



**Office of the
Citizens' Representative**

***2015-16
ANNUAL PERFORMANCE
REPORT***

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14 September, 2016

Message from the Citizens' Representative

I am pleased to present the 2015-16 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 2015-16 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* and 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*. OCR endeavours to mediate and investigate public complaints precipitated by decisions, acts, errors and omissions of the public service.

OCR's mandate was augmented in 2007 by Part VI of the *House of Assembly Accountability Integrity and Administration Act* and in 2014 under the *Public Interest Disclosure and Whistleblower Protection Act*, to provide investigative services in relation to disclosures made by employees who come forward to report wrongdoing in the workplace.

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

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

In 2015-16, the OCR received:

- 740 complaints/inquiries under the *Citizens' Representative Act*,
- 16 complaints/inquiries under the *Public Interest Disclosure and Whistleblower Protection Act*, and,
- 2 complaints/inquiries under the *House of Assembly Accountability, Integrity and Administration Act*.

OCR closed 721 complaint/inquiry files (taking into account complaints/inquiries from the previous year). Contained in these files were 21 formal recommendations to Government, all connected with formal and extended complaint investigations taken pursuant to Section 15 of the *Citizens' Representative Act*.

No formal 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:

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Total operational expenditures of the OCR for 2015-16 were \$744,146. Further information on budgeting and expenditures can be found on page 14.

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 expeditiously, 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 2015-16 Annual Digest later in this fiscal year. 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 2015-16 include:

- Sponsoring our seventh annual Good Governance Week during October 2015 to celebrate the Ombudsman institution. Activities included our annual Grade 6 student essay contest where we asked the students what good governance means to them. This year's contest was won by Isaac Buckingham from Immaculate Heart of Mary School in Corner Brook.
- 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.
- Publicizing our services to seniors by attending the Seniors Fair at the Froude Avenue Community Centre in February 2016.
- In-house learning sessions for OCR staff by Eastern Health's Community Support Program and the Newfoundland and Labrador Housing Corporation, covering aspects of home support, special assistance programs, financial services, disabilities programs and social housing initiatives.
- Annual staff contributions to purchase food hampers over the holiday season, and staff support for the Alzheimer's Coffee Break.
- 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.
- Continuing to produce our Office newsletter - "OCR Insights" - a quarterly update on the OCR's activities.
- A continuing education session for investigators through Memorial University which included lectures on interviewing, rapport, information extraction, note taking and strategies of questioning.

- Assisting in training for managers at Her Majesty's Penitentiary on privacy issues in partnership with the Office of the Information and Privacy Commissioner, the Office of Public Engagement and the Department of Justice and Public Safety.

PERFORMANCE COMPONENT

Fiscal year 2015-16 was the second of OCR's three year Category 3 Activity Plan. Outlined in the Activity Plan was:

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 also to identify sectoral complaint trends in consultation with departmental and agency designates appointed by Deputy Ministers and CEOs. Designates are generally information managers, ATIPP professionals, ADMs, legal counsel or other managers/directors. They act as liaison in investigations, but are often the first point of contact for inquiries by OCR. Where clarification on policy is required, jurisdiction to investigate is being established, or early resolution of a complaint is identified as a possible outcome by an OCR investigator, the designate is contacted.

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 in the time period covered by this report:

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.

Our activities to meet this objective are as follows:

Planned:

Implement outreach mechanism

Actual:

Written notification of Deputy Ministers/CEOs by the Citizens' Representative (outlining parameters of outreach) **23 November 2015.**

Written notification of participating designates by the Assistant Citizens' Representative ("ACR") **24, 30 November and 3 December 2015.**

ACR review of 2014-15 and active Child, Youth and Family Services (CYFS) complaints **27 November, 11 December 2015** and CYFS designate meeting **14 December 2015**

ACR review of 2014-15 and active Newfoundland and Labrador Housing Corporation (NLHC) complaints **1, 14 December 2015** and NLHC designate meeting **14 December 2015.**

ACR review of 2014-15 and active Health and Community Services complaints (H&CS) **15 December 2015** and H&CS designate meeting **15 December 2015.**

Planned:

Actual:

Implement outreach mechanism (cont'd)

ACR review of 2014-15 and active Eastern Health (EH) complaints **1, 16 December 2015** and EH designate meeting **16 December 2015.**

ACR review of 2014-15 and active Transportation and Works (TW) complaints **17 December 2015** and TW designate meeting **17 December 2015.**

ACR review of 2014-15 and active Service NL (SNL) complaints **18 December** and SNL designate meeting **21 December.**

ACR review of 2014-15 and active Advanced Education and Skills (AES) complaints **21, 29 December 2015** and designate meeting with AES **29 December 2015.**

ACR review of 2014-15 and active Workplace Health Safety and Compensation Commission (WHSCC) complaints and designate meeting with WHSCC **12 February 2015.**

ACR review of 2014-15 and active Western Health (WH) complaints **12 February 2015** and WH designate teleconference **23 February 2015.**

Discussion of Results: Issue 1

The planned and actual results above reflect the completion of stated undertakings for the fiscal year. Each of the departments/agencies listed consulted with OCR on the specific allegations received by OCR from files closed in 2014-15, and current year (2015-16). New designates were appraised of the role and mandate of OCR. Outcomes of each completed complaint or inquiry file were followed by a trend analysis where warranted. The trend analysis would focus on awareness of the problem area, and the steps government is taking to ameliorate or eliminate it. In addition, departments and agencies were given an opportunity to discuss current fiscal year files, with some specific inquiries by departments and agencies forwarded to the responsible OCR investigator for follow up. Each department/agency was provided with an opportunity to provide feedback on any existing procedural concerns with OCR, streamlining opportunities, or other matters of mutual interest.

Outlook: Objective 3 (2017)

By March 31, 2017, the Office of the Citizens' Representative will have analyzed the results of the outreach and assessed its viability as an annual exercise.

Measure: Analyzed outreach and assessed viability

Indicator: Analysis of time investment versus improvement in corporate relations, education of new designates and designate feedback on the outreach.

Indicator: Assessment of viability as an annual exercise via staff/management input.

OPPORTUNITIES AND CHALLENGES AHEAD

The opportunities available to, and the challenges confronting OCR for fiscal year 2016-17 are:

- Distilling and sharing the results of the outreach with OCR staff and relaying designate feedback in the interest of promoting the collaborative and mediative approach to resolving complaints.
- Assessing the resources required to perform an annual designate outreach to promote the use of collaboration and mediation, while safekeeping our ability to uphold core mandate and associated reporting obligations under three business lines.

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 2016 (unaudited).

OFFICE OF THE CITIZENS' REPRESENTATIVE

	<u>Estimates</u>		
	Actual	Amended	Original
01. Salaries	649,276	672,200	672,200
Operating Accounts:			
Employee Benefits	2,932	8,000	8,000
Transportation and Communications	18,976	39,800	39,800
Supplies	2,935	10,000	10,000
Professional Services -	-	15,000	15,000
Purchased Services	65,901	82,400	82,400
Property, Furnishings and Equipment	4,126	5,000	5,000
02. Operating Accounts	94,870	160,200	160,200
Total: Office of the Citizens' Representative	744,146	832,400	832,400

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.