



**Office of the  
Citizens' Representative**

***2014-15  
ANNUAL PERFORMANCE  
REPORT***

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25 September, 2015

## **Message from the Citizens' Representative**

I am pleased to present the 2014-15 Annual Performance Report of the Office of the Citizens' Representative (the "OCR"). This Report outlines the actual results achieved in pursuit of our objectives for the 2014-15 fiscal year, as identified in our 2014-17 Activity Plan.

The OCR is a statutory office of the House or Assembly. It provides a parliamentary Ombudsman service for Newfoundland and Labrador, and is the investigator of public interest disclosures under Part VI of the *House of Assembly Accountability, Integrity and Administration Act*. On July 1, 2014 the office expanded its mandate to include the investigation of public interest disclosures under the government-wide *Public Interest Disclosure and Whistleblower Protection Act*.

This Report was prepared under my direction in accordance with the *Transparency and Accountability Act* for a Category 3 entity. As Citizens' Representative, I am accountable for the actual results reported in this document.

A handwritten signature in cursive script that reads "Barry Fleming".

**Barry Fleming, Q.C.**  
Citizens' Representative

## OVERVIEW

Since 2002 the OCR has provided parliamentary Ombudsman services for the province of Newfoundland and Labrador pursuant to the *Citizens' Representative Act*. The office endeavours to mediate and investigate issues of concern to citizens of Newfoundland and Labrador with respect to the effect of decisions, acts, errors and omissions of the provincial public service.

It also investigates public interest disclosures as mandated in 2007 by Part VI of the *House of Assembly Accountability Integrity and Administration Act* and as mandated in 2014 in the *Public Interest Disclosure and Whistleblower Protection Act*.

Barry Fleming, Q.C., is the Citizens' Representative. OCR has a permanent staff of six including:

- an Assistant Citizens' Representative (male)
- one Senior Investigator (female)
- three Investigators (2 female, 1 male)
- one Office Manager (female), and
- one Executive Secretary (female)

In 2014-15, the OCR received 798 complaints/inquiries. It closed 827 complaint/inquiry files (taking into account complaints/inquiries from the previous year). Contained in these files were 19 formal recommendations to Government, all connected with formal and extended complaint investigations taken pursuant to Section 15 of the *Citizens' Representative Act*.

No recommendations were made under Part VI of the *House of Assembly Accountability, Integrity and Administration Act* or the *Public Interest Disclosure and Whistleblower Protection Act*.

OCR can be contacted by:

Telephone: (709) 729-7647  
(800) 559-0079

Address: 4<sup>th</sup> Floor, Beothuck Building  
20 Crosbie Place  
P.O. Box 8400  
St. John's, NL A1B 3N7

Email: [citrep@gov.nl.ca](mailto:citrep@gov.nl.ca) Website: [www.citizensrep.nl.ca](http://www.citizensrep.nl.ca)

Total operational expenditures of the OCR for 2014-15 were \$ (*TO BE ANNOUNCED in the 2014-15 report on the program expenditures by AG*). Further information on budgeting and expenditures can be found on page 13.

## VISION

A citizenry confident in a public service that is fair and grounded in integrity and good governance.

## MANDATE

The OCR derives its mandate and primary business lines from three legislative enactments.

1. Pursuant to the *Citizens' Representative Act*:

### ***Investigation and Mediation of Complaints***

The Office of the Citizens' Representative ensures that citizens' complaints and matters referred to it by the Lieutenant Governor in Council, the House of Assembly, or on its own motion are:

- a. investigated and mediated in a timely, thorough, and objective manner;
- b. mediated to the satisfaction of all stakeholders if possible;
- c. reported upon in a concise and easily understood format;
- d. when appropriate, are subject to recommendations which would ameliorate the cause of the complaint and/or improve the overall provision of public service by departments and agencies.

2. Pursuant to the House of Assembly Accountability, Integrity and Administration Act:

### ***Investigation of Whistleblower Complaints***

OCR accepts complaints of gross mismanagement from designated individuals against members and employees of the House of Assembly, its Statutory Officers, Speaker and Clerk, and ensures that:

- a. subsequent investigations are carried out as expediently, confidentially and informally as possible;
  - b. all parties are treated with procedural fairness;
  - c. investigations and subsequent reports are thorough, unbiased and fair.
3. Pursuant to the Public Interest Disclosure and Whistleblower Protection Act:

### ***Investigation of Whistleblower Complaints***

OCR accepts complaints of wrongdoing from government employees against their employer in relation to:

- a. acts or omissions constituting offences under an Act of the Legislature or the Parliament of Canada, or a regulation made under an Act;
- b. acts or omissions that create a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of the duties or functions of an employee;
- c. gross mismanagement, including of public funds or a public asset; and,
- d. knowingly directing or counseling a person to commit the wrongdoings outlined in a, b, and c above.

## MISSION STATEMENT

By March 31 2017 the Office of the Citizens' Representative will have independently and impartially striven to achieve high standards of administrative fairness in an effort to ensure trust in, and accountability by, the public service of Newfoundland and Labrador.

## HIGHLIGHTS AND ACCOMPLISHMENTS

The Citizens' Representative will release his 2014-15 Annual Digest in the fall of 2015. The Digest will outline in greater detail the ongoing work of the Office in relation to case studies, complaint statistics, community intake and outreach, educational initiatives and other topics of interest.

In addition to its regular investigation and mediation work, the key highlights and accomplishments of the OCR during 2014-15 include:

- Ready OCR for the enactment of the *Public Interest Disclosure and Whistleblower Protection Act* through reviewing the draft bill, conducting internal procedural consultations, developing an internal numbering system, performing human resource and legal research, best practices research, and producing brochures, a fact sheet, and associated website content.
- Sponsoring our sixth annual Good Governance Week during October 2014 to celebrate the Ombudsman institution. Good Governance Week activities included our annual Grade 6 student essay contest and hosting a small networking event for department and agency designates and OCR staff.
- Continuing our dedicated outreach program to seniors, and continuing to partner with seniors advocacy groups through involvement and attendance at regular meetings with representatives of the Seniors Resource Centre. We distributed posters and OCR promotional items relevant to seniors at community events and during travel throughout the province.
- Hosting a 4<sup>th</sup> year Bachelor of Social Work student for a field placement.

- Observing meetings of the Mayor's Rental Housing Action Committee (St. John's) and providing ad hoc feedback based on the Office's past experience with rental housing difficulties including complex needs tenants, eviction issues and the factors relevant to rental housing complaints.
- Attending meetings with Caregivers Out of Isolation to provide ad hoc feedback and referral information for members.
- Continuing to produce our Office newsletter - "OCR Insights" - a quarterly update on the OCR's activities.

## **PERFORMANCE COMPONENT**

Fiscal year 2014-15 was the first year of OCR's requirement to table a Category 3 Activity Plan. Outlined in the Activity Plan was:

### Strategic Issue and Goal

A strategic issue of striving to achieve high standards of administrative fairness through increased use and promotion of collaboration and mediation, and a goal to create an outreach mechanism as a vehicle to facilitate the promotion of these ideals.

### Issue 1: Increased Use of Collaboration and Mediation

OCR's Activity Plan identified an opportunity to improve on our use of collaboration and mediation to create conditions amenable to the early resolution of complaints between citizens and the public service, and to identify sectoral complaint trends in consultation with designates appointed by Deputy Ministers and CEOs. Designates are generally information managers, ATIPP professionals, ADMs, legal counsel or other managers/directors, who not only act as liaison in investigations, but are often the first point of contact for inquiries by OCR. Where clarification on policy is required, or early resolution of a complaint is identified as a possible outcome by an OCR investigator, the designate is called.



To advance OCR in relation to this issue, the Citizens' Representative set the following Goal:

Goal: By March 31, 2017, the Office of the Citizens' Representative will have developed an outreach mechanism to promote collaboration and mediation for designates who handle complaints from the Office of the Citizens' Representative.

Measure: Developed an outreach mechanism for designates.

Indicators: Designed, implemented and analyzed outreach.

One objective relevant to the issue was set for completion by March 31, 2015:

By March 31, 2015, the Office of the Citizens' Representative will have designed an outreach mechanism on the use and promotion of collaboration and mediation for designates who handle complaints from the Office of the Citizens' Representative.

Measure: Designed outreach mechanism.

Indicator: Assessed scope, method of notification, method of compilation of complaint information specific to departments, and identification of target public bodies

Our activities to meet this objective are as follows:

Planned:

Assessed scope

Actual:

Staff feedback on relations with designates, periodic designate turnover in departments led OCR to the conclusion that face to face meetings via recurring outreach may assist the overall complaint investigation/mediation process. The outreach would increase familiarity with the OCR, analyze

complaint trends, gain feedback from designates, and would generally promote the idea of collaboratively resolving citizen complaints. Assistant Citizens' Representative assigned to conduct outreach to new and perennial designates in higher volume departments and agencies. (December 2014)

#### Assessed method of notification

*Citizens' Representative Act* establishes reporting relationship between Citizens' Representative and Deputy Minister or administrative head.

Citizens' Representative opted to correspond with Deputy Minister or administrative head to introduce and explain OCR's exploratory work on an outreach mechanism.

Assistant Citizens' Representative, as senior permanent head, appointed to correspond and meet with designates. (December 2014)

#### Assessed method of compilation of complaint information specific to departments

Considered review of investigator's monthly inventory lists, monthly investigator's closed file reports and TRIM database printing options.

"Records detailed" option on OCR TRIM database can run annual complaint statistics and case details per select public body in a

complete, efficient and timely fashion. (January 2015)

Identification of target public bodies

9 higher volume target public bodies identified based on historical review of complaint levels. (January 2015)

### **Discussion of Results: Issue 1**

The planned and actual results above form the basis of the outreach mechanism to higher volume public bodies to promote collaboration and mediation.

A “higher volume” designation should not be construed as an indication of mismanagement, program shortfall or personnel issues. Rather, it is most often a reflection of the public body’s location in the social, health and services sectors. These departments, agencies, boards and commissions have a higher volume of direct contact with citizens. They offer services that directly impact the health, well-being or financial status of citizens. Historically, they form the basis for most calls to OCR.

Implementation will begin in the fall of 2015, starting with notification to Deputies, CEOs and designates of (in alphabetical order):

- Department of Advanced Education and Skills;
- Department of Child Youth and Family Services;
- Department of Health and Community Services;
- Department of Transportation and Works;
- Eastern Regional Integrated Health Authority;
- Newfoundland and Labrador Housing Corporation;
- Service NL;
- Workplace Health Safety and Compensation Commission; and,
- Western Regional Integrated Health Authority.

Notably exempted is the Department of Justice and Public Safety (Adult Corrections Division). Historically, Adult Corrections is the highest volume division due to the high number of contacts with inmates of provincial correctional facilities. As a result of ongoing collaboration between OCR and the Department of Justice and Public Safety, OCR is in daily or weekly contact with the division and designates from the Department and therefore, no outreach is required.

### **Outlook: Objective 2 (2016)**

By March 31, 2016, the Office of the Citizens' Representative will have implemented the outreach to targeted public bodies.

Measure: Will have implemented outreach.

Indicator: Outreach completed to 9 higher volume target public bodies.

## **OPPORTUNITIES AND CHALLENGES AHEAD**

The opportunities available to, and the challenges confronting OCR for fiscal year 2015-16 are:

- Being able to meet face to face with designates for purposes of refining processes, building trust with higher volume public bodies, and discussing complaint trends, while receiving feedback on how we can do better as an oversight office.
- Continuing in our traditional Ombudsman role of investigating public complaints under the *Citizens' Representative Act* while promoting, monitoring and investigating public interest disclosures by government employees under the *House of Assembly Accountability, Integrity and Administration Act* and the new *Public Interest Disclosure and Whistleblower Protection Act*.

# FINANCIAL STATEMENTS

*Expenditure and revenue figures included in this document are based on public information provided in the Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund for Fiscal Year Ended 31 March 2015 (unaudited).*

## OFFICE OF THE CITIZENS' REPRESENTATIVE

	<u>Estimates</u>		
	Actual	Amended	Original
01. Salaries	646,500	655,600	640,600
Operating Accounts			
Employee Benefits	7,141	8,000	8,000
Transportation / Communications	26,515	46,600	46,600
Supplies	3,180	10,000	10,000
Professional Services	4,860	7,600	22,600
Purchased Services	64,030	94,400	94,400
Property, Furnishings & Equipment	2,925	5,000	5,000
02. <u>Operating Accounts</u>	<u>108,651</u>	<u>171,600</u>	<u>186,600</u>
<b>TOTAL: Office of the Citizens' Representative</b>	<b>755,151</b>	<b>827,200</b>	<b>827,200</b>

Audited financial information will be included in the Annual Report of the House of Assembly Management Commission to be tabled by the Speaker during a future sitting of the House of Assembly. The Office of the Citizens' Representative does not currently have a requirement for a separate, individual audited financial statement.