health Services to improve the administrative fairness of their processes. Their cooperation and willingness to rectify administrative unfairness found in Ombudsman investigations illustrates their commitment to the administratively fair delivery of services, programs and decision-making processes to Albertans.



# OWN MOTION INVESTIGATION

## OUT OF COUNTRY HEALTH SERVICES

When the Ombudsman initiated this own motion investigation, 10 out of country health services investigations were underway. In four of those investigations, the Ombudsman recommended the Out-of-Country Health Services Appeal Panel re-hear the appeals, which the Appeal Panel rejected. In an attempt to resolve the identified issues of administrative unfairness, the Ombudsman met with the former and current Appeal Panel Chairs, without success. The Ombudsman brought his concerns about these refusals to the attention of the former and current Ministers of Health and Wellness, also without success.

Similar concerns about lack of reasons for decisions were noted by the Alberta Court of Queen's Bench in *McGregor v. Alberta (Out-of-Country Health Services Appeal Panel)*, 2007 ABQB 138, as it quashed the decisions of both the Out-of-Country Health Services Committee and the Appeal Panel.

The large number of complaints from Albertans – some from people seeking potentially life-saving treatment – prompted the Ombudsman to launch a broader investigation into the out of country health services program offered by Alberta Health and Wellness (the Department) on December 2, 2008.

The investigation focused on whether the Department is meeting the needs of Albertans who access out of country health services that either are not available in Alberta or Canada or are not available in a timely manner.

The investigation reviewed the administrative fairness of:

- how Albertans are informed of the availability of funding for out of country health services;
- how medical practitioners are informed about the requirements and availability of the program;
- how out of country claims are reviewed by the Department;
- how decisions are made by the Committee and the Appeal Panel;
- how wait times factor into the decision-making process; and
- how decisions are conveyed to Albertans.

The fieldwork was conducted by two Team Leaders/Senior Investigators and an Investigator. The team was assisted by the Deputy Ombudsman, the Ombudsman's Senior Legal Counsel and an Administrative Support. After the investigation was announced to the public, investigators discussed concerns with 59 people who contacted the Office. The Ombudsman received 39 written complaints, 20 of which were opened for individual investigation. Another 10 files were under investigation prior to the start of the own motion investigation. The team also reviewed 122 Appeal Panel files dating back to April 1, 2004 and 186 Committee files, a statistically valid selection of over 400 Committee files on record dating back to April 1, 2004. The investigative team also formally interviewed all members of the Committee, the Appeal Panel and staff from the Department.

## RECOMMENDATIONS

The report *Prescription for Fairness* arising out of the investigation makes 53 recommendations to improve administrative processes related to the review and approval of applications for funding out of country health services and communication of decisions to applicants. The recommendations are grouped under the Committee, the Appeal Panel and the Department. Following is a summary of the major recommendations.

### RECOMMENDATIONS FOR THE OUT-OF-COUNTRY HEALTH SERVICES COMMITTEE

Regarding applications for funding, the Ombudsman recommended:

- Submission by a physician or dentist on behalf of a resident for all out of country health services funding requests and an amendment to the *Out-of-Country Health Services Regulation* to reflect this requirement. Copies of all subsequent correspondence from the Committee should be submitted to the resident for whom the application is made.
- Applications should include written reports of consultations with specialists and an amendment to the *Out-of-Country Health Services Regulation* to reflect this requirement.

These recommendations reflect the Ombudsman's belief that physicians and dentists are best positioned to gather and present information on treatment availability and wait times. Therefore, it is in the best interest of patients for medical and dental practitioners to complete the applications. Unlike Alberta, most other Canadian provinces require physicians to submit out of country health services funding applications.

Regarding Committee management, the Ombudsman recommended the appointment dates of members should be staggered to promote continuity and the Committee should explore opportunities to train and enhance the decision-making and writing skills of its members.

Regarding hearings, the Ombudsman recommended:

- Before a hearing, the Committee should assess its jurisdiction in all cases, including where time limitations have been breached. If more information is required before a hearing, the letter of request should indicate it is written on behalf of the Committee Chair.
- The Committee should respond in writing to all requests for in-person hearings.
- The Committee should send the applicant the same package of information it distributes to all Committee members with notice of the review date so the applicant is able to respond to new evidence.



To enhance public communications, the Ombudsman recommended:

- The Committee should work with the Department to create a stand-alone application form specific to the types of requests it is mandated to consider.
- Applications and Committee information sheets should be easily accessible on the Department website and in hard copy form.

In its decision letters, the Committee should:

- Document the names of members who participated, cite the *Out-of-Country Health Services Regulation* giving them authority, explain all matters that arose prior to the hearing (such as conflicts of interest), detail its findings of fact and how the Committee weighed the evidence it considered.
- Provide a list of doctors or health centres in Canada that the Committee determined are available to perform the requested service, provide evidence the service is available in a timely manner and document available appeal rights.
- Develop a practice or procedure to deal with new information submitted after the written decision is issued.

## RECOMMENDATIONS FOR THE OUT-OF-COUNTRY HEALTH SERVICES APPEAL PANEL

Both the Appeal Panel and the Committee were created in 1996, with the Appeal Panel mandated to hear Committee decision appeals. The Appeal Panel has the legislative authority to confirm or vary the Committee's decision or replace the Committee's decision with its decision.

Regarding the Appeal Panel, the Ombudsman recommended:

- Before a hearing, the Appeal Panel should determine its authority to hear the appeal with respect to the current 2006 *Out-of-Country Health Services Regulation* and determine whether the appellant is submitting new evidence. The Appeal Panel should define what constitutes new evidence.
- Decision letters issued by the Appeal Panel should document its authority to hear the appeal, the names of the members who participated in the decision, identification of the issue, conflicts of interest, all of the material considered in the decision, its findings of fact, how it weighed the evidence and how it applied the legislative criteria. The decision must address the appellant's major arguments. A copy of the decision should be forwarded to the Minister of Health and Wellness.

The Ombudsman also recommended:

- The appellant's files should contain documentation of all contacts relating to the appeal and a copy of the Appeal Panel decision.
- All documentation received by the Appeal Panel should be date stamped.

Regarding Appeal Panel management, the Ombudsman recommended:

- Member recruitment should follow an open and transparent process and the interview panel should include a member of the Appeal Panel.
- New members should receive orientation and training.
- The Appeal Panel procedural binder should be reviewed and updated regularly.

Regarding the four completed investigations where recommendations for a re-hearing were not accepted, the Ombudsman recommended:

- The Appeal Panel should conduct re-hearings of these appeals. The resulting decisions should comply with the principles of administrative fairness as outlined in this report.

## RECOMMENDATIONS FOR ALBERTA HEALTH AND WELLNESS

Recommendations to the Department deal mostly with communications to the public, physicians and dentists. The Ombudsman recommended:

- The Department should re-write the portion of its website about out of country health services to ensure accurate information, clarity and accessibility.
- The Department should amend the Committee information sheet, the pamphlet *Alberta Health Care Insurance Plan* and the *Physician's Resource Guide* to provide more complete information about the appeal process. These documents should also state that in certain circumstances, funding can be approved after the service is performed. The Department should inform all registered physicians and dentists of these changes.

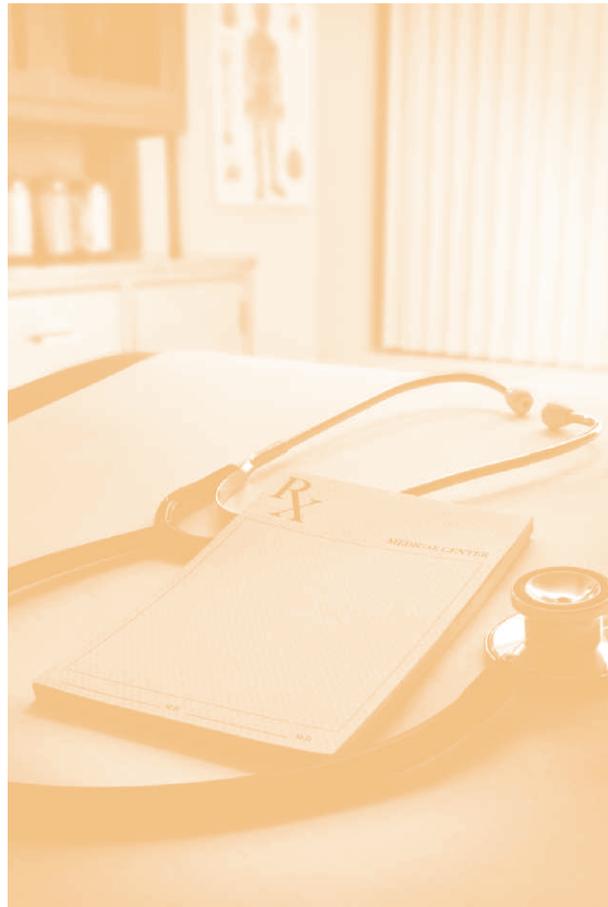


## CONCLUSION

The majority of recommendations were either accepted and implemented or accepted in principle. Timeframes were set for implementation. The Out-of-Country Health Services Appeal Panel accepted the recommendation to re-hear four appeals and undertook to advise the Ombudsman when re-hearing dates are scheduled. Recommendations for change to the the *Out-of-Country Health Services Regulation* requires more time to complete the regulatory review process.

The Ombudsman will continue to actively monitor the progress in implementing these recommendations.

The Ombudsman firmly believes when the Department fully adopts the recommendations, Albertans will receive better access to information about out of country health services and physicians and dentists will have the information they need to support and complete applications. Just as importantly, acceptance of the recommendations will reassure Albertans the decisions made are fair and reasonable.





# FEATURED CASE

**ASSURED INCOME FOR THE SEVERELY HANDICAPPED**

Two recipients of Alberta Assured Income for the Severely Handicapped (AISH) benefits contacted the Alberta Ombudsman to complain they were unfairly required to apply for Canada Pension Plan – Retirement (CPP-R) benefits upon turning age 60 only to learn months later that due to a change in AISH policy, this application was no longer required.

In one case, an AISH worker advised the complainant three months prior to her 60th birthday to apply for early CPP-R benefits to comply with AISH policy and legislation governing the AISH program. The complainant applied and thereafter received CPP-R benefits. As required by AISH legislation, the CPP-R benefits were deducted dollar-for-dollar from her AISH benefits. About two months prior to her 60th birthday, a new AISH policy took effect that no longer required AISH recipients to apply for early CPP-R benefits at age 60. The complainant alleged she was not notified about the change in policy and learned about it months after receiving her early CPP-R benefits.

In the second case, the complainant applied for and received early CPP-R benefits at age 60 which were deducted dollar-for-dollar from her AISH benefits. Three months after receiving CPP-R benefits, she learned about the change in AISH policy. The complainant stated had she not been required under AISH policy to apply for early CPP-R benefits, she would not have done so voluntarily.

In both cases, the Ombudsman found the complainants are no longer eligible for AISH benefits at age 65. As the result of receiving CPP-R benefits since age 60, complainants receive 30% less CPP-R per month at age 65 than they would have received had they not received early benefits. The complainants are eligible for Old Age Security, Guaranteed Income Supplement and Alberta Seniors Benefit at age 65, but these other sources of income do not completely offset the impact of reduced CPP-R benefits. Although the financial impact may appear negligible, the actual impact can be quite significant for individuals with limited resources such as seniors receiving AISH up to age 65.

Under the Canada Pension Plan (CPP), an individual may cancel CPP-R benefits up to six months after the benefits commence if the individual pays back all benefits received and pays CPP contributions on any earnings from the pension.

The Ombudsman's investigation found Alberta Seniors and Community Supports (the Department) took steps to notify AISH recipients about the change in policy through various methods, including the mass mailing of a booklet explaining the changes to the AISH program, message notes in direct deposit statements, information posted in Department offices and through media coverage. However, the Ombudsman found there was a lack of information provided regarding the option to cancel CPP-R benefits. For example, the Department failed to notify AISH recipients in the booklet or through other correspondence that recipients who were applying for, or already had CPP-R applications pending, or were already in receipt of CPP-R benefits, may be

entitled to withdraw their applications or cancel their benefits. The Department also failed to advise recipients to contact the CPP for further information.

Because AISH recipients are vulnerable members of society, and as a result of the negative financial impact to the complainants of reduced CPP-R benefits at age 65, the Ombudsman found the Department should have exercised a higher degree of diligence and administrative fairness to ensure complainants were properly informed of the option to cancel early CPP-R benefits within the six-month cancellation period.

In both cases, the Ombudsman took a collaborative approach. He met with former Deputy Minister Tim Wiles and senior Department staff and recommended the Department compensate the complainants for the financial impact they will experience at age 65. The Department agreed to compensate the complainants for the reduction in their total income as the result of the CPP-R benefits policy change. This compensation will occur in the form of additional payments from the Department's seniors' benefit programs when the complainants reach age 65.

The Ombudsman also recommended the Department consider extending the compensation plan it proposed to other AISH recipients who were required to apply for early CPP-R benefits at age 60 or who had begun receiving early CPP-R benefits and were within the six-month CPP-R cancellation period when the policy change took effect May 1, 2005. This recommendation could include AISH recipients and their spouses or cohabiting partners who commenced early CPP-R benefits either before or after the new policy took effect. The Department accepted this recommendation and will identify and compensate those AISH recipients as they transition to the Department's seniors' programs.



## FINANCIAL STATEMENTS

As at March 31, 2009

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## Auditor's Report

To the Members of the Legislative Assembly

I have audited the statement of financial position of the Office of the Ombudsman as at March 31, 2009 and the statements of operations and cash flows for the year then ended. These financial statements are the responsibility of the Office's management. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, these financial statements present fairly, in all material respects, the financial position of the Office as at March 31, 2009 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

[Original signed by Fred J. Dunn]

FCA  
Auditor General

Edmonton, Alberta  
July 7, 2009

## STATEMENT OF FINANCIAL POSITION AS AT MARCH 31, 2009

	2009	2008
<b>Assets:</b>		
Cash	\$ 400	\$ 400
Advances	5,800	5,800
Tangible Capital Assets ( <i>Note 3</i> )	29,346	44,325
	<b>\$ 35,546</b>	<b>\$ 50,525</b>
<b>Liabilities:</b>		
Accounts Payable and Accrued Liabilities	\$ 120,969	\$ 110,342
Accrued Vacation Pay	235,565	217,524
	<b>356,534</b>	<b>327,866</b>
<b>Net Assets:</b>		
Net Liabilities at Beginning Of Year	(277,341)	(270,834)
Net Operating Results	(2,742,258)	(2,493,813)
Net Transfer from General Revenues	2,698,611	2,487,306
Net Liabilities at End of Year	(320,988)	(277,341)
	<b>\$ 35,546</b>	<b>\$ 50,525</b>

The accompanying notes and schedules are part of these financial statements.

## STATEMENT OF OPERATIONS FOR THE YEAR ENDED MARCH 31, 2009

	2009 Budget	2009 Actual	2008 Actual
Revenues:			
Other Revenue:		\$ -	\$ -
		-	-
Expenses ( <i>note 5</i> ):			
Voted:			
Salaries, Wages and Employee Benefits		\$ 2,266,941	\$ 2,064,084
Supplies and Services ( <i>Note 2</i> )		457,276	400,196
	\$ 2,824,000	2,724,217	2,464,280
Non Budgetary			
Valuation Adjustment			
Provision for Vacation Pay		18,041	29,533
		18,041	29,533
Net Operating Results		\$ (2,742,258)	\$ (2,493,813)

The accompanying notes and schedules are part of these financial statements.

## STATEMENT OF CASH FLOWS FOR THE YEAR ENDED MARCH 31, 2009

	2009	2008
Operating Transactions		
Net Operating Results	\$ (2,742,258)	\$ (2,493,813)
Non-cash items included in Net Operating Results		
Amortization	14,979	17,320
	(2,727,279)	(2,476,493)
Increase/(Decrease) in accounts payable and accrued liabilities	10,627	(5,427)
Increase in Accrued Vacation Pay	18,041	29,533
Cash Applied to Operating Transactions	(2,698,611)	(2,452,387)
Capital Transactions		
Acquisition of Tangible Capital Assets	-	(34,919)
Cash Applied to Capital Transactions	-	(34,919)
Financing Transactions		
Net Transfer from General Revenues	2,698,611	2,487,306
Increase in Cash	-	-
Cash, Beginning of Year	400	400
Cash, End of Year	\$ 400	\$ 400

The accompanying notes and schedules are part of these financial statements.

## NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED MARCH 31, 2009

### NOTE 1 - AUTHORITY AND PURPOSE

The Alberta Ombudsman is an officer of the Legislature who operates under the authority of the *Ombudsman Act*. The net cost of the operations of the Office of the Ombudsman (the Office) is borne by the General Revenue Fund of the Province of Alberta. Annual operating budgets are approved by the Standing Committee on Legislative Offices.

The Office promotes fairness in public administration within the Government of Alberta, designated professional organizations and the patient concerns resolution process of Alberta Health Services.

### NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES

These financial statements are prepared in accordance with Canadian generally accepted accounting principles for the public sector as recommended by the Public Sector Accounting Board of the Canadian Institute of Chartered Accountants.

#### a) Reporting Entity

The reporting entity is the Office of the Ombudsman which is a legislative office, for which the Alberta Ombudsman is responsible.

The Office operates within the General Revenue Fund. The Fund is administered by the Minister of Finance. All cash receipts of the Office are deposited into the Fund and all cash disbursements made by the Office are paid from the Fund. Net transfer from General Revenues is the difference between all cash receipts and all cash disbursements made.

#### b) Basis of Financial Reporting

##### *Revenues*

All revenues are reported on the accrual basis of accounting. Cash received for which goods or services have not been provided by year end is recorded as unearned revenue.

## *Expenses*

Expenses represent the costs of resources consumed during the year on the Office's operations.

Pension costs included in these statements comprise the cost of employer contributions for current service of employees during the year.

Certain expenses, primarily for office space, incurred on behalf of the Office by government departments are not reflected in the Statement of Operations but are disclosed in Schedule 2.

## *Valuation Adjustments*

Valuation adjustments represent the change in management's estimate of future payments arising from obligations relating to vacation pay.

## *Assets*

Tangible capital assets are recorded at historical cost and amortized on a straight-line basis over the estimated useful lives of the assets as follows:

Computer hardware and software	3 years
Furniture and other office equipment	10 years

Assets are capitalized if their useful life is expected to be longer than 1 year and purchase price is \$5,000 or greater.

## *Amortization of Capital Assets*

A full year of amortization is taken in the year of acquisition.

## *Net Liabilities*

Net liabilities represent the difference between the carrying value of the assets of the Office and its liabilities.

## *Valuation of Financial Assets and Liabilities*

Fair value is the amount of consideration agreed upon in an arm's length transaction between knowledgeable, willing parties who are under no compulsion to act.

The fair values of cash, advances, and accounts payable and accrued liabilities are estimated to approximate their carrying values because of the short term nature of these instruments.

## NOTE 3 - TANGIBLE CAPITAL ASSETS

	2009			2008
	Cost	Accumulated Amortization	Net Book Value	Net Book Value
Computer hardware and software	\$ 41,945	\$ 30,305	\$ 11,640	\$ 23,280
Furniture and other office equipment	33,387	15,681	17,706	21,045
	\$ 75,332	\$ 45,986	\$ 29,346	\$ 44,325

## NOTE 4 - LEASE OBLIGATIONS OR COMMITMENTS

The Office leases certain equipment under operating leases that expire on various dates to 2012. The aggregate amounts payable for the unexpired terms of these contractual obligations are as follows:

2010	\$ 5,850
2011	1,740
2012	215
<b>Total</b>	<b>\$ 7,805</b>

## NOTE 5 - BUDGET

The following table compares the Office's actual expenses to the voted budgets. Budgeted expenses for 2008-09 were approved by the Select Standing Committee on Legislative Offices on December 3, 2007. Reallocation of funds between operating and capital budgets requires Ombudsman approval.

### Operating Expenses

Voted budget	\$ 2,817,000
Actual expenses (excluding valuation adjustments)	2,724,217
Unexpended	<u>\$ 92,783</u>

### Capital Investments

Voted budget	\$ 7,000
Actual expenses	-
Unexpended	<u>\$ 7,000</u>

### 2008-09 Net Unexpended

\$ 99,783

## NOTE 6 - EXPENSES INCURRED BY OTHERS

The Office had the following transactions with other entities for which no consideration was exchanged. The amounts for these transactions are estimated based on the costs incurred by the service provider to provide the service.

Effective 2008-09, the responsibilities and charges for Alberta Government Integrated Management Information System (IMAGIS) were transferred to the ministry of Service Alberta. The equivalent amount that was recorded in 2007-08 under Supplies and Services: Technology Services was \$17,000.

## NOTE 7 - DEFINED BENEFIT PLAN (IN THOUSANDS)

The Office participates in the multi-employer Management Employees Pension Plan and Public Service Pension Plan. The Office also participates in the multi-employer Supplementary Retirement Plan for Public Service Managers. The expense for these pension plans is equivalent to the annual contributions of \$165 for the year ended March 31, 2009 (2008 – \$159).

At December 31, 2008 the Management Employees Pension Plan reported a deficiency of \$568,574 (2007 deficiency \$84,341) and the Public Service Pension Plan reported a deficiency of \$1,187,538 (2007 surplus \$92,509). At December 31, 2008 the Supplementary Retirement Plan for Public Service Managers had a deficiency of \$7,111 (2007 surplus \$1,510).

The Office also participates in two multi-employer Long Term Disability Income Continuance Plans. At March 31, 2009 the Bargaining Unit Plan reported an actuarial deficiency of \$33,540 (2008 deficiency \$6,319) and the Management, Opted Out and Excluded Plan an actuarial deficiency of \$1,051 (2008 surplus \$7,874). The expense for these two plans is limited to employer's annual contributions for the year.

## NOTE 8 - APPROVAL OF FINANCIAL STATEMENTS

These financial statements were approved by the Senior Financial Officer and the Ombudsman.

## SCHEDULE 1: SALARY AND BENEFITS DISCLOSURE FOR THE YEAR ENDED MARCH 31, 2009

	2009			2008	
	Base Salary <sup>(1)</sup>	Other Cash Benefits <sup>(2)</sup>	Other Non-Cash Benefits <sup>(3)</sup>	Total	Total
Senior official Ombudsman <sup>(4)</sup>	\$ 207,852	\$ 23,798	\$ 50,789	\$ 282,439	\$ 227,153
Deputy Ombudsman	\$ 132,888	\$ 10,757	\$ 36,500	\$ 180,145	\$ 189,394

(1) *Base salary includes regular base pay.*

(2) *Other cash benefits include bonuses, vacation payouts, overtime and lump sum payments. Accumulated vacation of \$22,298 was paid out to the Ombudsman in 2009.*

(3) *Other non-cash benefits include government's share of all employee benefits and contributions or payments made on behalf of employees including pension, health care, dental coverage, group life insurance, short and long-term disability plans, professional memberships and tuition fees.*

(4) *Automobile provided, no dollar amount included in other non-cash benefits.*

## SCHEDULE 2: ALLOCATED COSTS FOR THE YEAR ENDED MARCH 31, 2009

Program	2009			2008	
	Expenses <sup>(1)</sup>	Expenses Incurred by Others	Valuation Adjustments <sup>(3)</sup>	Total Expenses	Total Expenses
		Accommodation Costs <sup>(2)</sup>	Vacation Pay		
Operations	\$ 2,724,217	\$ 300,223	\$ 18,041	\$ 3,042,481	\$ 2,755,030

(1) *Expenses - Directly Incurred as per Statement of Operations, excluding valuation adjustments.*

(2) *Costs shown for Accommodation (includes grants in lieu of taxes), allocated by square footage.*

(3) *Valuation Adjustments as per Statement of Operations.*

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Throughout Alberta call toll free 310-0000 and dial either Office

Email (for general information): [info@ombudsman.ab.ca](mailto:info@ombudsman.ab.ca)

Online complaint form available on the website: [www.ombudsman.ab.ca](http://www.ombudsman.ab.ca)

# CONTACT INFORMATION





