

ALBERTA  
**OMBUDSMAN**

**ANNUAL REPORT**  
**2012–2013**



*Your Voice of Fairness*

# VISION

Equitable treatment for all.

# MISSION

The Alberta Ombudsman provides oversight of the Provincial Government to ensure fair treatment through independent investigations, recommendations and education.

# VALUES

Integrity, Respect, Accountability and Independence

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

**“In** the early days, there was considerable trepidation that the Ombudsman’s approach when conducting an investigation would be punitive. It was the fear of the unknown. That trepidation has significantly lessened, because, in general, regulatory bodies have concluded it’s a collaborative approach, and it’s a quality-improvement focus, ensuring that the legislative structure was followed, and a fair process provided. Any regulatory body will always strive to do those two things.”

— James T. Casey, Q.C., legal counsel with Field Law’s Professional Regulatory Group, and author of the Regulation of Professions in Canada.

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— Peter Hourihan



# THE OFFICE OF THE ALBERTA OMBUDSMAN IS YOUR VOICE OF FAIRNESS.

Over the past year, staff and I met with Albertans from across the province, and all walks of life. One thing is apparent from our interactions: Albertans expect to be treated fairly by our public institutions.

And when fairness is compromised, they need to know where to turn.

Our main job is to help Albertans address complaints of unfairness at the hands of a government ministry, agency, board, commission, or designated professional organization.

One of my goals since assuming the Ombudsman role in 2011 has been to spread the word, ensuring more Albertans become aware of the service we offer in helping people resolve complaints of administrative unfairness. We want folks to know we are available to assist them where necessary.

In 2012/13, we embarked on a period of improvement and renewal throughout the organization. The changes we're pursuing – improving Albertans' awareness of our services, as well as promoting excellent service, fostering a positive work environment, and enhancing our technological abilities – are designed to ensure all Albertans have the highest quality of service when they interact with our office. Albertans expect this, and the Government of Alberta has declared it wants to maximize accountability and transparency. Indeed, there is an Associate Minister responsible for exactly that.

Our Strategic Business Plan is designed to help us meet these challenges, and I'm pleased to report progress on all these fronts. I am also pleased with how our staff members have embraced these changes, and worked to find innovative ways to implement the goals and targets we've set.

In addition to our strategic focus, I have completed an accountability framework. This will ensure we are doing what we can to improve our service. This framework examined all aspects of our work and identified

gaps. We are now working on approaches to close those gaps. We plan to survey Albertans, the provincial government, and public entities to enhance the service we provide.

Earlier this year, I formally assumed duties as Alberta's first Public Interest Commissioner, the new independent office of the legislature created to investigate allegations of wrongdoing and reprisals among civil servants in the provincial government. The Public Interest Commissioner will share space and resources with the Ombudsman.

Both offices are a natural fit with each other – and my new role as Public Interest Commissioner complements my responsibilities as Ombudsman. I am honoured to assist Albertans on these two fronts. Given the distinct mandates of the Ombudsman and Public Interest Commissioner, I suspect that, over time, where one office is unable to investigate a complaint, the other may be able to assist.

*“In this era of accountability and transparency, Albertans expect all public sector institutions to clearly and accurately demonstrate what they investigate, what their decisions are, and how and why they made those decisions.”*

You may notice some changes to this year's annual report. One of the new features we've added is a focus on our oversight role with Alberta's designated professional organizations (or colleges).

All things considered (given our 46 years of history as Canada's first provincial ombudsman office) our relationship with the colleges is relatively recent. The Alberta government introduced the *Health Professions Act* in 2001, and, since then, our responsibilities have expanded to 25 professional colleges, including professions covering accountants, foresters and agrologists.

Our relationship with these colleges has changed over the past decade – and, in my opinion, for the better. To be sure, there was (and sometimes still is) an element of fear of the unknown expressed by some when the Ombudsman investigates a complaint related to their college. That's understandable. But over time, and through persistence and collaboration on both sides, we have been able to advance our work in promoting

administrative fairness with the professional colleges. This means we've helped them help Albertans – and at the end of the day, that's what we all want.

As with all things, there is room for improvement.

For example, some colleges fail to clearly identify or explain the type of complaint they investigated when issuing a decision letter to a complainant. This is despite the fact the *Health Professions Act* outlines several different types of unprofessional conduct.

Another trend has been the length of time taken for colleges – and, to be fair, other public institutions – to respond to recommendations or requests for information during investigations. In my view, there is no upside to dragging out this process. It's in everyone's interest to answer complaints and allegations, clear the air, learn from any mistakes, and move on.

In this era of accountability and transparency, Albertans expect all public sector institutions to clearly and accurately demonstrate what they investigate, what their decisions are, and how and why they made those decisions.

Occasionally, when speaking with one of the authorities under our jurisdiction, I am asked, "How many times can a complainant make the same complaint?" My answer has always been simple and consistent: "Only once, provided the authority does its job effectively!" This is normally followed by a discussion that centres on the authority needing to ensure the decisions it makes and documents are clear and thorough. Anything less can result in the authority being asked to review the matter again, or rewrite the decision to ensure clarity of how the decision was made.

Isolating the issues of an investigation is one way we help public entities struggling with these obligations. This means defining what public entities should be investigating, helping them understand their governing legislation, and helping write decision letters that fully reflect the work they've done (and in most cases, their work has been good). These government authorities are experts in their respective fields, and we are experts in the area of fairness. These roles are complementary, and focus on quality for Albertans.

This is one of the reasons you'll see another new feature in this year's report: a guidebook for employees of provincial departments, agencies, boards, commissions and the designated professional organizations. The guidebook, located inside this report's back cover, provides an explanation of administrative fairness guidelines. It also provides tips on writing full and fair decision letters.

We plan to distribute this guidebook to all public entities within our jurisdiction, and make it available during public presentations and meetings. Our hope is civil servants and other public employees charged with decision-making responsibilities or reviewing complaints will see the value in this guidebook, and take its advice to heart.

I mentioned at the outset that Albertans expect fair treatment at the hands of public sector organizations. In reviewing this annual report, and reading the case summaries and feedback from the colleges, another thing becomes apparent: not only can organizations learn from their mistakes, but there's value in doing so, for both Alberta's public sector organizations, and the Albertans affected by the decisions they make.

# STRATEGIC BUSINESS PLAN

## 2012/13 – 2014/15



Peter Hourihan, Alberta's Ombudsman, speaks with CTV journalist Terry Vogt in Lethbridge. Peter and a team of investigators met with local residents as part of a visit to Lethbridge and Medicine Hat. A key component of our Strategic Business Plan is enhancing awareness of the Ombudsman, and staff will continue to visit more communities across the province to ensure Albertans understand our role, and how they can benefit from our services.

- Other self-regulating professions accounting, forestry, veterinary, agrologist professions

# WHERE HAVE WE BEEN? WHERE ARE WE GOING? AND WHAT'S THE BEST PATH TO TAKE?

Our Strategic Business Plan helps us answer those questions. It also reflects a collaborative and progressive approach to improving both our internal and external processes and interaction with Albertans. The Strategic Business Plan is designed to help us achieve our goals, and will serve as a feedback mechanism to ensure change and improvement continues as we journey forward.

In crafting the plan in March 2012, our staff reviewed everything from our mission statement to our challenges, opportunities, and strategic priorities and objectives. They also remain involved in strategic planning and the ongoing work we've undertaken to carry out our objectives. For example, each employee contributes to at least one strategic priority.

The plan covers a three-year period, allowing us to have short, medium and long-term goals and objectives. We want to be innovative, adapting to change and opportunities as required, and consistent with our core values and obligations.

The plan outlines four strategic priorities:

- *Enhanced awareness of the Alberta Ombudsman;*
- *Provide an excellent service;*
- *Foster a positive work environment; and*
- *Explore technology.*

From these priorities, we've developed various goals, measurements and targets. The following are examples of achievements we've made over the past year.

# 1

## Strategic Priority One:

### *Enhanced awareness of the Alberta Ombudsman*

**Goal:** Ensure full, bilateral communication to further the role of the Ombudsman

**Outcomes:** The Ombudsman met with all Deputy Ministers and many authority heads with the Government of Alberta. He has committed to make this an ongoing approach, meeting regularly in addition to meeting when specific issues arise. He has visited about a third of the province's MLA constituency offices. This visitation will eventually reach all constituency offices. Each MLA office has received the new brochures and communication products. The Ombudsman, staff and investigators have also delivered public presentations. These, combined with provincial tours, are designed to reach the general public by bringing resources, and investigators, directly to Albertans outside Calgary and Edmonton.

The Ombudsman logo, publications and promotional items have been redesigned and updated. A redesign of the website is also underway to ensure its user-friendliness and security.

A communications manager was hired to develop and implement a communications strategy enhancing the understanding of the role of the Ombudsman, and coordinate other external and internal communications initiatives. We also anticipate a social media presence to reach and maintain communication with a wider swath of Albertans, though the tools we use will be appropriate, effective and manageable for our operations.

# 2

## Strategic Priority Two: *Provide an excellent service*

**Goal:** Reorganize the office to improve service delivery for Albertans

**Outcomes:** As part of our goal to ensure the right resources are applied to the appropriate investigation, we created an Own Motion Team. The team is comprised of three experienced investigators ([see related story on page 21](#)). This team will help guide our assessment of investigations, both in tracking outcomes and recommendations, and prioritizing resources towards new complaint investigations. The major focus for this team is the examination of systemic issues.

We have also begun reviewing and redefining performance measures. Those performance measures will enable us to conduct even more thorough and accurate investigations. Examples of performance measures include open and direct information sharing, presenting complex messages tailored to diverse audiences, and establishing priorities. The focus is on a case-by-case analysis of performance, as opposed to file load by numbers only.

Staff members continue to review and update intake, analysis, investigations and administration processes. We are also reviewing investigation completion timelines from the past three years, and identifying and mitigating gaps to ensure more timely completion rates.

The plan includes a goal of shortening the time it takes to close a file, taking into consideration the complex issues in many files. Below is a table providing our targets and results for the past three years:

File Closure – All Written Files	2012/13	2011/12	2010/11
Target*	Actual	Actual	Actual
75% of files completed within 90 days	84%	85%	81%
80% of files completed within 180 days	87%	88%	84%
90% of files completed within 1 year	93%	94%	91%
100% of files completed within 2 years	98%	98%	99%

\*Some files are straightforward, while others can be complex and involve several issues, resulting in significant timeframes.

# 3

## **Strategic Priority Three:** *Foster a positive work environment*

**Goal:** Define and validate a positive work environment

**Outcomes:** Work continues on a code of conduct and a recognition program for staff. We also sought to improve communication and integration between our Edmonton and Calgary offices. To that end, we installed video conferencing to ensure regular employee connections on issues and operational matters.

We are also rethinking our organizational structure and team set-up. This will help enhance integration, and better reflect our service delivery approach.

On the technical side, we are exploring file-sharing and storage technology, and instant messaging, to improve efficient communication and information sharing.

# 4

## Strategic Priority Four:

### *Explore technology*

**Goal:** Explore technology

**Outcomes:** We are investigating several options to ensure our operations are as effective as technology allows. This includes new software allowing investigators to link to supporting documents within their reports and an improved ability to migrate documents into an electronic format. Among other benefits, this simplifies report writing and archiving.

Other innovations, such as an integrated case management and records management system, are also being considered. We are also exploring shared services with other independent offices of the legislature to maximize effort and efficiencies.



# 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 (ACR) 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 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 an 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 decisions do not demonstrate administrative unfairness and are consistent with legislation, policy and the principles of administrative fairness. For administratively unfair issues, the Ombudsman recommends a remedy that 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 that 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.

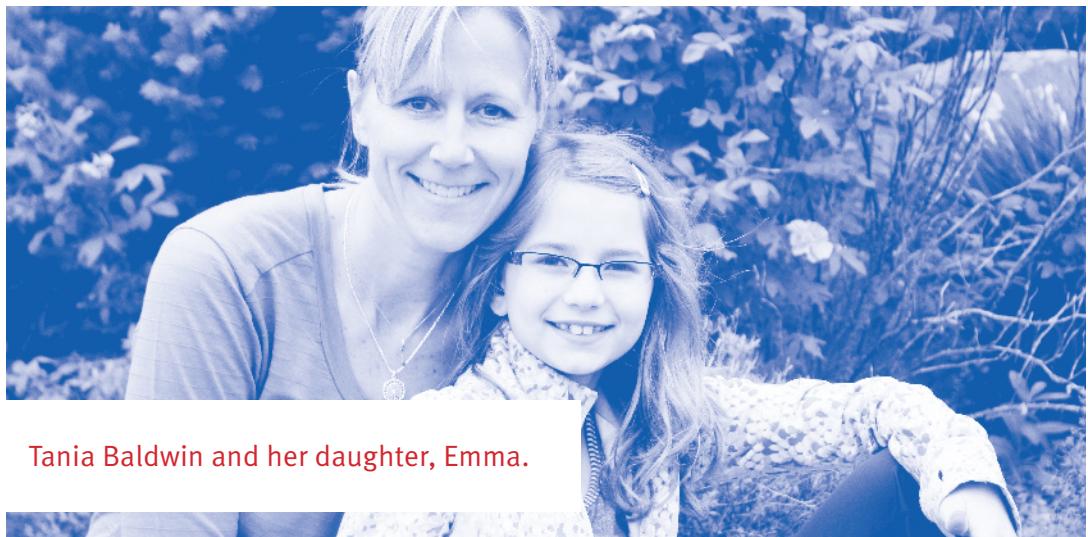
Most recommendations for resolution result in an action that directly impacts the complainant. Other recommendations correct a systemic issue that affects more than one person and improves the process or system within a department or agency.

## 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 MINISTERIAL-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.



Tania Baldwin and her daughter, Emma.

## TANIA BALDWIN IS NO QUITTER, BUT SHE WAS ALMOST OUT OF OPTIONS.

As a last resort, she picked up the phone and called the Alberta Ombudsman.

And she's glad she did.

In 2008, her daughter Emma, suffering from progressive hearing loss, had been turned down for a second cochlear implant by the former Calgary Health Region. Tania and her family were told that the Government of Alberta was not funding second implants, and that paying out of pocket for the surgery in Calgary would be in violation of the *Canada Health Act*.

“Emma was diagnosed with progressive hearing loss and by age three and a half, she was profoundly deaf. She didn’t receive her first cochlear implant until she was four years old, which is late,” explains Tania. “By the time she was five, she spoke and understood at a two-and-a-half year old level. So time was of the essence. We knew we had to go to the U.S. and get the second implant.”

Emma, who was first diagnosed with moderate hearing loss at two-and-a-half years old, was falling further behind every day her condition was left untreated. As Tania points out, “We’re all born with two ears,” and that while provincial funding for implants for one ear was welcome, having a second functioning ear would make a significant difference for children like Emma.

“We were led to believe that the government absolutely wouldn’t be covering the second implants anytime soon. We looked at our daughter, thinking, ‘She’s already in kindergarten. She’s going into Grade 1.’ It was urgent.”

## OUR ROLE

After the second hearing device was implanted in Texas, and following speech therapy in Calgary, Emma's condition improved dramatically.

"We came home, got to work, and noticed huge gains in her speech within a week," says Tania. "She could hear. She just took off. We worked every day, and went to speech therapy three times a week."

Eight months after Emma's surgery, the Alberta government announced it would fund second cochlear implants for every child in Alberta under 10 years of age. It was welcome news, and the Baldwin family hoped they could be reimbursed for having paid for the medical procedure themselves.

After submitting a claim for the cost of the second cochlear implant, the family was turned down by the province's Out of Country Health Services Committee (OCHSC).

In January 2009, Tania wrote to the OCHSC appeal panel to appeal the decision. She noted that because the service was not available in Canada, and the need to ensure Emma didn't fall further behind in her speech and language development, their family had no choice but to pursue treatment in the U.S.

Furthermore, the family was never told they could approach the OCHSC for funding for out of country health services prior to going to Texas – despite the fact that health officials knew the family was seeking the second cochlear implant in the U.S.

The panel denied funding, finding that it was an elective service that was available in Alberta.

The case seemed over. But then Tania heard about the Alberta Ombudsman, and gave the office a call.

Soon after, the Ombudsman launched an investigation. From September of 2009 to February 2012, an Ombudsman investigator in our Calgary office reviewed the case, reviewed the appeal, evidence and process, and determined it was a medically-insured service that was not available in Canada.

In reaching its decision to deny funding, the Ombudsman found the appeal panel's reasons were insufficient. The Baldwins provided a number of reasons why this treatment was urgent, which the panel failed to address. The panel also did not show how it assessed the evidence, state its finding of fact based on the evidence, make a connection between the evidence presented and the conclusion reached, or address the family's major arguments. The Ombudsman recommended the panel re-hear the appeal.

In January 2012, the panel met and decided to grant the appeal.

For Tania and her family, it was a matter of principle.

"I was discouraged, but I knew I had to fight it. I know life's not fair, but how it was unfair was that Emma would have been a candidate only eight months later. But when I learned about the Ombudsman, I thought, 'Well, this is one more avenue. And then if this fails, at least we can hold our heads high. We did what we needed to do. At least we tried.'"

Tania recommends those in a similar position give the Ombudsman's office a call. Having gotten to the point of exhausting all available options and appeals, Tania recognizes that people can be discouraged and ready to give up.

"The whole process of going through the Ombudsman was helpful, easy, and painless. We'll be forever grateful.

"It was an emotional rollercoaster, but I'm pleased with the outcome. It was an absolute bonus to be reimbursed, and a great feeling to know that we were being listened to, and that we were not just being left out in the dark and abandoned. It was a very good feeling to know that we were heard.

"That money will be very helpful. Cochlear implants are very, very expensive, and she's going to have to wear them for the rest of her life. I knew that we had nothing to lose. We got her hearing and talking. That was the goal. She's going to be 11 years in November, and from the years of hard work, you'd never know she was deaf."



# OWN MOTION TEAM SIGNALS NEW APPROACH TO INVESTIGATIONS

You need the right tools for the right job. And the Alberta Ombudsman's newly-formed Own Motion Team will help the organization determine the best approach when launching investigations.

An own motion investigation can be triggered at any time, on any matter of public interest, by the Ombudsman. For example, an own motion investigation could be launched after the Ombudsman receives a large volume of complaints about a particular issue.

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*“We expect this will provide a more strategic approach in deciding which type of complaint gets which type of response.”*

“The new team was created because we’re rethinking some of the ways we approach investigations,” says Peter Hourihan, the Ombudsman. “We do want to focus more on systemic investigations, and one of the best ways to do that is get a group of investigators together devoted to exactly that.”

A systemic investigation looks into some of the issues that may be driving individual complaints. For example, a resident at a provincially funded facility may complain staff is treating her unfairly. But a number of similar complaints could reveal a pattern of unfair behaviour – and that’s when an own motion investigation should be launched. As another example, an organization may adopt a number of recommendations from the Ombudsman following an investigation – but it may only be applying those recommendations to a certain group of clients, leaving another group out in the cold.

Of course, to determine what the systemic issue is, and to track the outcome of investigations, the Own Motion Team takes a proactive approach. It tracks trends, analyzes internal and external data, reviews previous complaints and investigations, and monitors news and other information sources.

“There’s real value in going through a comprehensive assessment of what we should investigate, and how we should investigate,” says Hourihan. “The team will monitor past



The Own Motion Team's investigators are (l-r) Chad Bouman, Bryan Michta, and Greg Stead. They will help the team take a proactive approach to determine what, and how, the Ombudsman should investigate.

and current investigations. It will also help keep tabs on our recommendations, and, generally, keep its ear to the ground. We expect this will provide a more strategic approach in deciding which type of complaint gets which type of response.”

Moving forward, says Hourihan, it may be ideal to utilize a more streamlined investigative process for some complaints, use Alternative Complaint Resolutions for others, and launch own motion investigations when evidence of a systemic issue appears.

While the Own Motion Team is new, the Ombudsman has launched 72 own motion investigations since our formation in 1967. In fact, one of our earliest own motion investigations, in 1973, dealt with the escape of patients from Alberta's mental hospitals (as they were called at the time). Other reports have looked into the adequacy of day care licensing investigations (1993), conditions at remand and detention centres (1981), foster care placements (1980), and business license procedures (1975).

In 2006, an Ombudsman own motion investigation revealed a significant number of Albertans were unfairly treated after the Alberta Agriculture and Food ministry failed to inform them of a change in the timeframe to apply for compensation under the (now former) Remote Area Heating Allowance Program. The department reimbursed 31 qualified Albertans.

More recently, the Ombudsman released Prescription for Fairness – Special Report: Out of Country Health Services in 2009. The report centered on the Ombudsman's investigation into whether Alberta Health and Wellness met the needs of Albertans trying to access out of country health services not available in Canada, or not available in a reasonable timeframe. (All 53 recommendations were accepted, and are being implemented.)

Provincial cabinet ministers can also order the Ombudsman to launch a special investigation. Since 1967, there have been 10 such investigations, ranging from the 1989 investigation into the scandal surrounding the collapse of the Principal Group of Companies, to a report that looked into the death of a steelworker who committed suicide in the Calgary Workers' Compensation Board office in 1991.

Both own motion and ministerial-ordered investigations are important tools which allow the Ombudsman to investigate matters to ensure Albertans are treated fairly, and processes and policies are in place to meet this expectation.

“The last ministerial-ordered investigation was in 1995,” Hourihan points out. “I'm encouraging the Alberta government to use this approach as an effective way to demonstrate accountability and transparency.”



# INNOVATIVE INVESTIGATIONS

## Explaining Alternative Complaint Resolutions and Informal Resolutions

When an Ombudsman investigator's phone rings, the questions and concerns posed by Albertans can be wide-ranging. And while launching a formal investigation may be the best avenue when assessing complaints, there are two other innovations that come into play: Alternative Complaint Resolutions (ACRs), and informal resolutions (IRs).

They may have technical-sounding names, but in practice they're quite simple.

Formal investigations can require significant resources, time and attention. Like investigations, ACRs are triggered by written complaints, if an investigator determines there's good potential for a resolution by picking up the phone.

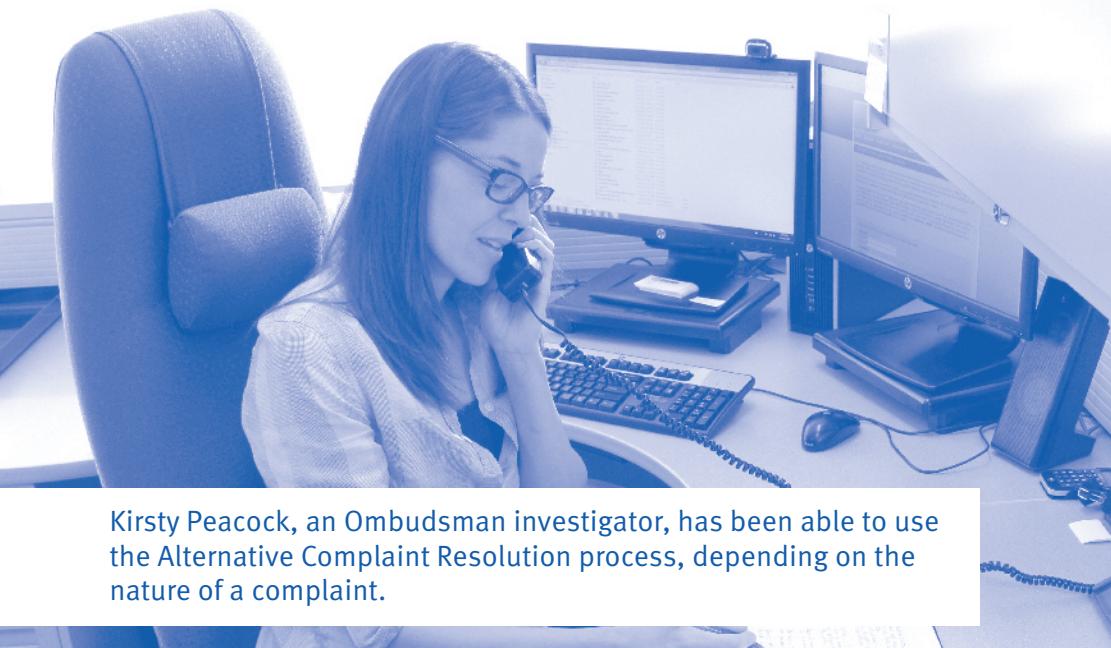
"It's often as simple as asking the right person the right questions," explains Daniel Johns, an investigations manager with the Ombudsman. "If they can answer those questions, sometimes we're able to resolve a complaint immediately."

Informal resolutions are typically done over the phone, and, depending on the level of information, an investigator may be able to settle a complaint without having to launch a formal investigation. At the same time, we keep track of these to ensure any systemic issues are not lost in the process.

Because Ombudsman investigators have built positive relations with many contacts in government, they often know where Albertans should go, or whom they should talk to.

"If a person calls me and complains that they're being denied assistance with an eviction notice, I can call a manager in an income-support office and often figure things out fairly quickly," says Diann Bowes, an investigations manager with the Ombudsman's office.

"That manager might be able to provide an explanation. In some cases, that explanation might result in good news for the complainant. But either way, we can help sort out the confusion and concern that we're hearing on our end."



Kirsty Peacock, an Ombudsman investigator, has been able to use the Alternative Complaint Resolution process, depending on the nature of a complaint.

Through the course of these informal or ACR processes, sometimes government practices can be improved. At the very least, says Bowes, government workers who get a call from an Ombudsman investigator come away with a greater appreciation for a complainant's concern.

"You have to be judicious; these methods can't be done in every case," says Bowes. "And we recognize there are some things people need to do for themselves. But it's a great option to be able to pursue when we can. It gets people answers and information – not always the answers they want, but if we can get them talking to the right people, or answer a question, then it works for everyone involved."

## *"It's often as simple as asking the right person the right questions."*

Deputy Ombudsman Joe Loran points out that investigators and other staff are trained to carefully listen to callers, and if they can help answer questions and concerns – even if the complaints don't fall within the Ombudsman's jurisdiction – then Albertans can have their complaints and concerns addressed as quickly as possible.

"The instinct a lot of people might have is to say, 'Sorry, that doesn't fall under our jurisdiction, but thanks for calling,'" says Loran. "Our goal is to avoid that kind of thinking. Maybe we don't launch a full investigation, but if we know that someone should be speaking with a contact in a certain ministry, or if we can answer a question with a couple phone calls, then why not?"

# YEAR IN REVIEW

*April 1, 2012 through March 31, 2013*

Written complaints are up 2.5% from 2011/12, but oral complaints have dropped 9.4% over the past fiscal year. This follows a recent trend that began in 2010/11. This could be due to several reasons, such as complainants use of our online complaint forms, or they find it useful to share the details of their complaint in written form. Overall, the number of complaints has remained fairly consistent in recent years.

**Since 2011/12:**

- *New investigations are up 12.6%.*
- *New ACR files are up 10.8%.*
- *Files closed as of March 31, 2013 are up 12.3%.*
- *Files carried forward to 2013/14 are down 18.8%.*

<b>3,361</b>	Oral complaints received (down from 2011/12)
181	Informal Resolution*
753	Referred to other remedy or appeal
1,923	Non-jurisdictional
302	Written correspondence requested
202	Other
<b>908</b>	Written complaints received (up from 2011/12)
175	New formal investigations
37	New Alternative Complaint Resolution (ACR) files
696	Declined for investigation (referred to other remedy or non-jurisdictional)
<b>44</b>	Total ACR issues
34	Successfully resolved through ACR
3	Unsuccessful; not transferred to formal investigation
7	Discontinued
<b>284</b>	Files carried forward from previous years
<b>954</b>	Files closed as of March 31, 2013
172	Formal investigations completed containing 232 issues
71	Supported issues
34	Partially supported issues
94	Unsupported issues
33	Discontinued issues
<b>743</b>	No investigation initiated
329	Referred to other remedy or appeal
13	Otherwise resolved (without completing a full investigation)
258	No authority to investigate
8	Declined on discretionary grounds
110	Information provided
25	No response required/possible
39	ACR files closed
<b>239</b>	Files carried forward to 2013/14

**Of the 908 written complaints received, the most common authorities by volume of complaints are:**

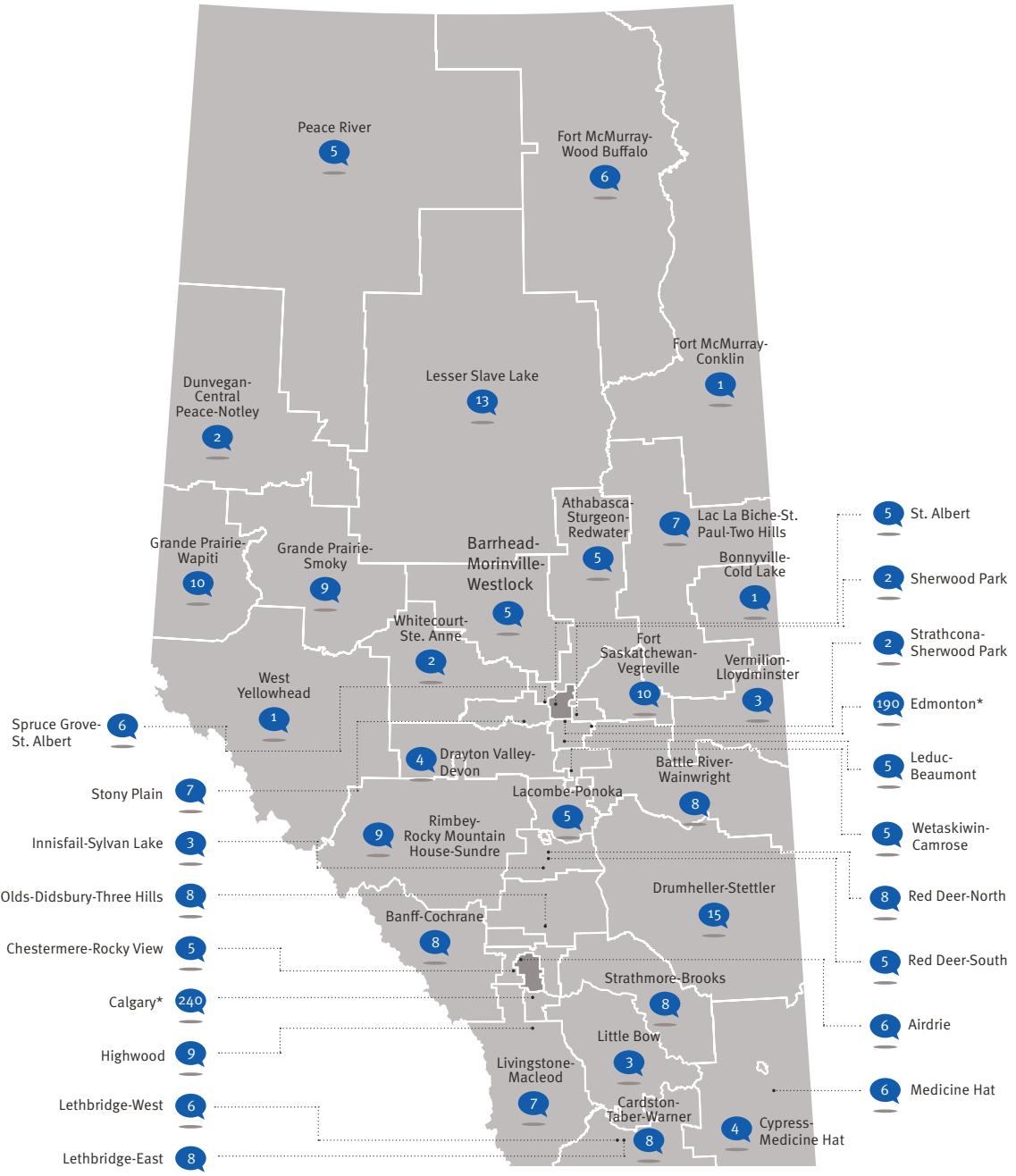
- 142 Justice and Solicitor General (including Correctional Services @ 83, and the Maintenance Enforcement Program @ 35)
- 133 Human Services (includes Child and Family Services Regional Authorities @ 38; AISH @ 24; Appeals Secretariat @ 24; Income & Employment Supports @ 21)
- 56 Workers' Compensation Board
- 49 Health Professions (includes College of Physicians & Surgeons of Alberta @ 30)
- 36 Appeals Commission for Alberta Workers' Compensation

\*5.4% of oral complaints received were resolved in discussion with the authority without requiring a formal investigation.

# PROVINCIAL ELECTORAL DIVISIONS 2012/13

The figures on the map refer to written complaints received between April 1, 2012 and March 31, 2013 and do not include complaints that originated in provincial correctional centres (85), federal penitentiaries (3), out of province (73), and no address specified/unknown (62)

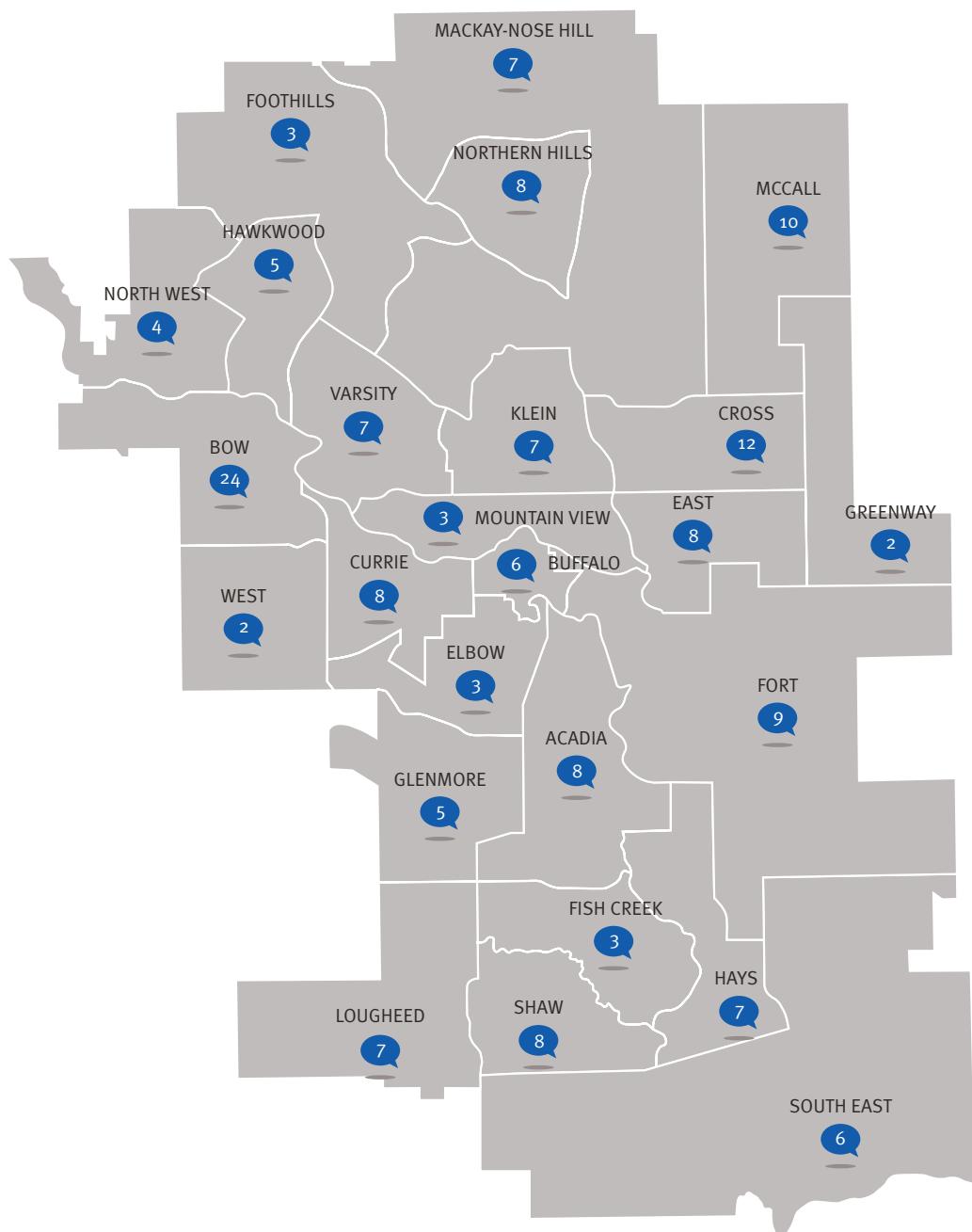
## PROVINCIAL ELECTORAL DIVISIONS



\*See following two pages for a detailed presentation of Calgary and Edmonton electoral divisions.

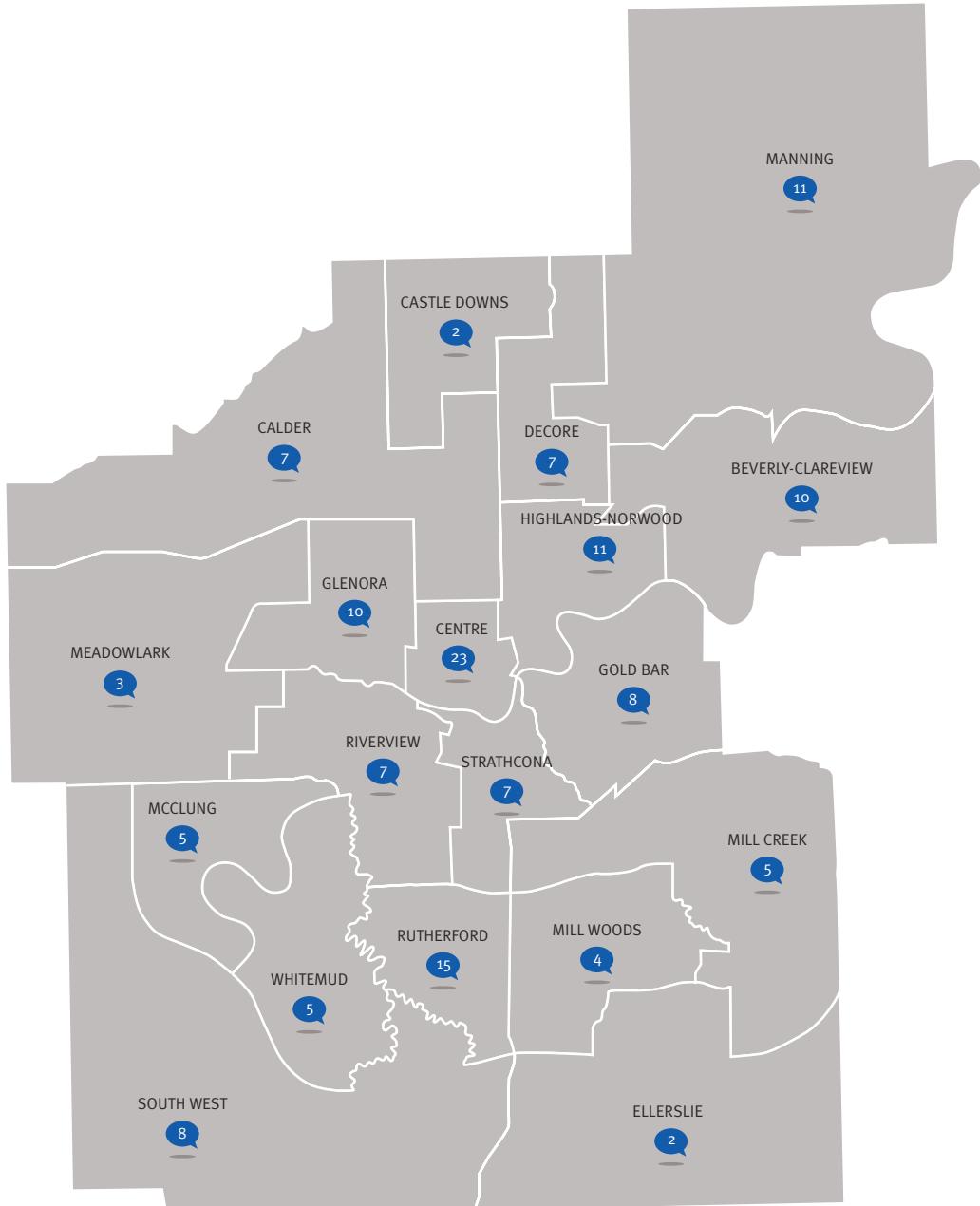
# CALGARY ELECTORAL DIVISIONS, AS AT MARCH 31, 2013

The figures on the map refer to written complaints received between April 1, 2012 and March 31, 2013, and do not include complaints without an address (68).



## EDMONTON ELECTORAL DIVISIONS, AS AT MARCH 31, 2013

The figures on the map refer to written complaints received between April 1, 2012 and March 31, 2013, and do not include complaints without an address (40).



# COLLABORATION AND IMPROVEMENT: AN INSIDE LOOK AT OUR ROLE WITH ALBERTA'S HEALTH PROFESSION COLLEGES

For more than a decade, the Alberta Ombudsman has had the power to investigate complaints about designated professional organizations.

These professions are required to establish colleges that set standards of practice, education and training; register members; and investigate and hear complaints from the public. For example, the College of Physicians and Surgeons of Alberta, and the Institute of Chartered Accountants of Alberta, are just two of the 25 colleges the Ombudsman currently has jurisdiction over. (The legislation provides for jurisdiction of 28 professional colleges. Schedules for acupuncturists, midwives and paramedics are still to be proclaimed under the *Health Professions Act*.)

## How our role began

In 2001, the Government of Alberta introduced the *Health Professions Act*. Since then, the list of professions has grown to include not just physicians, surgeons and registered nurses, but a vast range of professionals, including: pharmacists, optometrists, opticians, dentists, denturists, dieticians, hearing aid practitioners, licensed practical nurses, medical technologists, physical therapists, social workers, chiropractors, dental assistants, dental hygienists, laboratory and X-ray technicians, midwives, occupational therapists, psychologists, and naturopaths.

And these are just the health-related colleges under the *Health Professions Act*. The Ombudsman also oversees professional colleges established for foresters, agrologists, accountants, and veterinarians.

All told, these organizations play a significant role in the delivery of services for Albertans.

And this growing list of professions means the Alberta Ombudsman has had a growing oversight role, leading to investigations of complaints and concerns by the public involving these designated professional organizations.

Already serving as a neutral arbiter between the public and provincial government departments, agencies, boards and commissions, the Ombudsman's oversight role with the designated professional colleges added a new level of responsibility.

## An evolving relationship

Professional organizations are experts in their various fields, of course. Our expertise lies in administrative fairness, and how best to investigate complaints for the benefit of the public and the college's members.

Like any new relationship, the Ombudsman's initial oversight role came with challenges for both parties.

Working with professional colleges to ensure administrative fairness has been itself a work in progress, says Diann Bowes, an investigations manager with the Ombudsman's office in Edmonton. That's why our investigators work with the colleges to help them improve their processes.

"People are not necessarily experts in process, or what constitutes administrative fairness," she explains. "It can be a learning process for some organizations, which is understandable. Once we're able to connect with the colleges following a complaint, review their processes through an investigation, and then make recommendations, it usually becomes clear what type of changes or reviews they should make."

Alberta's Ombudsman office investigates two types of complaints with the colleges. The first involves complaints from the public about

a member or decision of the college. This includes complaints about, for example, unprofessional conduct. The second investigates complaints made by members of the college. These are typically about a college's registration or disciplinary process.

Some organizations, for example, have been too quick to simply say "No," without providing complainants with an adequate explanation, or review of the evidence. In some cases, colleges (as with other organizations falling within the Ombudsman's jurisdiction) have not adequately explained appeal options to complainants. We're here to guide them through the administrative fairness requirements.

### **Building systemic change - collaboratively**

The past decade has seen the relationship between the Ombudsman and the professional colleges grow more positive and collaborative.

"It's really been about ensuring public confidence in these institutions, and bringing our oversight role and expertise to organizations that may not have been applying administrative fairness in their operations or policies," explains Peter Hourihan, Alberta's Ombudsman. "Our relationship with the various colleges really does benefit both Albertans and the colleges themselves."

Hourihan points out that because of Ombudsman investigators' skill and expertise in applying administrative fairness, "we can help educate people about how best to apply those guidelines, and the legislation, to ensure they have the best process and governance in place to deal with complaints – and, the hope is, to eventually cut down the number of complaints."

In the past, many professional colleges assumed the Ombudsman's new oversight role would result in finger-pointing, and a

fear the Ombudsman's investigators would automatically side with complainants, looking for ways to find fault with the college.

"That's been a challenge, because when any organization faces a complaint and is investigated, it can be easy to be defensive and assume the external investigators are taking sides against them," says Joe Loran, the Deputy Ombudsman.

In fact, as with all its investigations, the Ombudsman does not side with either the complainant or the organization it investigates.

"If there is a complaint involving a college, our role is to conduct an investigation to establish the facts. It is in everyone's best interest to ensure the college conducted a fair and proper investigation. It is important for the public, the regulated members, and the college itself. It improves everyone's confidence in the college," says Loran.

Hourihan believes that because of the positive relationships developed with the colleges over the years, and a record that demonstrates the professions are implementing the advice provided by the Ombudsman, outcomes will improve. More importantly, the Ombudsman is working with the colleges – and all public entities under its jurisdiction – to build systemic change. And these changes, however small they may appear, can affect all Albertans in positive ways.

"The biggest benefit is many colleges have become more professional in terms of how they handle complaints," says Hourihan. "It's my hope they view our role as one similar to an outside consultant who can really help them fine-tune their processes. We're able to help public bodies develop the right procedures, and this can help them avoid further complaints, cut down costs and, in the end, help build confidence we as Albertans expect in our public entities."

# BUILDING TRUST—AND IMPROVING SERVICES

*“The Ombudsman plays a valuable role in assisting health professions in fulfilling their respective mandates of serving the public and their members in a professional and positive fashion. The public interest is well-served by the Ombudsman.”*

The Ombudsman has developed a history of working collaboratively with Alberta’s professional regulatory colleges when investigating complaints of unfair treatment.

We connected with Richard Fraser, counsel for the College of Dental Technologists of Alberta (CDTA), to get his perspective on the investigative work we do – and how one college has responded to our process and recommendations.

His perspective is all the more interesting, as the CDTA was the subject of a recent own motion investigation.

**Q.** Generally speaking, how have you viewed the relationship between the CDTA and the Ombudsman?

**A.** The relationship has been very positive.

**Q.** Do you feel the relationship has grown and evolved over time? If so, how?

**A.** In mid-September 2010, a new council was elected to govern the CDTA. I was retained as legal counsel at that time. The major issue facing the new council was an ongoing Ombudsman own motion investigation into the college. This investigation resulted in 46 recommendations. All these recommendations were successfully implemented, or are in the process of being implemented.

This was a two-year process leading to the September 13, 2012 letter from the Alberta Ombudsman indicating the investigation into the CDTA would be closed. During this time period as legal counsel for the CDTA, I had numerous discussions and meetings with investigators and representatives from the office of the Ombudsman. These discussions and meetings were always constructive.

Moreover, they resulted in significant positive changes for the profession and the people it serves. I think over time a mutual level of trust was established between the CDTA and the Ombudsman.

**Q.** More specifically, what have been some challenges in the relationship, and/or with your interactions with the Ombudsman's office?

**A.** The only real challenge was the amount of time and effort required to bring the college back into compliance with the *Health Professions Act* and function effectively as a professional college with good governance practices.

**Q.** What are some success stories you've experienced when working with the Ombudsman's office?

**A.** There are really so many that I will just refer to some of the most significant ones. First, the CDTA's bylaws were significantly improved after close consultation with the regulated members and meetings with them to pass numerous amendments. The net effect was the bylaws became far more responsive to the members, and were more transparent.

The former Standards of Practice and Code of Ethics were replaced with simplified and understandable documents that are now in the process of being updated to comply with appropriate standards. A committee is reviewing these documents, and will meet next in early September 2013. After the foundational documents are completed, additional policies and procedures will be updated.

There has also been real progress in continuing competence, and numerous areas involving good governance. Finally, and

perhaps of most importance to the members, the college's financial house has been put in order. The college has moved from a deficit position to a surplus position and the members' fees have been significantly reduced.

All of this occurred under the guidance of, and with the assistance from, the Ombudsman.

**Q.** We recognize that professional colleges take seriously investigations of complaints and issues related to their members. While we are not advocates for either the complainant or the college, we believe that working with professional colleges when investigating complaints helps build systemic change over time.

**A.** This is certainly true for the CDTA. The college has made great efforts to improve the discipline process and has now successfully completed a discipline hearing and is currently investigating several other complaints.

The Ombudsman was very helpful in assisting the college to better understand how to respond when a complaint has been dismissed. This has resulted in new guidelines being followed should a complaint be dismissed. This is an area that I as legal counsel, the complaints director, the hearings director, the registrar and the council will continue to work on to improve the functioning of the discipline process and the responsiveness to complaints received.

The Ombudsman plays a valuable role in assisting health professions in fulfilling their respective mandates of serving the public and their members in a professional and positive fashion. The public interest is well-served by the Ombudsman.



# CASE SUMMARIES

The Alberta Ombudsman recognizes professional colleges strive to promote the highest levels of service, professionalism and integrity among their members, and in dealings with their clients, stakeholders and the public. We know the province's professional colleges are also focused on standards of practice, take seriously their codes of conduct and ethics, and investigate and resolve complaints related to their members.

We play an important role in ensuring fairness. When members of the public or individual members feel their concerns or interactions with the colleges have not been handled fairly, they can come to us (after, of course, exhausting internal review processes).

We review the facts of a complaint, and, if an investigation is launched, work with both parties to ensure administrative fairness standards are met. It's important to note we are not advocates for either the complainant or the college. In fact, one of our roles is to advise complainants when they have been treated fairly. Through our investigations, we try to implement systemic change to improve the processes and have a positive effect on people's lives.

The following are examples of recent complaints brought to the Ombudsman, and demonstrate how we work collaboratively to resolve problems and ensure colleges' processes for dealing with complaints are as robust and fair as possible.



## Case 1

“Must” or “may”? Is a professional college required to forward an application for review to a college’s complaints review committee? This was an issue that emerged during an investigation of a complaint about a health professions college.

An individual complained to the Ombudsman that his concerns about a health professional were dismissed, and a request for review was not forwarded by the hearings director to the college’s complaints review committee.

The question became one of interpretation. The college’s reading of the *Health Professions Act* was that a hearings director “may” deny a request for review. This allowed the hearings director to act as a gatekeeper, while ensuring complainants meet certain requirements included in their requests for review. In effect, the hearings director decided which requests for review would be considered by the complaints review committee – or which requests would not.

The Ombudsman identified under Section 68 of the Act, the wording was “must.” This meant the hearings directors “must” forward applications to the complaints review committee.

Among its recommendations, the Ombudsman suggested the college stop the practice of having a hearings director screen review applications, and leave the decision to review the application up to the complaints review committee itself. (Of course, complaints review committees should be presented with sufficient evidence or rationale to allow a review. Simply disagreeing with the original decision is not sufficient to trigger a review.)

The Ombudsman met with the college to discuss the issue. The college’s hearings director has now been forwarding complaints to the complaints review committee, and we continue to work with the college as it implements this recommendation.



### How is this fair for Albertans?

Albertans have a legal right to ask for a review of an administrative decision. Our investigation showed that, sometimes, the interpretation of a law can result in that right being undermined. In fact, a person’s complaint review request must be considered by the proper body, armed with the legal right to decide whether to review or not.

## Case 2

A patient wanted to lodge a complaint against a health professional. There was just one problem: the patient could not remember the person's full name. While he could recall the professional's first name, position and employer, that was not enough for the college to agree to hear the patient's complaint of unprofessional conduct.

When investigating the case, the Ombudsman discovered correspondence that directed the patient to submit a written and signed document, including the full name of the college member. The correspondence also stated this requirement was in accordance with the *Health Professions Act*. Otherwise, the complainant was told the college could do nothing but "shred" his complaint. The letter did not contain instructions for how to obtain the health professional's last name.

The college was incorrect. The Act does not require a last name. However, we recognized that investigating every complaint with limited identifying information could pose a challenge for the college. We also recognized there are security considerations that prevent institutions from divulging full names of their staff as a matter of everyday practice.

The Ombudsman found a middle way that met the concerns of both the patient and the college: we recommended the college write to the patient, provide contact information for the employer of the health professional, and include instructions for the employer to provide the full name of the professional member directly to the college.

The Ombudsman also recommended several other policy changes, including a process for referring complainants unaware of the names of the member to the employer of the regulated member, as well as a policy to document contacts with the public in a standardized format.



### How is this fair for Albertans?

Sometimes, people need help finding information they need to lodge a complaint of unprofessional conduct. In this case, with a patient in a mental health facility, the challenge was even greater.

One of the purposes of a college is to protect the public from unprofessional conduct by their members. This means they should be helpful to the complainant where possible, and not be obstructionist.

This policy change will help ensure individuals have a clearer path to obtaining information needed to pursue complaints.



## Case 3

An individual complained about the administration of the substantial equivalency process while seeking registration with a professional college. She also complained the college charged \$1,000 in fees to review the registration process.

The complainant told the Ombudsman she contacted the college to determine the correct type of courses to take. After she began her formal studies, she sought confirmation the courses were the right ones. However, the complainant received what she felt was conflicting information – casting doubt on whether there was value in the courses she enrolled in.

Although a college's accreditation process can be confusing, the Ombudsman investigation determined the college did not give the complainant conflicting information.

Still, while colleges have the right to set and charge fees under the *Health Professions Act*, the Ombudsman recommended the college avoid creating financial barriers preventing individuals from accessing the review process. We also asked the college to be clear and transparent about the chain of authority for charging fees.



### How is this fair for Albertans?

While the college was concerned current members should not subsidize registration reviews by non-members, it agreed to make an amendment to its bylaws. It's now clear fees are applied for members, as well as college applicants.

## Case 4



When the Ombudsman investigates a case, we are thorough in our process. When we find a detail or a seemingly small piece of evidence that shows administrative fairness may be questionable or lacking, we'll do our best to work with a college to ensure the issue is recognized and addressed.

In this case, a professional was terminated from her job, and complained to the Ombudsman about the fairness of an investigation and discipline decision through the college's appeal tribunal.

Our investigation showed the college's investigation and disciplinary action taken by the tribunal was fair – with one exception.

After reviewing the transcript of the tribunal, the Ombudsman determined substantial procedural matters were considered by the appeal tribunal, though these were not reflected in the written decision.

We recommended the college amend its decision to reflect the fact the tribunal did consider some procedural questions that arose during the hearing.



### How is this fair for Albertans?

Procedural matters are not merely housekeeping or administrative items when a complaints review committee meets. In fact, a complainant may claim a member of the review committee is biased or in a conflict of interest. The review committee will then have to deal with those concerns.

Cases like this are an opportunity to resolve minor issues before they become major issues. Demonstrating to the public that a college has heard procedural concerns – and has addressed them – is in everyone's interest: the public, members of a professional college, and the college itself.

## Case 5

One regulatory college dismissed the complaints of a parent who claimed a professional had made errors in a report he feared would affect his child's future.

The college's original dismissal letter did not advise the parent of his right to request a review of the decision to dismiss the complaint. Later, the college did send a follow-up letter advising the parent of the right of review and time limit. But through an investigation, the Ombudsman determined the college's original letter did not meet the requirements of administrative fairness. The situation was rectified by the college in its follow-up letter, and the parent was able to request a review (though the college's complaints review committee did not grant one). The college also developed a template for dismissal letters that now includes reference to reviews and time-limits.

The Ombudsman also found the college's dismissal letter did not fully explain what the registrar considered in its decision, and why it determined there was no unprofessional conduct. While the college was able to reasonably explain what it was tasked to consider and what it found, the dismissal letter did not do the same. The Ombudsman determined the college should have more fully provided the reasoning for its conclusion by better linking its findings, authority and role, reasons and conclusion.

Finally, the parent claimed he was not provided the full opportunity to be heard by the college, though he had asked for a review of the decision. The college opted to accept written, not verbal, submissions. While the decision may have been reasonable, the reasons behind the decision were not documented. Moreover, the college did not ask the complainant for any additional information – although it did ask the member being complained about for a written submission.

The Alberta Ombudsman found this, too, is not consistent with providing for full participation. The Ombudsman recommended the college re-review the member's case. More specifically, the college was asked to start over and decide what type of submissions to accept, to document decisions with rationale, and to advise the participants of this. The college rejected this recommendation, but after meeting with the Ombudsman, it agreed to send a detailed letter of explanation to the complainant.



### How is this fair for Albertans?

We were able to point out several areas where the process should have been fairer, and information should have been clearer. For example, the parent was denied full participation rights by not being asked to provide additional information, even though the college asked the subject of the complaint for information.

Investigations like these help Albertans better understand why an organization makes a decision – and presses organizations to be more transparent and clear when they make their decisions.



## Case 6

A person complained to the Ombudsman about the wrongful apprehension of a child by a professional member of a regulatory college. The complainant also alleged the individual in question formed unfair opinions of the family member. The complaints review committee with the professional college dismissed the complaint.

The Ombudsman found the complaints review committee's decision letter to be administratively unfair. The letter mentioned the complaint, but did not outline the complainant's specific arguments, nor demonstrated how they were considered and weighed. Additionally, the statement by the complaints review committee – that it did not find unprofessional conduct – is not a sufficient reason on its own. Reasons should connect the committee's conclusion to the evidence and relevant legislation. As it stood, there were no explanations shedding light on how the decision was reached.

The Ombudsman recommended the complainant be given a new opportunity to present her arguments in front of a new complaints review committee – and the review follow administrative fairness principles. The college agreed to a new review.



### How is this fair for Albertans?

We were able to ensure the complaint-handling process of a college is administratively fair – and arguments are considered and fairly weighed. Furthermore, when colleges properly identify the type of unprofessional conduct, complainants can better understand what the college is focusing on. It is important the complainant be able to understand, by reading the decision, how the college reached its reason and what they considered in doing so.



## Case 7

A patient was unhappy with the quality of a prosthetic device, and wanted the member of a professional college to either fix it, or provide a full refund. The member proposed refunding the total amount, but keeping the lab fees.

The patient complained to the college's complaints director, who, after mediating between the two parties, agreed with the member's initial proposal. In a subsequent letter, the complaints director dismissed the complaint as "trivial or vexatious," under Section 55 of the *Health Professions Act*. The patient was also advised of her right to have the decision reviewed by a complaints review committee, which she followed.

The complaints review committee considered the original decision, and the reasons provided to support the decision. However, the complaints director dismissed the patient's original complaint, saying that it was vexatious – and not as a result of insufficient evidence of unprofessional conduct. This turned out to be a mistake.

In its decision, the complaints review committee said it confirmed the complaints director's decision. What it actually did was vary the decision. (While a review committee has the ability to vary an original decision, it can't vary the decision while formally saying it has confirmed it. This is a violation of the *Health Professions Act*, and can lead to confusion.)

The Ombudsman recommended the college provide an addendum to correct the error, which it agreed to.



### How is this fair for Albertans?

Complainants are often at wit's end when dealing with a government authority. This is why clarity and accuracy is so important. Colleges, like every organization under our jurisdiction, must be accurate when they render their decisions. Our investigation pointed out that even small details are important, and that clear decisions are extremely important for complainants.



## Case 8

The dismissal of a complaint of unprofessional conduct by a professional health college's complaints review committee was found to be administratively unfair. The complaint stemmed from a patient pursuing a claim of malpractice and negligence against a member of the college.

An Ombudsman investigation found the decision did not outline how the complaints review committee considered the complainant's arguments and additional documentation (including photos) she provided; the decision did not provide an explanation of the significant rationale on which the complaints review committee based its decision; and the reasons for the decision did not have a rational connection to the evidence and legislation. Simply put, the complainant argued she provided new information. The college disagreed.

The Ombudsman asked the college to provide explanations outlining these details, which the college agreed to.



### How is this fair for Albertans?

Cases like this demonstrate the importance of transparency in communicating decision-making rationale. In this situation, while the college's response and investigation was done properly and completely, it wasn't clear which pieces of evidence the college relied on to make its decision. This left the complainant unsure why the decision was made – and it left the college's decision open to interpretation. Through experiences like this, organizations improve the way in which they communicate why they reached a decision. Although the complainant may not like the decision, they can understand the connections between evidence and the decisions.

## CASE SUMMARIES

### Numbers of Complaints Received about Health Professions by date received\* (from date of proclamation of Schedule to March 31/13)

Profession Effective Date	'02	'03	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13
Dentists Dec 31/01	3	3	9	4	1	1	0	7	2	5	5	4
Medical Laboratory Technologists March 1/02	0	1	0	0	0	0	0	1	0	0	1	0
Registered Dieticians and Registered Nutritionists May 1/02	0	0	1	0	0	1	0	0	0	0	0	0
Hearing Aid Practitioners July 1/02	0	1	0	0	0	0	0	0	0	1	0	0
Speech Language Pathologists and Audiologists July 1/02	0	0	0	0	0	0	0	1	0	0	0	0
Denturists Sept 1/02	0	1	0	2	3	2	3	0	0	2	1	2
Optometrists April 1/03	-	0	0	0	0	0	0	0	0	0	1	0
Social Workers April 1/03	-	0	1	0	0	0	0	1	0	3	2	0
Licensed Practical Nurses April 12/03	-	1	0	1	0	1	1	0	1	0	0	0
Dental Technologists Oct 19/04	-	-	0	0	1	0	0	16	0	2	1	1
Medical Diagnostic and Therapeutic Technologists and Electro-Neurophysiologists May 1/05	-	-	-	0	0	0	0	0	0	0	0	0
Registered Psychiatric and Mental Deficiency Nurses Nov 25/05	-	-	-	0	0	0	0	1	0	0	0	0
Registered Nurses Nov 30/05	-	-	-	0	2	0	1	3	1	2	2	1
Dental Assistants Jan 1/06	-	-	-	-	0	0	0	0	0	0	0	0
Psychologists Jan 15/06	-	-	-	-	3	2	1	0	0	2	0	1
Combined Laboratory and X-ray Technologists April 1/06	-	-	-	-	0	0	0	0	0	0	0	0
Occupational Therapists Oct 5/06	-	-	-	-	0	0	1	0	0	1	1	0
Dental Hygienists Oct 31/06	-	-	-	-	0	0	1	0	1	2	1	0
Chiropractors March 1/07	-	-	-	-	-	3	1	0	0	0	1	0
Pharmacists April 1/07	-	-	-	-	-	0	0	0	0	1	0	1
Physicians and Surgeons Dec 16/09	-	-	-	-	-	-	-	0	3	11	28	6
Opticians March 23/11	-	-	-	-	-	-	-	-	-	0	1	0
Physical Therapists May 8/11	-	-	-	-	-	-	-	-	-	0	0	0
Podiatrists July 2/12	-	-	-	-	-	-	-	-	-	-	0	0
Naturopaths Aug 1/12	-	-	-	-	-	-	-	-	-	-	0	0

\*Profession of Acupuncturists, Profession of Midwives, and Profession of Paramedics are the remaining three professions that have yet to be proclaimed under the *Health Professions Act*.

**Numbers of Complaints Received about Accounting Professions by date received**  
 (from date of proclamation of Schedule to March 31/13)

Profession Effective Date	'01	'02	'03	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13
Chartered Accountants; Certified General Accountants; Certified Management Accountants Sept 13/01	0	1	1	0	1	1	2	0	2	0	3	1	0

**Numbers of Complaints Received about Veterinary Medical Profession by date received**  
 (from date of proclamation of Schedule to March 31/13)

Effective Date	'03	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13
Sept 2/03	0	2	0	0	0	0	1	0	2	3	1

**Numbers of Complaints Received about Regulated Forestry Profession by date received**  
 (from date of proclamation of Schedule to March 31/13)

Effective Date	'02	'03	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13
April 25/02	0	0	0	0	0	0	0	0	0	0	0	0

**Numbers of Complaints Received about Agrology Profession by date received**  
 (from date of proclamation of Schedule to March 31/13)

Effective Date	'07	'08	'09	'10	'11	'12	'13
April 16/07	0	0	0	0	0	0	0

**Number of Complaints Investigated for each Health Profession\***  
 (from date of proclamation of Schedule to March 31/13)

Profession	Opened for Investigation	Complaints Closed as Supported with Recommendations Made (number of files remaining open at the end of the reporting year March 31, 2013)
Dentists	20	10 (3)
Medical Laboratory Technologists	2	1
Hearing Aid Practitioners	1	0 (1)
Denturists	10	4 (1)
Optometrists	1	0 (1)
Social Workers	5	3 (1)
Licensed Practical Nurses	3	3
Dental Technologists	14	12 (1)
Registered Nurses	3	1 (2)
Psychologists	3	0 (2)
Occupational Therapists	2	1 (1)
Dental Hygienists	2	1 (1)
Chiropractors	3	0 (1)
Physicians and Surgeons	18	2 (10)

\*Only those professions where investigations were commenced are listed

**Number of Complaints Investigated for Other Professions**  
 (from date of proclamation of Schedule to March 31/13)

Profession	Opened for Investigation	Complaints Closed as Supported with Recommendations Made
Accounting Professions	8	4 (2)
Veterinary Medical Profession	4	1 (3)





# FINANCIAL STATEMENTS

## *2012/13*

# OFFICE OF THE OMBUDSMAN

## Financial Statements Year Ended March 31, 2013

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# INDEPENDENT AUDITOR'S REPORT



To the Members of the Legislative Assembly

## Report on the Financial Statements

I have audited the accompanying financial statements of the Office of the Ombudsman, which comprise the statement of financial position as at March 31, 2013, and the statements of operations and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

## Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian public sector accounting standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

## Auditor's Responsibility

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audits in accordance with Canadian generally accepted auditing standards. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

## Opinion

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Office of the Ombudsman as at March 31, 2013, and the results of its operations and its cash flows for the year then ended in accordance with Canadian public sector accounting standards.

[Original signed by Merwan N. Saher, FCA]

Auditor General

June 14, 2013

Edmonton, Alberta

# STATEMENT OF FINANCIAL POSITION

**Year Ended March 31, 2013**

	2013	2012
<b>ASSETS</b>		
Cash	\$ 400	\$ 400
Prepaid Expenses	4,780	-
Advances	2,300	3,300
Tangible Capital Assets (Note 3)	91,083	7,690
	<hr/>	<hr/>
	\$ 98,563	\$ 11,390
<b>LIABILITIES</b>		
Accounts Payable and Accrued Liabilities	\$ 69,781	\$ 66,666
Accrued Vacation Pay	193,637	158,831
	<hr/>	<hr/>
	263,418	225,497
<b>NET LIABILITIES</b>		
Net Liabilities At Beginning Of Year	(214,107)	(393,311)
Net Operating Results	(2,870,568)	(2,296,169)
Net Financing Provided from General Revenues	2,919,820	2,475,373
	<hr/>	<hr/>
Net Liabilities at End of Year	(164,855)	(214,107)
	<hr/>	<hr/>
	\$ 98,563	\$ 11,390

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

# STATEMENT OF OPERATIONS

Year Ended March 31, 2013

	2013		2012	
	Budget	Actual	Actual	
<b>REVENUES</b>				
Other Revenue	\$ -	\$ 1,046	\$ 428	
	-	\$ 1,046	\$ 428	
<b>EXPENSES - DIRECTLY INCURRED</b> <b>(Note 2(b) and Schedule 2)</b>				
Salaries, Wages and Employee Benefits	2,628,000	2,354,734	1,927,688	
Supplies and Services	383,000	508,534	365,570	
Amortization of Tangible Capital Assets	-	8,346	3,339	
<b>TOTAL EXPENSES</b>	\$ 3,011,000	2,871,614	2,296,597	
Net Operating Results	\$ 3,011,000	\$ (2,870,568)	\$ (2,296,169)	

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

# STATEMENT OF CASH FLOWS

**Year Ended March 31, 2013**

	2013	2012
<b>OPERATING TRANSACTIONS</b>		
Net Operating Results	\$ (2,870,568)	\$ (2,296,169)
Non-Cash Items included in Net Operating Results:		
Amortization of Tangible Capital Assets	8,346	3,339
Provision for Vacation Pay	34,806	(72,058)
	<hr/>	<hr/>
	(2,827,416)	(2,364,888)
Decrease in Accounts Receivable	-	215
Decrease (Increase) in Prepaid Expenses	(4,780)	-
Decrease (Increase) in Advances	1,000	2,500
(Decrease)/Increase in Accounts Payable and Accrued Liabilities	3,115	(113,200)
	<hr/>	<hr/>
Cash Applied to Operating Transactions	(2,828,081)	(2,475,373)
	<hr/>	<hr/>
<b>CAPITAL TRANSACTIONS</b>		
Acquisition of Tangible Capital Assets	\$ (91,739)	\$ -
Cash Applied to Capital Transactions	(91,739)	-
	<hr/>	<hr/>
<b>FINANCIAL TRANSACTIONS</b>		
Net Financing Provided from General Revenues	2,919,820	2,475,373
	<hr/>	<hr/>
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

March 31, 2013

## NOTE 1 AUTHORITY AND PURPOSE

The Office of the Ombudsman (the Office) operates under the authority of the *Ombudsman Act*. The net cost of the operations of 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 public sector accounting standards.

### (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 administrated 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 Financing Provided 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.

## NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (CONTINUED)

### (b) Basis of Financial Reporting

#### Expenses

##### Directly Incurred

Directly incurred expenses are those costs the Office has primary responsibility and accountability for, as reflected in the Office's budget documents.

In addition to program operating expenses such as salaries, supplies, etc., directly incurred expenses also include:

- *Amortization of tangible capital assets.*
- *Pension costs, which are the cost of employer contributions during the year.*
- *Valuation adjustments which represent the change in management's estimate of future payments arising from obligations relating to vacation pay.*

##### Incurred by Others

Services contributed by other entities in support of the Office's operations are not recognized and are disclosed in Schedule 2.

#### Assets

Financial assets are assets that could be used to discharge existing liabilities or finance future operations and are not for consumption in the normal course of operations. Financial assets of the Office are limited to petty cash and employee travel advances.

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

- *Computer hardware and software      3 years*
- *Furniture and office equipment      10 years*

The threshold for capitalizing new systems development is \$250,000 and the threshold for major system enhancements is \$100,000. The threshold for all other tangible capital assets is \$5,000.

## NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (CONTINUED)

### (b) Basis of Financial Reporting

#### Liabilities

Liabilities are recorded to the extent that they represent present obligations as a result of events and transactions occurring prior to the end of fiscal year. The settlement of liabilities will result in sacrifice of economic benefits in the future.

#### Net Liabilities

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

Canadian public sector accounting standards require a "net debt" presentation for the statement of financial position in the summary financial statements of governments. Net debt presentation reports the difference between financial assets and liabilities as "net debt" or net financial assets" as an indicator of the future revenues required to pay for past transactions and events. The Office operates within the government reporting entity, and does not finance its expenditures by independently raising revenue. Accordingly, these financial statements do not report a net debt indicator.

#### 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, accounts receivable, 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

**2013**

	Cost	Accumulated Amortization	Net Book Value
Computer hardware and software Furniture and other office equipment	\$ 133,685 33,387	\$ 46,953 29,036	\$ 86,732 4,351
	\$ 167,072	\$ 75,989	\$ 91,083

**2012**

	Cost	Accumulated Amortization	Net Book Value
Computer hardware and software Furniture and other office equipment	\$ 41,945 33,387	\$ 41,945 25,697	\$ - 7,690
	\$ 75,322	\$ 67,642	\$ 7,690

The total cost of tangible capital asset additions for 2012-13 is \$91,740 (2011-12-\$0)

## **NOTE 4 CONTRACTUAL OBLIGATIONS**

Contractual obligations are obligations of the Office to others that will become liabilities in the future when the terms of those contracts or agreements are met.

Estimated payment requirements for the unexpired terms of these contractual obligations are as follows:

**2013-14—\$1,972**

## **NOTE 5 DEFINED BENEFIT PLANS (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 \$210 for the year ended March 31, 2013 (2012 – \$181).

At December 31, 2012, the Management Employees Pension Plan reported a deficiency of \$303,423 (2011 deficiency \$517,726) and the Public Service Pension Plan reported a deficiency of \$1,645,141 (2011 deficiency \$1,790,383). At December 31, 2012, the Supplementary Retirement Plan for Public Service Managers had a deficiency of \$51,870 (2011 deficiency \$53,489).

The Office also participates in the multi-employer Long Term Disability Income Continuance Plan. At March 31, 2013, the Management, Opted Out and Excluded Plan had an actuarial surplus of \$18,327 (2012 surplus \$10,454). The expense for this plan is limited to the employer's annual contributions for the year.

## **NOTE 6 APPROVAL OF FINANCIAL STATEMENTS**

These financial statements were approved by the Ombudsman.

**SCHEDULE 1****SCHEDULE TO FINANCIAL STATEMENTS****SALARY AND BENEFITS DISCLOSURE****Year Ended March 31, 2013**

	2013			2012
	Base Salary <sup>(1)</sup>	Other Cash Benefits <sup>(2)</sup>	Other Non-Cash Benefits <sup>(3)</sup>	Total
<b>SENIOR OFFICIALS</b>				
Ombudsman <sup>(4)(5)</sup>	\$ 230,246	\$ 30,162	\$ 7,913	\$ 268,321
Deputy Ombudsman <sup>(6)</sup>	\$ 135,524	\$ -	\$ 34,706	\$ 170,230
				\$ 33,956

(1) Base salary includes regular base pay.

(2) Other cash benefits include vacation payouts, vehicle allowances and lump sum payments.

(3) Other non-cash benefits include the employer'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 for Apr 1/12-Mar 31/13, no dollar amount included in other non-cash benefits.

(5) This reflects 2 incumbents for the fiscal year 2011-12.

(6) The previous Deputy Ombudsman retired on May 31, 2011 and the current Deputy Ombudsman commenced on May 22, 2012.

# SCHEDULE 2

## ALLOCATED COSTS

**Year Ended March 31, 2013**

Program	2013			2012	
	Expenses <sup>(1)</sup>	Accommodation Costs <sup>(2)</sup>	Telephone Costs <sup>(3)</sup>	Total Expenses	Total Expenses
Operations	\$ 2,871,614	\$ 288,863	\$ 13,016	\$ 3,173,493	\$ 2,578,267

**(1)** Expenses—Directly Incurred as per Statement of Operations.

**(2)** Costs shown for accommodation are allocated by square footage.

**(3)** Telephone Costs is the line charge for all phone numbers.