



REVIEW OF THE GOVERNING LEGISLATION
OF THE
OFFICE OF THE CITIZENS' REPRESENTATIVE

MARCH 31, 2010

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INTRODUCTION

The Office of the Citizens' Representative ("this Office") set out its strategic goals for a three-year period in its 2008-2011 Business Plan. In 2008-2009, this Office enhanced its communication efforts to better inform citizens of its role and mandate. Now, during 2009-2010, we have undertaken a review of our governing legislation to determine whether changes are required to better facilitate our work. During the process, we have prepared and circulated a consultation paper and discussed the review with citizens, public officials and our staff.

This Office is governed by two pieces of legislation. The first, the *Citizens' Representative Act* ("the Act"), appoints the Citizens' Representative and confers powers to the Office to investigate and mediate complaints from citizens against provincial government departments, agencies, boards and commissions. The *Act* bestows broad investigatory powers on the Citizens' Representative and dictates how he or she reports upon the work conducted. It prohibits the Citizens' Representative from investigating decisions of the House of Assembly, Cabinet, the Courts and arbitrators. The Citizens' Representative is also prohibited from investigating matters in which a citizen has a right of appeal until that appeal has been determined or the time limit for appealing has expired. The *Act* prescribes that the Citizens Representative's work be undertaken in private and all information forwarded to the Office be kept confidential. The schedule to the *Act* lists the agencies, boards and commissions which are subject to the jurisdiction of the Citizens' Representative. The *Act* is substantially similar to ombudsman legislation in other Canadian jurisdictions.

The second piece of legislation which governs the work of our Office is Part VI of the *House of Assembly Accountability, Integrity and Administration Act* (the HAAIA Act). This legislation appoints the Citizens' Representative as the investigator for complaints of, inter alia, gross mismanagement within the House of Assembly. The HAAIA Act prescribes that investigations be undertaken as expeditiously and as informally as possible and with procedural fairness. A mechanism to deal with complaints of reprisals against those who have filed complaints is provided.

Our consultation and review revolved around the following nine questions:

1. Does the title "Citizens' Representative" properly reflect the work of this Office or should the more traditional title of "Ombudsman" be adopted?
2. Should a two-thirds majority of Members of the House of Assembly be required for the appointment of the Citizens' Representative?
3. Should the *Act* be amended to facilitate the expeditious processing of inquiries without invoking the procedural requirements for investigating complaints?

4. Should this Office retain its jurisdiction under the Act to investigate human resource and employment complaints and should that jurisdiction extend to the Public Service Secretariat?
5. Should all complaints to this Office be in writing?
6. Should the penalties under the Act be increased?
7. Should other public bodies or agencies be added to the Schedule to the Act?
8. When circumstances warrant, should the Citizens' Representative be able to delegate his authority under Part VI of the HAAIA Act?
9. Should Part VI of the HAAIA Act be amended to delineate the power of the Labour Relations Board when adjudicating a reprisal complaint under that Act?

After reviewing the submissions and comments received and reviewing the Ombudsman legislation in other provinces, this Office recommends that its legislation be amended to provide that:

- a) **The name of the Office of the Citizens' Representative be changed to the "Office of the Ombudsman" to more precisely reflect the work undertaken by it.**
- b) **When necessary, citizens can make an oral complaint to this Office.**
- c) **The Citizens' Representative shall have the ability to delegate its work under Part VI of the HAAIA Act; and**
- d) **Part VI of the HAAIA Act should be amended to delineate the power of the Labour Relations Board when adjudicating a reprisal complaint under that Part.**

These recommended changes to the Act and the HAAIA Act are modest. This is so primarily because the Act is a full legislative embodiment of a traditional Ombudsman service and the HAAIA Act is relatively new. This Office wishes to thank the many citizens and executive members of government for their constructive and thorough commentary about this issue.

THE HISTORY AND ROLE OF THE OMBUDSMAN FUNCTION

The first Ombudsman office was established in Sweden in 1809 with the legal authority to investigate and report on allegations of bureaucratic neglect, abuse or ineffectiveness. Similar offices were established in Finland (1919), Denmark (1954), Norway (1961), and New Zealand (1962). While the Canadian Government has not established a general public service ombudsman, various provinces have seen the benefit of the institution and, subsequently, opened Ombudsman offices. In 1967, Alberta and New Brunswick opened the first Canadian Ombudsman offices. Since that year, all provinces, (except Prince Edward Island) and the Yukon Territory have followed suit.

The prospect of an Ombudsman office in this Province started with the 1996 Speech from the Throne which stated that government was “concerned that the ever-increasing size of the Civil Service may lead to a feeling on the part of individual citizens that they are not invariably treated with the utmost impartiality”. A Select Committee of the House of Assembly, chaired by John Nolan, delivered a report on the appointment of Ombudsman in April, 1969. The report recommended the establishment of an Ombudsman office. It states in part:

In Newfoundland, for example, there are now some 8,000 persons working for the Government, taking all classifications into account. Human nature being what it is, there are bound to be cases where the cause of justice may get lost in a web of complicated regulations interpreted too literally by officials who either lack good judgement and common sense or who lack the necessary discretionary powers to exercise their own judgement. An independent review by an Ombudsman, would certainly serve a needed function in such cases.

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However, while acknowledging this need, it must be remembered that an Ombudsman is by no means a cure-all for society's ills, nor merely a repository for crank letters or imaginary grievances. He should not be feared, and neither should he be abused. He cannot ensure us democratic perfection, but he can provide a new avenue of justice for the people, especially those with no knowledge of judicial procedures who through their lack of understanding have no recourse to justice at the present time.

The *Parliamentary Commissioner (Ombudsman) Act* was passed on May 19, 1970. The first Ombudsman did not commence work until 1975. The Ombudsman office provided a traditional Ombudsman service from 1975 to December 1990, when it was closed.

The current Ombudsman legislation in the Province, the *Citizens' Representative Act*, was passed in December 2001. The legislation is essentially similar to that

which has created Ombudsman offices in other provinces. The legislation has not been systematically reviewed or amended since its passage.

The role of an Ombudsman office is to undertake two interrelated tasks; the first is to provide an avenue for citizens to seek fairness when dealing with the public service. An Ombudsman office provides an independent investigatory and evidence-based analysis of citizens' complaints. The office does not "represent" citizens, but rather, where the evidence supports a claim of unfairness, attempts to mediate a resolution with the government department or agency under review. If an Ombudsman office determines that a citizen has been treated fairly, it will explain why this is so in a detailed and informative manner. Collateral to this function, an Ombudsman office also acts as a referral agency, assisting citizens in obtaining the best governmental and private assistance available to address their various problems.

The second task of a traditional Ombudsman office is to act as an oversight body of the public service for the legislature. There are approximately 40,000 employees in the greater public service who administer thousands of regulations, programs and policies that effect citizens in countless ways. In its work assisting citizens seeking fairness from the public service, an Ombudsman office often acquires information that can give parliamentarians a perspective on the overall effectiveness of the public service. This is achieved through the annual reporting process. It is important to note that an Ombudsman office does not usurp the function of parliamentarians in representing citizens, but rather is an aid in achieving this goal. Further, an Ombudsman office does not take on the role of "opposing" government policies and decisions about how to allocate scarce public funds. Once government has implemented a policy, a properly functioning Ombudsman office should be able to determine if that policy is being implemented fairly by the public service for the benefit of all.

1. Does the title "Citizens' Representative" properly reflect the work of this Office or should the more traditional title of "Ombudsman" be adopted?

Governmental agencies must ascertain and meet the reasonable expectations of the citizens they serve. Those expectations are often formed given the promises and representations made by the governmental agencies. The title of "Citizens' Representative" misrepresents the work of this Office.

The Act contemplates that the Citizens' Representative would undertake a traditional Ombudsman role. That role requires an unbiased, thorough and completely neutral assessment of citizens' complaints. Only after a determination has been made that a citizen's complaint has merit and mediation has failed does the Citizens' Representative make recommendations that may ameliorate the citizen's problem. Those recommendations are designed as much to improve the functioning of the department or public agency as they are to assist the citizen. Thus, it is incorrect to view the work of the Office as primarily representing citizens.

Concerns about the name of this Office are not academic or trite. Despite the best efforts of the staff of the Office to inform citizens of the Office's role and to manage expectations, the impression that the Office "represents" citizens in their dealings with public agencies persists. Citizens consistently display disappointment when we explain that we cannot advocate for their cause because they are being treated fairly. Similarly, we are often perceived to be akin to a legal aid office.

The title "Citizens' Representative" has two features which are beneficial. It is, undoubtedly, gender neutral and the term Ombudsman roughly translates from Swedish to English as "representative of the people".

All other Canadian common law jurisdictions which provide an Ombudsman service use the term of "Ombudsman's Office" or "Office of the Ombudsman". The Ombudsman service in this Province which existed from 1975 to 1990 was called the Parliamentary Commissioner (Ombudsman's Office). The term "Ombudsman" is generally considered to be gender neutral. The syllable "man" refers to the recipient of the service and not the holder of the Office.

This Office recommends that its name be changed to the "Office of the Ombudsman".

2. Should a two-thirds majority of Members of the House of Assembly be required for the appointment of the Citizens' Representative?

Section 3 (1) of the *Citizens' Representative Act* states:

s3.(1) There is established the office of the Citizens' Representative to be filled by the Lieutenant-Governor in Council on a resolution of the House of Assembly.

During our consultations, some citizens suggested that a two-thirds majority of the House of Assembly should be required for the appointment of the Citizens' Representative. The rationale was that given the importance of the role, a greater consensus among parliamentarians should be required for the appointment to the position.

Our review of the legislation revealed that only in the Yukon was a two-thirds majority of the legislature required for the appointment of the Ombudsman. In this Province, all Statutory Officers of the House of Assembly are appointed or confirmed by a simple majority of members. There does not appear to be strong precedent or policy consideration to change the current requirement of a simple majority for a House resolution to appoint the Citizens' Representative.

3. Should the Act be amended to facilitate the expeditious processing of inquiries without invoking the procedural requirements for investigating complaints?

The work of an Ombudsman office entails responding to two different types of citizens' complaints. The first is a formal investigation. Written notice is given to the deputy minister or agency head that a complaint has been received and a request for file information is made. An investigation may entail the gathering of witness statements and site visits. If a settlement of a citizen's grievance is not reached, a report is generated which can, where circumstances warrant, make recommendations to address the citizens' concerns.

A second, and equally important response to a citizen's concern, is an inquiry. The nature of the request is such that a report following a formal investigation would provide a historical commentary on how a citizen was treated, but would be moot given the passage of time. Inquiries often involve approval for various forms of government assistance through front line departments and agencies like the Department of Human Resources, Labour and Employment and the Newfoundland and Labrador Housing Corporation.

Currently, through a list of departmental contacts, we can access a citizen's information held by a department or agency quickly to address the citizen's concerns or better explain a process. The confidentiality of a citizen's personal information is protected by virtue of section 13 (1) of the Act. It states:

s13.(1)The Citizens' Representative and every person employed under him or her shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their duties or functions under this Act.

Some public officials we consulted indicated that a more specific legislative grant of authority to deal with inquiries would be beneficial. Our review of legislation in other provinces revealed that, but for Ontario, the legislative scheme in those jurisdictions for handling inquiries is similar to that in the Act. Section 4 of Regulation 865 made pursuant to the *Ontario Ombudsman Act* states:

s4.(1)Preliminary investigations by the Ombudsman's Office shall be limited to cases wherein further information is required by the Ombudsman or any member of his or her staff either to confirm a complaint or wherein immediate assistance of a complainant is required and the circumstances of the complaint make the immediate implementation of the procedural requirements of the Act impossible. R.R.O. 1990, Reg. 865, s. 4(1).

(2) Once the substance of the complaint has been confirmed by the Ombudsman or his or her staff or where the immediate disposition of

the complaint is neither possible nor advisable, the requirements of the Act must be followed. R.R.O. 1990, Reg. 865, s. 4 (2).

We have reviewed the nature and disposition of inquiries received in our Office over the past year. Through the professionalism of our department contacts, we have been able to dispose of inquiries within a week; in many cases, within hours. Further, our records have not indicated any problem in accessing the necessary information to process the inquiries. Electronic and physical safeguards, as well as secure data handling procedures, are in place to ensure the confidentiality of the information we receive while processing inquiries. In light of this, our Office is not prepared to make a recommendation for a legislation change to deal specifically with inquiries at this time. Should problems materialize in the future, then an evidence-based decision can be made to request any required changes to the Act.

4. Should this Office retain its jurisdiction under the Act to investigate human resource and employment complaints and should that jurisdiction extend to the Public Service Secretariat?

Section 15 of the *Citizens' Representative Act* permits citizens to file complaints about governmental decisions and actions. Public employees have used this section to seek relief from human resources or other employment related decisions made by their employers. During our consultation, we heard from one government agency which felt that an Ombudsman office should not have jurisdiction to investigate human resources and employment related decisions of government departments and agencies. The rationale was that there currently exists a robust number of procedures available to public employees to seek a remedy for the real or perceived negative effects of employment related decisions.

Complaints from public employees about these issues have not made up a large part of this Office's work. The vast majority of complaints from public employees are settled through grievances filed pursuant to the various governing collective agreements or the management grievance process. Others get resolved through the application of various mediation programs. Our Office has, however, consistently received complaints from employees who have exhausted all available avenues of redress and still believe that they have been treated unfairly. Our Office has been able to either mediate the complaint or, alternatively, provide a detailed explanation as to why the subject employee has been treated fairly or unfairly.

Our Office continues to receive inquiries from employees who have complaints about how they have been treated by the Public Service Secretariat (the "PSS"), a division of the Executive Council. The PSS supports the Treasury Board Committee of Cabinet in matters relating to human resources management. It is responsible for the Classification and Compensation Division for the public service. Our Office has received complaints about the process used by the Division when assessing classification appeals from employees and the results ultimately realized. As the

PSS is a part of the Executive Council, this Office is expressly prohibited from investigating complaints against it by virtue of section 19(a) of the Act.

Our Office is not recommending a change in its powers with respect to its ability to investigate complaints arising from human resource and employment decisions, or against the PSS. While public employees have access to a wide variety of grievance and appeal procedures to address their employment concerns, there is little sound reason to exempt them from the availability of filing a complaint under the Act. The mere availability of alternate ways to seek redress for employment issues cannot justify removing the right to file a complaint under the Act. Generally, all citizens have a variety of ways to seek help in addressing their problems with the public service prior to filing a complaint with this Office. This is precisely the type of function for which Ombudsman oversight has been traditionally utilized.

No other Parliamentary Ombudsman office within Canada has the authority to investigate cabinet decisions or the bureaucratic committees which support those decisions. We cannot find a policy or practical imperative to deviate from this standard limitation on an Ombudsman's authority.

5. Should all complaints to this Office be in writing?

Section 15 of the Act requires that complaints to this Office be in writing. It states:

- s15. The Citizens' Representative may, on a written complaint or on his or her own initiative, investigate a decision or recommendation made, including a recommendation made to a minister, or an act done or omitted, relating to a matter of administration in or by a department or agency of the government, or by an officer, employee or member of the department or agency, where a person is or may be aggrieved.

We have heard from a number of groups that the legal requirement that complaints be in writing can cause hardship to persons suffering certain disabilities or who are illiterate. Other provincial legislation has provided for a more flexible mechanism to initiate a complaint to an administrative body; for example, section 20 (1) of the *Human Rights Code* states:

- s20. (1)A person who has reasonable grounds for believing that a person has contravened this Act may file with the executive director a complaint in a form acceptable to the commission.

As well, section 8 of the *Access to Information and Privacy Act* states:

- s8. (1)A person may access a record by making a request to the public body that the person believes has custody or control of the record.

- (2) A request shall be in the form set by the minister responsible for this Act and shall provide sufficient details about the information requested so that an employee familiar with the records of the public body can identify the record containing the information.
- (3) An applicant may make an oral request for access to a record where the applicant
 - (a) has a limited ability to read or write English; or
 - (b) has a disability or condition that impairs his or her ability to make a request.

This Office recommends an amendment to the Act to add section 15 (1) as follows:

- s15.(1) Notwithstanding section 15(1) a person may make an oral complaint where that person
 - (a) has a limited ability to read or write English, or
 - (b) has a disability or condition that impairs his or her ability to make a written complaint.

6. Should the penalties under the Act be increased?

Some citizens have expressed the view that the punishment for offences under the legislation is too lenient.

Section 46 of the Act states:

- s46. A person who
 - (a) without lawful justification or excuse wilfully obstructs, hinders, or resists the Citizens' Representative or another person in the exercise or performance of his or her functions and duties under this Act;
 - (b) without lawful justification or excuse refuses or wilfully fails to comply with a lawful requirement of the Citizens' Representative or another person under this Act; or
 - (c) wilfully makes a false statement to or misleads or attempts to mislead the Citizens' Representative or another person in the exercise or performance of his or her functions and duties under this Act, is guilty of an offence and liable, on summary conviction, to a fine of not more

than \$500 or to imprisonment for a term not exceeding 3 months, or to both.

Section 61 of the HAAIA states:

s61.(1) A person who contravenes this Part is guilty of an offence and is liable on summary conviction to a fine of not more than \$10,000 or to imprisonment for up to 6 months.

(2) A prosecution under this section shall not be commenced more than 2 years after the date the alleged offence was committed.

The stiffer penalties under section 61 of the HAAIA Act reflects the seriousness and weight of the matters regulated in Part VI therein. The Part is designed to investigate allegations of gross mismanagement and to prevent reprisals. These penalties adequately reflect the severe consequences of impeding, hindering, or otherwise obstructing an investigation into those allegations.

The work undertaken by the Citizens' Representative under the Act is different in nature and scope from that undertaken under the HAAIA Act. Under the Act, this Office focuses primarily on mediating citizens' complaints and reporting to the legislature. The persons most likely to be convicted of an offense under the Act are members of the middle or senior management of government agencies, boards and departments. A conviction under the Act would have far-reaching, negative, future employment implications for the offender than could ever be achieved by imposing more severe penalties. It is important to note that, to date, a prosecution under section 46 of the Act has never been initiated.

7. Should other public bodies or agencies be added to the Schedule to the Act?

The Schedule to the Act covers a broad range of government agencies, boards and commissions. Our consultation has not uncovered a need to add any further entities to this list. As well, a review of requests for assistance received by staff at our Office and during intake sessions throughout the Province has not highlighted a need for additions to this list.

8. When circumstances warrant, should the Citizens' Representative be able to delegate his authority under Part VI of the HAAIA Act?

Section 14 of the Act permits the Citizens' Representative to delegate his or her work. It states:

s14.(1) The Citizens' Representative may in writing delegate to another person his or her powers under this Act except the power to make a report under this Act.

(2) A person purporting to exercise the power of the Citizens' Representative by virtue of the delegation under subsection (1) shall produce evidence of his or her authority to exercise that power when required to do so.

Similar legislative provisions exist in Ombudsman legislation in all other Canadian jurisdictions. Part VI of the HAAIA Act does not make provision for the Citizens' Representative to delegate his or her work under that legislation. This is unfortunate given the statutory imperative that investigations under this Part must be conducted as expeditiously as possible. Situations can arise when the Citizens' Representative is unable to conduct an investigation and the reasonable expectations for an expeditious investigation by those who file a complaint are frustrated. Circumstances that could precipitate an inability of the Citizens' Representative to investigate include acute illnesses or complaints that give rise to a reasonable apprehension of bias, as defined by law, on the part of the Citizens' Representative.

This Office recommends a legislative addition to Part VI of the HAAIA Act to empower the Citizens' Representative with the authority to delegate as conferred in section 14 of the Act. While the Citizens' Representative will always have the responsibility to make a report, that responsibility is exercised when the Citizens' Representative agrees in advance to accept the work product of his or her delegate (for a full discussion of this issue see *Canadian Pacific Railway v. British Columbia (Information and Privacy Commissioner 2002 Carswell, B.C.1022 (S.C.T.D.))*).

9. Should Part VI of the HAAIA Act be amended to delineate the powers of the Labour Relations Board when adjudicating a reprisal complaint under that Part?

Part VI of the HAAIA Act sets out a public interest disclosure (whistleblower) program for the staff, members and statutory officers of the House of Assembly. Section 59 prohibits any person from committing a reprisal against a person who had filed a complaint or assisted in an investigation under the Part. Section 59 (2) states:

s59.(2) An employee or former employee who alleges that a reprisal has been taken against him or her may file a written complaint with the Labour Relations Board established under the *Labour Relations Act* and that Act shall apply, with the necessary changes, to the hearing and determination with respect to that complaint.

Section 54(1)(d) defines a reprisal. It states:

s54.(d) "reprisal " means one or more of the following measures taken against an employee because he or she has, in good faith, sought advice about making a disclosure, made a disclosure or cooperated in an investigation under this Part:

- (i) a disciplinary measure,
- (ii) a demotion,
- (iii) termination of employment,
- (iv) a measure that adversely affects his or her employment or working conditions, or
- (v) a threat to take a measure referred to in subparagraphs (i) to (iv); and

The ability to effectively protect complainants and witnesses from reprisals is a cornerstone of any whistleblower program. People who complain about gross management by members of the House of Assembly, its statutory officers, and senior executive require courage and stamina. These qualities will seldom be exhibited in the absence of a comprehensive and effective prohibition against those in power from exacting revenge against employees who blow the whistle. To be effective, a prohibition against reprisals needs to be accompanied with clearly defined powers by those who adjudicate the reprisal complaints; under Part VI, the Labour Relations Board.

Our consultation included a helpful meeting with the Executive Director of the Labour Relations Board who had a concern that the language of section 59 (2) does not clearly outline the powers of the Board upon hearing a reprisal complaint. By contrast, the *Smoke-Free Environment Act, 2005* prohibits smoking in certain public places. Section 9 of the Act sets out a robust legislative framework for dealing with those who may suffer reprisals (or discriminatory actions) because they complained under that Act. Section 9 states:

s9.(1) An employer, a person acting on behalf of an employer or a union shall not take a discriminatory action against an employee by

- (a) dismissing or threatening to dismiss an employee;
- (b) disciplining, suspending or threatening to discipline or suspend an employee;
- (c) imposing a penalty upon an employee; or

- (d) intimidating or coercing an employee, because the employee has acted in accordance with or has sought the enforcement of this Act.
- (2) Where an action described in paragraphs (1) (a) to (d) occurs against an employee because that employee has acted in accordance with or has sought the enforcement of this Act, that action shall, in the absence of evidence to the contrary, be considered to be a discriminatory action.
- (3) Where an employee alleges that his or her employer has taken a discriminatory action described in paragraphs (1) (a) to (d) against him or her, the employee may,
- (a) where a collective agreement is in force between a union in which the employee is a member and the employer, and the collective agreement provides for the use of a grievance procedure where discrimination is alleged, follow that grievance procedure; or
 - (b) apply to the Labour Relations Board for a determination as to whether the action is discriminatory.
- (4) Where an employee alleges that his or her union has taken a discriminatory action described in paragraphs (1) (a) to (d) against him or her, the employee may apply to the Labour Relations Board for a determination as to whether the action is discriminatory.
- (5) Where the Labour Relations Board makes a finding that an action referred to in paragraphs (1)(a) to (d) is discriminatory, it shall order
- (a) the reinstatement of the employee to whom the action was applied under the same terms and conditions under which that employee was formerly employed;
 - (b) the employer to pay or make up to the employee his or her lost wages, salary and other benefits;
 - (c) that a reference to the dismissal or disciplinary action against the employee on the employer's records be deleted; and
 - (d) the reinstatement of the employee to his or her trade union where the employee has been expelled by the union.
- (6) Where an order is made under this section and is filed with the Registrar of the Supreme Court that order is enforceable as if it were a judgment or order of the Supreme Court.

- (7) In this section "Labour Relations Board" means the Labour Relations Board established under the *Labour Relations Act*.

Section 9 (3) of the *Smoke Free Environment Act 2005* outlines the specific powers of the Labour Relations Board on hearing a complaint of discrimination under section 9 (1). It would be prudent to list similar powers for the Board when hearing a complaint under section 59 (2) of the HAAIA Act.

This Office recommends that section 59 (2) of the HAAIA Act be repealed and be replaced with the following:

59(2) An employee or former employee who alleges that a reprisal has been taken against him or her may file a written complaint with the Labour Relations Board established under the *Labour Relations Act*.

59(3) On the hearing of a complaint under section 59(2) the Labour Relations Board, if it finds that a reprisal has taken place, may order the employer to:

- (a) retract any disciplinary measure taken against the employees; or
- (b) rescind the demotion realized by the employee as part of the reprisal;
- (c) reinstate the employee to the employee's former position;
- (d) remedy any adverse employment or working conditions imposed as part of the reprisal;
- (e) cancel a threat to take a measure referred to in paragraph 54 (1) (d) (i) to (iv); and
- (f) compensate the employee for lost wages or special damages realized as part of the reprisal.

SUMMARY OF RECOMMENDATIONS

After reviewing the submissions and comments received and reviewing the Ombudsman legislation in other provinces, this Office recommends that its legislation be amended to provide that:

- a) **The name of the Office of the Citizens' Representative be changed to the "Office of the Ombudsman" to more precisely reflect the work undertaken by it.**
- b) **When necessary, citizens can make an oral complaint to this Office.**

- c) **The Citizens' Representative shall have the ability to delegate its work under Part VI of the HAAIA Act; and**
- d) **Part VI of the HAAIA Act should be amended to delineate the power of the Labour Relations Board when adjudicating a reprisal complaint under that Part.**