



**Office of the
Citizens' Representative**

***2016-17
ANNUAL PERFORMANCE
REPORT***

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1 September, 2017

Message from the Citizens' Representative

I am pleased to present the 2016-17 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 2016-17 fiscal year, and the outcomes of the 2014-17 Activity Plan.

The OCR is a statutory office of the House or Assembly operating pursuant to the *Citizens' Representative Act*. It provides a legislative Ombudsman service for the province, and investigates public interest disclosures under Part VI of the *House of Assembly Accountability, Integrity and Administration Act* and the *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

Created in 2002 after the passage of the *Citizens' Representative Act*, OCR endeavours to mediate and investigate public complaints and referrals from MHAs and the Lieutenant Governor in Council about matters of administration in the public service.

OCR's mandate has expanded twice since 2002; first in 2007 under Part VI of the *House of Assembly Accountability Integrity and Administration Act*, and again in 2014 under the *Public Interest Disclosure and Whistleblower Protection Act*. These powers were granted by the House of Assembly to provide investigative services in relation to disclosures made by employees who report wrongdoing in the public service.

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 2016-17, the OCR received:

- 648 complaints/inquiries under the *Citizens' Representative Act*,
- 6 complaints/inquiries under the *Public Interest Disclosure and Whistleblower Protection Act*, and,
- 1 complaint/inquiry under the *House of Assembly Accountability, Integrity and Administration Act*.

OCR closed 652 complaint/inquiry files (taking into account complaints/inquiries from the previous year). Contained in these files were 15 recommendations to government, all connected with formal and extended complaint investigations taken pursuant to Section 15 of the *Citizens' Representative Act*.

There were 3 recommendations made to government following an investigation under the *Public Interest Disclosure and Whistleblower Protection Act*. No formal recommendations were made under Part VI of the *House of Assembly Accountability, Integrity and Administration Act*.

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Total operational expenditures of the OCR for 2016-17 were \$745,803. Further information on budgeting and expenditures can be found on page 10.

HIGHLIGHTS AND ACCOMPLISHMENTS

The Citizens' Representative will release his 2016-17 Annual Digest later in this fiscal year. The Digest is the main document of record for OCR and outlines in detail the ongoing work of the Office in relation to the nature of cases considered, complaint statistics, 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 2016-17 include:

- Continued participation in the Ombudsman Health Network, an ad hoc group of 10 provincial/territorial Ombudsman offices that teleconference on issues of mutual interest in health care complaints management.
- Continuing to monitor issues close to seniors via meetings with representatives of the Seniors Resource Centre.
- Publicizing our services by attending the World Elder Abuse Awareness Day.
- Hosting an information session for staff by representatives of the Eastern Health Community Supports Program.
- Managerial attendance at a conflict resolution offering by the Public Service Commission.

- Holding a seat on the Board of Directors and participating in planning for Forum of Canadian Ombudsman offerings on the subjects of correctional investigations, essentials for new Ombudsman and the Forum of Canadian Ombudsman 2017 bi-annual convention.
- Addressing new recruits in the correctional officer training program.
- Hosting an information session for staff by the Newfoundland and Labrador Association of Social Workers.
- Addressing the management board of Stella's Circle.
- Working with OCIO and Information Management at the House of Assembly on the OCR Information Management Capacity Assessment Tool.
- In-house learning session for OCR staff by Eastern Health's Mental Health and Addictions Patient Systems Navigator
- Continuing to produce our Office newsletter - "OCR Insights" - a quarterly update on the OCR's activities.

PERFORMANCE COMPONENT

Fiscal year 2016-17 was the last of OCR's three year Category 3 Activity Plan. Highlighted in the Activity Plan were:

Strategic Issue and Goal

The Activity Plan identified OCR's commitment to increased use of collaboration and mediation in its complaints management process as a strategic issue.

A total of three objectives were identified in relation to this issue. A full discussion of results follows the report on the annual objective

Issue: Increased Use of Collaboration and Mediation

The 2014-17 Activity Plan identified OCR's intent to improve on our use of collaboration and mediation to facilitate early resolution of complaints registered against the public service; and take the opportunity to identify and discuss any

sectoral complaint trends in meetings with departmental and agency designates. Designates are generally information managers, ATIPP professionals, ADMs, legal counsel or other managers/directors. They typically serve as departmental liaisons in investigations, but are often the first point of contact for lower level inquiries or policy questions by OCR.

To propel OCR on the 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.

Indicators: Designed, implemented and analyzed outreach.

As indicated in OCR's 2014-15 and 2015-16 Annual Performance Reports, we designed and implemented an outreach mechanism for designates by assessing scope, method of notification, method of compilation of complaint information specific to departments and agencies, and then conducted the outreach over nine public bodies:

- The Department of Child Youth and Family Services
- Newfoundland and Labrador Housing Corporation
- The Department of Health and Community Services
- Eastern Health
- The Department of Transportation and Works
- Service NL
- The Department of Advanced Education and Skills
- Workplace Health Safety and Compensation Commission
- Western Health

One objective relevant to the issue was set for completion in the time period covered by this report:

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.

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.

Our activities to meet this objective are as follows:

Planned	Actual
Analysis of time investment versus improvement in corporate relations, education of new designates and designate feedback on the outreach.	Time investment analysis conducted March 1, 2017 via review of daily activity log of the Assistant Citizens' Representative relating to work on objective. Analysis of improvement in corporate relations, education of new designates and designate feedback performed via discussion of results with Citizens' Representative March 2, 2017.
Assessment of viability as an annual exercise via staff/management input.	Analysis conducted March 3 2017 via consultation between Citizens' Representative and Assistant Citizens' Representative.

Discussion of Results re: Goal

From 2014 forward OCR worked to promote the increased use of collaboration and mediation. The planned and actual results above reflect the completion of the stated undertaking for the 2016-17 fiscal year (and final objective set out in pursuit of the goal). The Assistant Citizens' Representative was assigned to design, complete and analyze the outreach. The scope was set at 9 public bodies who have higher complaint levels. Deputies/CEOs were notified of the outreach by the Citizens' Representative and designates were engaged by the Assistant Citizens' Representative, who compiled complaint information specific to the public bodies. Each of the public bodies consulted with OCR on the specific complaint allegations received by OCR from files closed in 2014-15 and ones that were active in 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 the public body is taking to ameliorate or eliminate it. Each public body was provided with an opportunity to provide feedback on any existing procedural concerns with OCR, streamlining opportunities, or other matters of mutual interest.

Staff were notified of outcomes immediately following the outreach and were provided with relevant commentary from the public bodies.

Each of the public bodies made a point of underscoring its respect for the OCR and its processes and cited the level of professionalism, approachability, politeness and skill level they experience in their daily interactions with staff. Two public bodies in particular noted they are satisfied to step back and allow the OCR process to unfold because they know it is timely, fair and non-biased. All public bodies were satisfied that the collaborative design of the designate system is the best vehicle to handle inquiries and investigations, and suggested no procedural improvements when prompted.

Our analysis showed a time investment of 41 hours for one FTE to implement the outreach as set out in the 2014-17 Activity Plan. Our analysis also concludes there is inherent value in continuing a designate outreach on an annual basis: public bodies are accepting of it, the outreach is a good vehicle for trend analysis, for education of new designates, feedback on OCR processes, and bolstering corporate relationships in the interest of open communication and early complaint resolution / streamlining complaint investigations. With a template now in place the time investment is expected to fall below 30 hours. It is therefore viable as an annual exercise.

OPPORTUNITIES AND CHALLENGES AHEAD

The opportunities available to, and the challenges confronting OCR for fiscal year 2017-18 are:

- Availing of the opportunity to promote our programs and services, especially whistleblower programs, in line with our 2017-20 Activity Plan.
- Conducting the designate outreach on an annual basis without impinging on work toward our 2017-20 objectives and OCR's core mandate investigative functions.

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 2017 (unaudited).

OFFICE OF THE CITIZENS' REPRESENTATIVE

	<u>Estimates</u>		
	Actual	Amended	Original
01. Salaries	664,593	677,000	677,000
Operating Accounts:			
Employee Benefits	4,477	8,000	8,000
Transportation and Communications	11,682	34,800	34,800
Supplies	1,948	9,000	9,000
Professional Services -	-	12,000	12,000
Purchased Services	60,679	81,400	81,400
Property, Furnishings and Equipment	2,424	4,000	4,000
<u>02. Operating Accounts</u>	<u>81,210</u>	<u>149,200</u>	<u>149,200</u>
Total: Office of the Citizens' Representative	745,803	826,200	826,200

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.