

INTRODUCTION

The Office of the Citizens' Representative ("OCR"), in its 2008-2011 Business Plan, set out its goals for a three-year period. For the fiscal year 2009-2010, the Office undertook to consult with citizens and public officials in an effort to ascertain whether its governing legislation facilitates its mandate. Simply put, are there changes required to the OCR's legislation which can assist it in operating more effectively.

The OCR commenced operations in 2002 with an initial mandate to provide a province wide ombuds service. From 1989 to 2002 citizens did not have access to a traditional parliamentary ombudsman. During the first five years of operation the OCR experienced a daunting number of complaints from citizens and a backlog ensued. In recent years efforts have been made to reduce that backlog and to ensure, to the extent possible, timely responses to citizens' complaints. In 2008-2009, the first year of its three-year Business Plan, the OCR enhanced its communication efforts to better inform citizens about its role and mandate. Now, in the second year of the Plan and eight years after the passage of the *Citizens' Representative Act*, it is time to consider its content and determine whether changes are required.

LEGISLATION AND MANDATE

The OCR is governed by two pieces of legislation. The first, the *Citizens' Representative 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 OCR 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 *Citizens' Representative Act* is substantially similar to ombudsman legislation in other Canadian jurisdictions. For those wishing to view that legislation the "Links" section of the OCR website (www.citizensrep.nl.ca) provide a convenient research tool.

The second piece of legislation which governs the work of the OCR is Part VI of the *House of Assembly Accountability, Integrity and Administration Act*. This legislation appoints the Citizens' Representative as the investigator for

complaints of gross mismanagement within the House of Assembly. The *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.

Copies of the *Citizens' Representative Act* and Part VI of the *House of Assembly Accountability, Integrity and Administration Act* can be viewed at the OCR's website www.citizensrep.nl.ca.

QUESTIONS FOR CONSIDERATION

The following list of questions are provided to facilitate a discussion of the legislation under review. They are not meant to limit in any way the breath of possible submission that citizens may wish to make.

Citizens' Representative Act

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| Section 2(b) | Should the OCR be called the "Ombudsman" in keeping with seven of its eight Canadian counterparts? |
| Section 6 | Should a super-majority (two thirds) of MHAs be required for appointment and dismissal of the Citizens' Representative? |
| Section 15 | Should the OCR have expanded legislative authority to notify a public body of a complaint, gather preliminary details and seek a speedy disposition, without having to invoke the current procedural requirement of obtaining a written complaint for each citizen contact with the office? |
| Section 19(a) | Should jurisdiction be extended to the Public Service Secretariat on human resource and classification matters? |
| Section 22 | Should all complaints be required in writing or should allowances be made for those with disabilities or reading and writing difficulties? |
| Section 46 | Should fines and/or imprisonment for willful obstruction of an investigation be increased from \$500 / 3 months? |
| Schedule | Are there any public bodies that you feel should be added or deleted to the list subject to OCR's jurisdiction? |

House of Assembly Accountability, Integrity and Administration Act

- Section 58 Should the Citizens' Representative, when circumstances warrant, have the power to delegate authority to an alternate investigator?
- Section 59(2) Is the current language contained in this Section sufficient to outline the role of the Labour Relations Board in the hearing and determination of reprisal complaints?