



**Office of the
Citizens' Representative**

**2019-20
ANNUAL PERFORMANCE
REPORT**

TABLE OF CONTENTS

Message from the Citizens' Representative.....	3
Overview.....	4
Highlights and Partnerships.....	6
Report on Performance.....	7
Strategic Issue.....	7
Discussion of Results.....	10
Opportunities and Challenges Ahead.....	12
Financial Statements.....	13

Message from the Citizens' Representative

It is my duty and privilege to Table, pursuant to Section 9(1) of the **Transparency and Accountability Act**, the 2019-20 Annual Performance Report of the Office of the Citizens' Representative (hereinafter "OCR"). This Report conveys the actual results achieved in pursuit of our objective for the 2018-19 fiscal year, as outlined in the 2017-20 OCR Activity Plan.

The OCR is a statutory office of the House of Assembly as defined in the **House of Assembly Accountability, Integrity and Administration Act**. The office works primarily under a legislated mandate granted by the **Citizens' Representative Act**. This statute provides for a province-wide classical Ombudsman service. Legislative Ombudsmen are independent public officials who accept, mediate and investigate allegations about public bodies and government personnel with respect to unfairness, errors, omissions, misconduct, or other matters of administration. In this regard, OCR does not advocate or represent the interests of individuals or groups, but rather it represents the interests of the people of Newfoundland and Labrador, by helping to ensure everyone in the province is treated fairly by their public service. Readers are also directed to view the annual Citizens' Representative's Digest on our website www.citizensrep.nl.ca. The Digest informs the public and the House of Assembly about our activities using case studies that highlight the depth and breadth of our Ombudsman work, as well as complaint statistics and origins.

My Office also oversees three other important anti-corruption and anti-harassment mandates. The Citizens' Representative is the named investigator of disclosures made in the public interest under both Part VI of the **House of Assembly Accountability, Integrity and Administration Act** and the **Public Interest Disclosure and Whistleblower Protection Act**. These statutes were enacted in the interest of deterring, identifying, correcting and reporting wrongdoing within both the House of Assembly and the wider public service.

Effective April 1, 2020 OCR assumed control of the investigative provisions contained in the Harassment-Free Workplace Policy Applicable to Complaints Against Members of the House of Assembly. This program is up and functional and I would like to thank the staff for helping me prepare for this, while fulfilling their other duties to a very high degree during a global pandemic.

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.



Bradley J. Moss
Citizens' Representative

OVERVIEW

The **Citizens' Representative Act** has been in force since December of 2001. This statute creates and sets out the duties and obligations of the Citizens' Representative to investigate complaints from members of the public, Members of the House of Assembly, and the provincial Cabinet about matters of administration. The phrase "matters of administration" has been judicially considered and was defined by the Supreme Court of Canada¹ as encompassing everything done by governmental authorities in the implementation of government policy.

On two occasions (2007, 2014), the legislative mandate of the OCR expanded to make the OCR the investigative unit for public interest disclosures made by employees of the House of Assembly and the wider public service. Conventionally known as "whistleblower programs," public interest disclosures contain allegations of wrongdoing in the workplace, including breaking federal or provincial law, gross mismanagement of funds, mismanagement of government assets or threats to public safety or the environment. Reprisals against disclosers or those seeking advice are prohibited by law and punishable by loss of employment and/or fines of up to \$10,000 as determined by the Labour Relations Board.

In December of 2019 the House of Assembly concurred in a report by the Privileges and Elections Committee to establish a stand-alone anti-harassment policy for complaints directed at Members of the House of Assembly. This program took effect on April 1, 2020.

Information and FAQ on all aspects of the OCR mandate can be found on the OCR website or by contacting the office directly.

Bradley Moss is the Citizens' Representative. As of March 31, 2020, OCR has a permanent staff of seven including:

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

In 2019-20, the OCR received:

- 696 complaints/inquiries under the **Citizens' Representative Act**,

¹ British Columbia Development Corporation v. Friedmann (Ombudsman) [1984] 2 SCR 447

- 10 complaints/inquiries under the **Public Interest Disclosure and Whistleblower Protection Act**² and,
- one complaint under the **House of Assembly Accountability, Integrity and Administration Act**²

OCR closed 713 complaint/inquiry files across all business lines during 2019-20 (including complaints/inquiries from the previous fiscal year).

OCR made 25 formal recommendations to various departments, agencies, boards and commissions. Formal recommendations flow from statutory investigations initiated under Section 15 of the **Citizens' Representative Act**, and are designed to remedy cases of unfairness or error, and help prevent circumstances connected to the complaint from re-occurring.

There were zero recommendations made to government under the **Public Interest Disclosure and Whistleblower Protection Act**.

There was one formal recommendation made under Part VI of the **House of Assembly Accountability, Integrity and Administration Act**. This recommendation emanated from an investigation concluded during this reporting year, based on a complaint received during 2018 – 2019.

OCR can be contacted by:

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

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

Email: citrep@gov.nl.ca Website: www.citizensrep.nl.ca

Total operational expenditures of the OCR for 2019-20 were \$801,205. Further information on budgeting and expenditures can be found on page 14.

² Details on OCR activities pursuant to the **Public Interest Disclosure and Whistleblower Protection Act** require stand-alone reporting to the House of Assembly. Disclosures received under Part VI of the **House of Assembly Accountability, Integrity and Administration Act** are reported in the Citizens' Representative's Digest.

HIGHLIGHTS AND PARTNERSHIPS

In addition to prosecuting its core mandate services of complaint investigation and mediation, some key highlights and accomplishments of the OCR during 2019-20 include:

- Addressing new recruits in the correctional officer training program.
- Providing instruction on trends analysis at “Ombuds Essentials”, a joint offering of the Forum of Canadian Ombudsman / Osgoode Hall Law School Professional Development program.
- Membership on the House of Assembly Classification Review Committee.
- Participation in annual Federal / Provincial / Territorial public interest disclosure meetings.
- Ongoing membership and participation in the Canadian Council of Parliamentary Ombudsman (CCPO).
- Speaking to Academy Canada Legal Studies students on statutory offices and quasi-judicial tribunals.
- OCR presentation sponsored by NAVNET: Making Connections and Mapping Systems – Individual and Systemic Advocacy.
- Continuing to produce our Office newsletter - “OCR Insights” - a quarterly update on the OCR’s activities.
- OCR presentation to the NL Association of the Deaf.
- Managerial attendance at a conflict resolution offering by the Public Service Commission.
- OCR presentation to the Executive and volunteers of Seniors NL.
- Applied Suicide Intervention Skill Training (ASIST) for employees.
- Mental Health Training for employees.
- First Aid Training for employees.

- Attendance by staff at Workplace Violence and Harassment workshop hosted by Violence Prevention Avalon East.
- Training for Access to Information and Protection of Privacy Coordinators.
- Participation by webinar on the Personal Health Information Act.
- Attendance at Seniors Awareness Day session in St. John's.
- Meeting with Adult Protection Division of Children, Seniors and Social Development to participate in the five-year review of the **Adult Protection Act**.
- Presentation to the OCR by the Human Resource Secretariat relating to Workplace investigations and those under the Harassment-Free Workplace Policy.
- Consulting with Health and Community Services regarding Medical Transportation Assistance for Income Support Clients.
- Presentation to Assistant Deputy Ministers in core government on the role and mandate of OCR.
- Quarterly meetings with Statutory Offices of the House of Assembly.

REPORT ON PERFORMANCE

Fiscal year 2019-20 was the last year of OCR's 2017-20 Category 3 Activity Plan, which was tabled in the House of Assembly on 28 June 2017. The issue, goal and objectives of the Activity Plan were as follows:

Strategic Issue

The Activity Plan focused on the issue of heightening awareness of OCR services available to members of the public and government employees, with an emphasis on the whistleblowing program.

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: Heighten Awareness of OCR Services

The 2017-20 Activity Plan identified OCR's intent to raise the awareness of Ombudsman services it offers to citizens. This Issue prompted us to try and understand the barriers to access to our services. An ability to increase awareness of the OCR with the members of the public, and other areas of the public service, not only enhances the service of mediating and investigating public complaints, but it also provides a wider measure of defence in the public interest against wrongdoing (ie) those who see it will know where to report it, and those who commit it may self-reflect and stop.

The (then) Citizens' Representative set the following goal in 2017:

Goal: By March 31, 2020, the Office of the Citizens' Representative will have undertaken measures to promote increased awareness of the Ombudsman services it offers to citizens, with an emphasis on awareness of the whistleblowing program within the Government of Newfoundland and Labrador as employer.

Indicators: Identified barriers to accessing programs. Designed, implemented and analyzed awareness efforts to reduce barriers.

As indicated in OCR's 2017-18 and 2018-19 Annual Performance Reports, we planned and implemented ideas to assist in overcoming barriers to access, based on identified real and perceived barriers to access of OCR's programs. Current methods of disseminating information to various demographics within our province, accuracy of existing publicly available information, and the content of information publicly available were all assessed. This led to a more vigorous dissemination of information as follows:

- Dedication of space in the OCR newsletter to the whistleblower program;
- Re-design of pamphlets that promote the whistleblower mandate;
- Outreach by mail was conducted to include indigenous, new Canadian and rural communities;
- The Centre for Learning Development was provided with course content on the OCR mandate, notably the whistleblowing program;
- An increase in social media presence on Facebook and Twitter;
- Development of content clarifying reporting pathways for citizens and public employees was made available on OCR website; and
- Design and implementation of an online, fillable complaint form.

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

By March 31, 2020, the Office of the Citizens' Representative will have analyzed the results of the measures undertaken and internally discussed further areas of improvement.

Indicator: Analysis and internal discussion of further improvements.

Our activities to meet this objective are as follows:

Planned	Actual
<p>1. Analyze statistical data to review demographic of citizens contacting the OCR to determine a connection with the 18-45 age population.</p> <p>2. Analyze statistical data to review the manner in which complaints are received, i.e. telephone, mail, in person, or via the OCR website.</p> <p>3. Meet with staff to acquire feedback in relation to efforts undertaken for awareness promotion and to remain open to new ideas to promote awareness of OCR in the province.</p> <p>4. To create and conduct random and informal surveys with citizens and their representatives who may contact the OCR to inform new ideas of making our service more accessible to all citizens of our Province.</p>	<p>1. Analysis of the volume of complaint forms received via the online fillable form on OCR website and review of engagement analytics from Facebook.</p> <p>2. Analysis of available statistical data to examine method of complaint submission, including recorded telephone contact and complaint forms received via the OCR website and mail. Analysis of staff feedback where statistical data was unavailable.</p> <p>3. Analysis of staff feedback regarding impact of efforts undertaken to increase awareness of the OCR role, fielding of new ideas and encouragement to pursue continual improvement as a team.</p> <p>4. Analysis of staff feedback regarding information gathered from informal discussions with citizens and their community representatives and interest groups about the manner in which citizens learn of OCR services. Analysis of additional feedback to discover and promote innovative methods to mitigate accessibility from being a barrier to accessing OCR services.</p>

Discussion of Results

From 2017 forward, in addition to successfully executing its core mandate functions, the OCR worked to heighten awareness of services available under our three legislative mandates. The planned and actual results above reflect the completion of the undertaking for the 2019-20 fiscal year, including the final objective to satisfy our original stated goal. Having previously analyzed the real and perceived barriers to access OCR services identified by the Canadian legislative ombudsman community and by OCR staff, the OCR identified achievable measures to assist in raising the profile of the OCR and its services to citizens and employees.

Internally, OCR participated in an exercise to provide a more wide-spread, accurate and accessible representation of the services within our mandate.

Specific to the whistleblower program, efforts to increase the amount of available and accurate information involved: revising promotional pamphlets related to whistleblowing; dedicating space in OCR newsletter production; developing course content for the Centre for Learning Development; and developing clear and concise processes and procedural / legislative options for potential disclosers to consider. While statistically, the numbers of inquiries and complaints under the whistleblower program have not increased, analysis of the revised and improved information available to potential disclosers provides a clearer overview of the requirements involved in making a disclosure; and it contains information that would better inform a potential discloser prior to making contact with OCR. Through these measures, potential disclosers are supported by having access to information that would have them consider the threshold for wrongdoing and alternate means of reporting/resolving the matter prior to making an inquiry or a disclosure to the OCR. Employees having access and knowledge of wrongdoing, pathways and alternate means promotes a more effective whistleblower program in that disclosers can choose the best path for themselves prior to making the significant step of coming forward to a whistleblower investigator. In addition it promotes the prudent use of other less intrusive statutory means of resolving conflict.

Intra-provincial travel to promote services as anticipated by the 2017-20 Activity Plan was limited out of respect for our fiscal climate. A rigorous effort was employed by the OCR to ensure a consistent approach to community outreach to all areas of the province despite limited intra-provincial travel. Through a mail campaign, we have reached organizations that provide service to new Canadians and those that service other members of our community, including seniors and women. Intra-provincial travel continues to be limited by the global novel Coronavirus pandemic. The OCR maintains the benefit of personal outreach as

optimal, and acknowledges the sharing of promotional material to organizations within communities as a creative means of disseminating information in the absence of personal travel. Going forward, the importance of OCR presence in communities remains valued, and intra-provincial travel will be further assessed to ensure the safety of staff and citizens alike.

Our intention to reach the 18-45 age demographic was carried out with a focus on communication via electronic means. We understand that this demographic has a propensity to navigate systems and life with a level of technical savvy never seen before. Increasing a social media presence has demonstrated a slight increase in engagement rates and reach. This continued presence is not resource-intensive and will continue into the future.

Most notably, we analyzed the level of accessibility for citizens contacting our Office either with an inquiry or to submit a formal complaint form. Prior to creating a fillable complaint form on the OCR website, the majority of complaints were received via telephone, mail or in person. The online, fillable form became available via OCR website on April 25, 2018. For fiscal year 2019-20, 70 complaint forms were received in this fashion: roughly 10% of the overall total of 696 complaints received. There are benefits to citizens using the online form, beyond accessibility. Specifically, citizens are able to put thought into the actual complaint and the details within the complaint form at times convenient for them. The form also alleviates any ambiguity or delay related to filing a complaint that may occur if a citizen is required to wait for a form to be mailed to the individual. Likewise, this modality supports the timeliness in which the OCR strives to adhere to, particularly when the subject of a complaint requires an efficient response from the OCR. It is apparent that the online, fillable form has assisted in achieving our objective to reach the 18-45 age demographic, but also, has mitigated barriers to accessibility to some citizens in more rural areas of the province who have access to technology.

Our intention to conduct random and informal surveys with citizens and their representatives was undertaken by intake and investigative staff. This process lacked the formality of an official survey to be completed with each conversation as it was determined that the goal of increasing OCR awareness and mitigating barriers of accessibility was one that could be employed in conversations that occurred during our inquiry and investigative processes. Staff acknowledged an awareness of the diversity of the citizens making contact with the OCR, listened the cues from citizens and their representatives, and were able to identify conversations in which lack of awareness and accessibility to OCR services was identified. It was through these informal discussions that a need to increase our accessibility to the deaf and hard of hearing community was identified. As a means to mitigate any perceived barriers of access, OCR arranged to create a link to permit the use of a nationally used video relay service. This link available on our website on May 12, 2020 provides awareness to this specific community of the OCR interest to offer support with the ease of available technology. Similarly, our

ongoing opportunities to engage with community organizations through citizen inquiries, such as Empower: the Disability Resource Centre, SeniorsNL, and the Women's Centre provide a mutually beneficial role. With a focus on providing increased awareness of OCR services to users of the community-based services, the relationship with community also proves to support accessibility to service users, through easing the transition for citizens to make initial contact with citizens and to identify existing barriers of access. The OCR will continue to strive to mitigate accessibility barriers to all citizens on a community and an individual level, dependent on identified needs.

OCR commits to continuing to seek opportunities to provide accurate information to citizens regarding all program areas under OCR mandate. As previously stated, OCR is committed to outreach in communities outside the capital in the most efficient way possible, keeping fiscal responsibility and the health and safety of the citizens of Newfoundland and Labrador at the forefront.

OPPORTUNITIES AND CHALLENGES AHEAD

The opportunities available to, and the challenges confronting OCR for fiscal year 2020-21 are:

- Continuing to be accessible to the people of the Province while abiding with the Public Health Orders in place as a result of the global Covid-19 pandemic.
- Planning to appropriately and effectively deliver OCR services with the possibility of additional, more restrictive Public Health Orders flowing from an increase in Coronavirus cases in our province.
- Effectively managing the 2020 expansion of the OCR's mandate into enforcement of a legislature-specific harassment free workplace policy.
- Availing of the opportunity to strengthen our capacity to respond to citizen complaints with improved efficiency, in line with our 2020-23 Activity Plan.

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 2020 (unaudited).

OFFICE OF THE CITIZENS' REPRESENTATIVE

	<u>Estimates</u>		
	Actual	Amended	Original
01. Salaries	706,779	719,000	677,000
Operating Accounts:			
Employee Benefits	1,392	8,000	8,000
Transportation and Communications	12,067	32,600	34,800
Supplies	1,766	5,000	5,000
Professional Services	10,408	12,000	12,000
Purchased Services	63,908	92,700	92,700
Property, Furnishings and Equipment	4,885	6,200	4,000
02. Operating Accounts	94,426	156,500	156,500
Total: Office of the Citizens' Representative	801,205	875,500	833,500

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.