



Office of the  
Citizens' Representative



Annual

Digest

April 1, 2022

March 31, 2023

Newfoundland and Labrador





## Land Acknowledgement

**Our Office is located on the ancestral homelands of the Beothuk, whose culture has now been erased forever. We also acknowledge the Island of Ktaqmkuk (Newfoundland) as the unceded, traditional territory of the Beothuk and the Mi'kmaq. And we acknowledge Labrador as the traditional and ancestral homelands of the Innu of Nitassinan, the Inuit of Nunatsiavut, and the Inuit of NunatuKavut on whose lands our work extends. We recognize all First Peoples who were here before us, those who live with us now, and the seven generations to come. As First Peoples have done since time immemorial, we strive to be responsible stewards of the land and to respect the cultures, ceremonies, and traditions of all who call it home. We honour the many territorial keepers of the lands and waters where we work.**





**Office of the Citizens' Representative**

Province of Newfoundland and Labrador

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February 2024

The Honourable Derek Bennett  
Speaker  
House of Assembly  
Confederation Building  
P.O. Box 8700  
St. John's, NL A1B 4J6

Dear Mr. Speaker:

It is my privilege to submit to the House of Assembly and the citizens of Newfoundland and Labrador the Annual Citizens' Representative Digest. It provides statistics on complaints received, and describes the day-to-day work of this Office of the House of Assembly during the period April 1, 2022 to March 31, 2023.

Respectfully submitted,

Bradley J. Moss  
Citizens' Representative

## About Our Office

The Office of the Citizens' Representative (OCR) opened in St. John's, NL, in February 2002. The OCR serves the public in the classical parliamentary ombudsman role. Complaints to our Office are confidential and investigations are conducted in private. Our services are free of charge.

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*"I wanted to take a minute to personally thank you for all the hard investigative work you completed and the subsequent report and recommendations. I appreciated the communication along the way and the level of professionalism you displayed throughout the entire process."*

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## Our Mission

Through investigation and mediation, the Office of the Citizens' Representative strives to achieve high standards of trust in, and accountability by, the Public Service of Newfoundland and Labrador. Our services are independent, impartial and free.

## Our Mandate

Under its primary mandate, the **Citizens' Representative Act**, the OCR provides an ombudsman service to citizens who interact with the Government of Newfoundland and Labrador.



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Seeking fairness...

finding solutions



## MESSAGE FROM THE CITIZENS' REPRESENTATIVE



Bradley J. Moss

Fiscal year 2022-23 was a challenging, but still productive year for OCR. With complaint levels up and the complexity of investigations higher than ever, I would first and foremost like to thank the dedicated staff of our Office for their perseverance and productivity. I take a lot of pride in the quality of our current team, each of whom has a unique role to play, and a unique skill set that ensures we run as a consistent unit and in my view, a flagship organization that is focused on fairness and integrity in the public sector. They all come to work early, and they always stay late when the situation asks.

This fiscal year presented substantial additional work in the form of a prolonged and difficult public interest disclosure investigation of Elections NL under the **House of Assembly Accountability, Integrity and Administration Act**. News of that investigation made its way into the public domain from sources outside of OCR, and eventually caused our report to come under scrutiny by a consultant hired to review and comment on the veracity of its contents. OCR stands by its work, and reiterates the utmost concern of any protected disclosure office is to afford appropriate levels of procedural fairness to all parties involved in an investigation, with an emphasis on adhering to the law and accepted industry standards for prosecuting whistleblower investigations. We work hard to protect those who blow the whistle about wrongdoing. It is a globally accepted tenet that the only way people come forward to blow the whistle in the first place is with the knowledge that their identity is shielded to the greatest extent possible, and they are protected from potential reprisals for disclosing.

Notwithstanding this challenge, our Annual Digest is focused on public complaints about matters of administration, which form the bulk of our work. Over the last year we have noticed a change in the level of complication contained in the complaints we receive. That is to say many complaints we received in 2022-23 seemed to be interwoven and layered between provincial departments, federal agencies, municipalities, community sector organizations, private entities and other non-jurisdictional entities. This makes the process of complaint resolution more difficult and time consuming.

In addition, we continue to receive high volumes of calls from our correctional centres, mainly Her Majesty's Penitentiary. We continue to have quarterly meetings with correctional health services, and monthly meetings with institutional heads and senior correctional officials. We continue to have daily interactions with inmates and staff of the institutions, to seek fairness and find solutions to the individual and collective complaints that come from within the prison system.

Thank you for your interest in the work of OCR and I hope you find the contents of this year's Annual Digest informative. We remain open and ready to present on our role and mandate to any Department, Agency, Board, Commission or interested community group.

## How We Work

As a non-partisan Statutory Office of the House of Assembly, the OCR investigates public bodies based on complaints received from:



- citizens,
- whistleblowers,
- employees of the legislative and executive branch,
- Members of the House of Assembly, and
- the Lieutenant Governor-in-Council.



Citizens who access, or attempt to access any provincial government services under line departments or agencies, boards or corporations, often reach out to the OCR as they navigate government and various administrative processes.



In 2007, our mandate expanded with the passage of the **House of Assembly Accountability, Integrity and Administration Act**. Under part VI of that Act, we are tasked with the investigation of public interest disclosures of wrongdoing made by members and staff of the House of Assembly.



The OCR is also responsible for the government-wide Public Interest Disclosure Program. Under the **Public Interest Disclosure and Whistleblower Protection Act, 2014** (PIDA), government employees have the right to confidentially disclose wrongdoing in their workplace that should be stopped or corrected in the public interest. The PIDA imposes penalties on anyone who commits a reprisal against persons who make disclosures, or who seek advice on the commission of wrongdoing in the public service.



The OCR is also responsible for receiving complaints from employees under the *Harassment-Free Workplace Policy Applicable to Complaints Against Members of the House of Assembly*. Complaints under this policy can be brought forward by another Member of the House of Assembly, or an employee of the legislative, or executive branch of the Provincial Government. It is the role of the OCR in this capacity to provide information and supports to employees to address allegations of harassment and, where appropriate, investigate these allegations and report findings to the House of Assembly.



## Who We Can't Investigate

There are a number of statutory restrictions on the OCR's jurisdiction. These are set out in Section 19 of the **Citizens' Representative Act** and include:

- the House of Assembly or a committee thereof;
- the Lieutenant Governor-in-Council;
- Executive Council and its various divisions;<sup>1</sup>
- the court, the members of the judiciary, masters of the court, and justices of the peace;
- awards, decisions, recommendations or omissions of arbitrators made pursuant to the **Arbitration Act**;
- matters in respect of which there are existing rights of appeal or objection under another Act until such time as these rights are exhausted or the time to appeal has expired;
- refusals to provide access to information under the **Access to Information and Protection of Privacy Act, 2015**;
- matters falling within the jurisdiction of the Office of the Child and Youth Advocate; and,
- certain matters relating to the administration of the **Personal Health Information Act** or a matter falling within a Commissioner's purview under that Act.

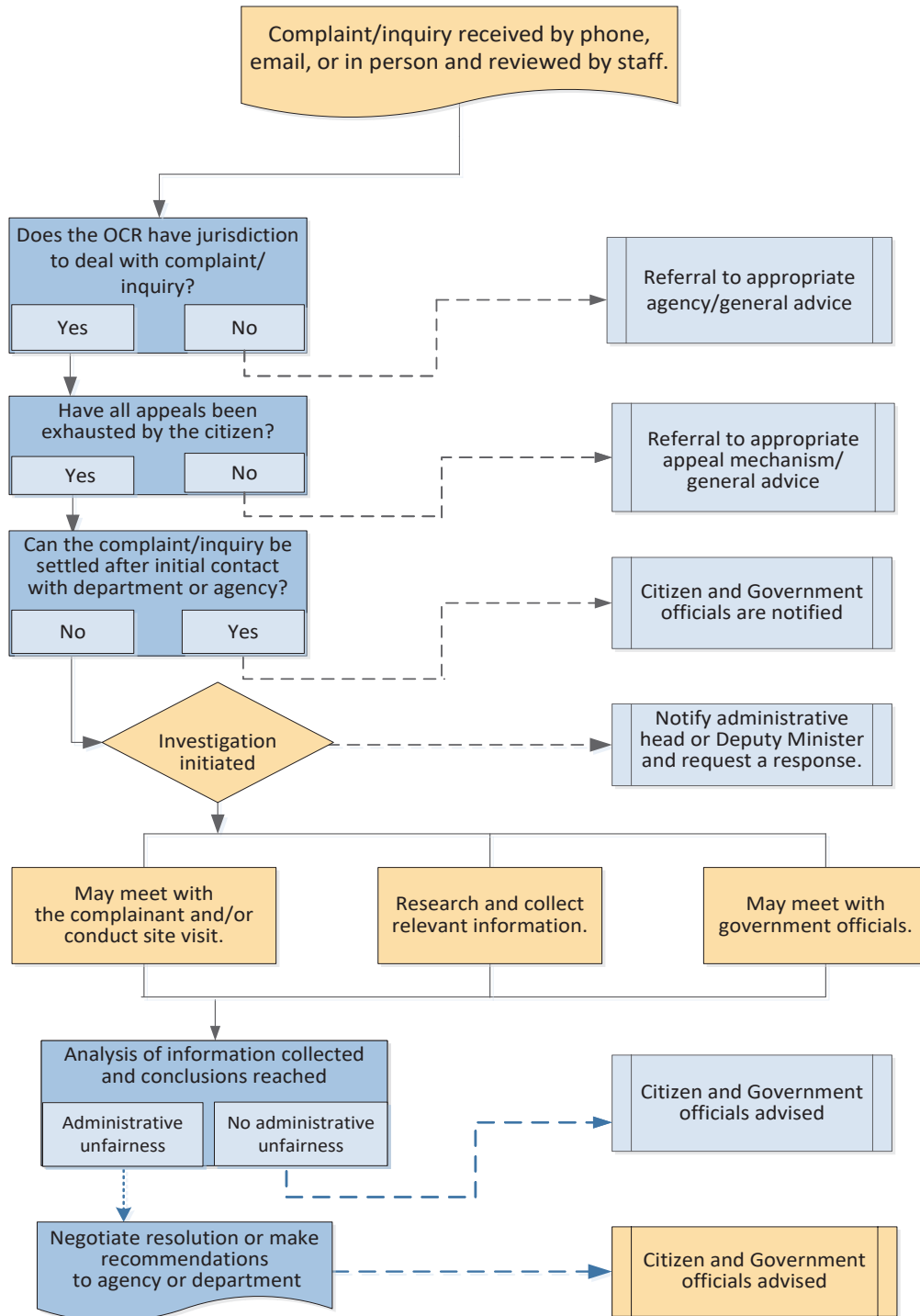
The **Citizens' Representative Act** also does not cover the acts, errors, omissions or decisions of the Government of Canada, or the municipal level of government. Neither does it authorize the investigation of private companies or private citizens.

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<sup>1</sup> The Executive Council is exempt from the **Citizens' Representative Act** but is subject to investigation under the **Public Interest Disclosure and Whistleblower Protection Act**.

# The Complaint Process

It is important for citizens to know what to expect with respect to the complaint process used by our Office. The following chart helps to illustrate how complaints and inquiries are processed.





# How We Handle Complaints

The case summaries within this Digest will demonstrate examples of the following types of services provided to citizens.

**The OCR engages with citizens to determine how best to resolve a particular matter of administration.**



## **Inquiry - Early Resolution**

Often, citizens' complaints can be resolved through mediation or facilitation when investigation is not required to resolve, at best, or provide reasons why a matter cannot be resolved to citizens' satisfaction, at least. Public bodies provide the OCR with open lines of communication in the interest of early resolution or settlement of complaints.



## **Investigation**

Citizens' complaints sometimes require formal investigation where there exists a prima facie appearance of unfairness. Formal investigations can, where unfairness is identified, result in recommendations to settle complaints for citizens. Alternately, where it has been found that departments and/or agencies have afforded adequate administrative fairness, the OCR endeavours to provide sound reasoning to citizens for such findings.

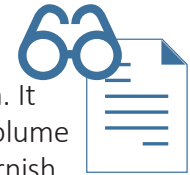
The Citizens' Representative is also empowered to launch investigations in his or her own discretion, without a specific named complainant.



## **Navigation, Self-Advocacy and Referral**

Citizens contact the OCR from all walks of life and with a wide range of interpersonal skills and knowledge. Where appropriate, the OCR will provide support to citizens by referring them to available appeal mechanisms or the appropriate program(s) within government to address their complaints. Sometimes, citizens may prefer to address concerns on their own, but require direction and information to support their self-advocacy. In situations where citizens' complaints are non-jurisdictional, the OCR will refer the complainants to the appropriate agencies to deal with their concerns. In these situations, the OCR can often link the citizens directly with the person(s) they need to speak with or provide forms, telephone numbers, internet links and email addresses to individuals who need alternate avenues of redress.

## A Month in Review



Intake is an extremely important function in any complaint-handling organization. It covers a wide array of topics each month. To inform readers of the nature and volume of complaints at our intake stage, we select one month from the fiscal year to furnish examples of what we hear. The following is a cross section of allegations and issues raised by citizens in July 2023.

ALLEGATION	DEPARTMENT
Inadequate access to a telephone call.	Justice and Public Safety – Adult Corrections
Unfair treatment by financial institution.	Out of jurisdiction – referred to Ombudsman for Banking Services and Investments.
Inadequate contact with lawyer.	Legal Aid NL
Missing personal belongings, including court disclosure documents.	Justice and Public Safety – Adult Corrections
Denial of mental health services.	NL Health Services, Labrador – Grenfell
Inappropriate physical contact by correctional officers.	Justice and Public Safety – Adult Corrections
Unfair transfer of Crown land.	Fisheries, Forestry and Agriculture
Unfair termination of Skills Development Program.	Immigration, Population Growth and Skills
Inappropriate actions of private lawyer.	Out of jurisdiction – referred to Law Society
Inadequate access to mail.	Justice and Public Safety – Adult Corrections
Inadequate access to home support following surgery.	NL Health Services, Eastern – Urban
Lack of access to vision care (glasses).	Justice and Public Safety – Adult Corrections
Lack of access to plunger for blocked toilet.	Justice and Public Safety – Adult Corrections
Staffing concerns of private employer.	Out of jurisdiction – Referred to respective union
Lack of support during acute care admission.	NL Health Services, Eastern – Urban
Concern with food quality.	Justice and Public Safety – Adult Corrections
Complaint about family physician.	Out of jurisdiction – referred to College of Physicians and Surgeons
Concern with change in medication. (3) *	NL Health Services – Correctional Health Services
Unfair institutional placement.	Justice and Public Safety – Adult Corrections
Improper care in long-term care facility, improper referral to Adult Protection.	NL Health Services, Eastern – Urban
Rodent infestation, lack of recreation, unclean cells.	Justice and Public Safety – Adult Corrections

\* This number represents the number of times this issue was raised.



## A Month in Review (cont'd)

ALLEGATION	DEPARTMENT
Lack of support for family of adult with mental health diagnosis.	Out of jurisdiction – referred to Doorways, community support
Inadequate provision of Ensure.	NL Health Services – Correctional Health Services
Delay, non-responsiveness and errors made in program area.	NL Health Services, Eastern – Urban
Unfair institutional charge.	Justice and Public Safety – Adult Corrections
Damage to vehicle while boarding provincial ferry service.	Transportation and Infrastructure
Treatment by physician.	Out of jurisdiction – referred to College of Physicians and Surgeons
Inappropriate placement of transgender individual.	Justice and Public Safety – Adult Corrections
Frozen bank account due to default of student loan.	Referred to NL Student Loan Default Division
Mishandling of injury in long-term care facility.	NL Health Services, Central
Lack of access to TV and radio, concern with new telephone system.	Justice and Public Safety – Adult Corrections
Lack of communication in response to appeal of disciplinary charge.	Justice and Public Safety – Adult Corrections
Overpayment with the Income Support program.	Children, Seniors and Social Development, Income Support Division
Excessive heat in a correctional facility.	Justice and Public Safety – Adult Corrections
Unfair institutional placement. (8) *	Justice and Public Safety – Adult Corrections
Excessive use of force.	Justice and Public Safety – Adult Corrections
Harassment on behalf of the federal government, concern for safety.	Out of jurisdiction – Referred to RCMP
Inadequate access to medical unit.	NL Health Services – Correctional Health Services
Denied call to RNC to report assault.	Justice and Public Safety – Adult Corrections
Denied reimbursement for cataract surgery.	Health and Community Services
Disregard of food allergy.	NL Health Services – Correctional Health Services
Delay in Canada Pension Plan application.	Out of jurisdiction – referred to Service Canada
Denied special diet. (2) *	NL Health Services – Correctional Health Services
Inadequate response to cyber-attack.	NL Health Services
Lack of response to access to information requests.	NL Health Services, Eastern – Urban
Inoperable telephone system. (4) *	Justice and Public Safety – Adult Corrections
Concern about process of strip search. (2) *	Justice and Public Safety – Adult Corrections

\* This number represents the number of times this issue was raised.

## A Month in Review (cont'd)

ALLEGATION	DEPARTMENT
Inadequate supports under Mental Health and Addictions program.	NL Health Services, Eastern – Urban
Unable to access classification.	Justice and Public Safety – Adult Corrections
Inadequate access to psychiatrist.	NL Health Services – Correctional Health Services
Appeal of job classification.	Out of jurisdiction – Referred to Treasury Board Secretariat
Concern for well-being of inmate.	Justice and Public Safety – Adult Corrections
Delay of installation of infrastructure.	Transportation and Infrastructure
Placement in Special Handling Unit beyond 30 days without review of placement. (2) *	Justice and Public Safety – Adult Corrections
Denial of special diet.	Children, Seniors and Social Development, Income Support Division
Inadequate access to the medical unit. (2) *	NL Health Services – Correctional Health Services
Inadequate access to lawyer.	Legal Aid NL
Coverage of ambulance bill.	NL Health Services, Eastern - Urban
Alleged failure to respond to ongoing plumbing issues.	Justice and Public Safety – Adult Corrections
Lengthy delay to access neurology.	NL Health Services, Eastern – Urban
Unfair access to television.	Justice and Public Safety – Adult Corrections
Unfair disciplinary charge.	Justice and Public Safety – Adult Corrections
Unfair process with approval of RV park.	Fisheries, Forestry and Agriculture
Delay in accessing court ordered psychiatric assessment.	NL Health Services, Eastern- Urban
RCMP failure to act upon report of a threat.	Out of jurisdiction – referred to Civilian Review and Complaints Commission for the RCMP
Inadequate access to medical treatment.	NL Health Services – Correctional Health Services
Eviction from housing, private landlord.	Out of jurisdiction – referred to the Residential Tenancies Board
Concerns about inmates health and well-being.	NL Health Services – Correctional Health Services
Concerns with ambulance service.	NL Health Services, Eastern -Rural
Inadequate access to Medical Transportation Assistance Program.	Labrador Affairs
Seeking resources to support home repairs for a senior.	Referred to Newfoundland and Labrador Housing.
Mold in cells, lack of recreation and problems with the telephone system.	Justice and Public Safety – Adult Corrections
Inadequate access to recreation.	Justice and Public Safety – Adult Corrections

\* This number represents the number of times this issue was raised.

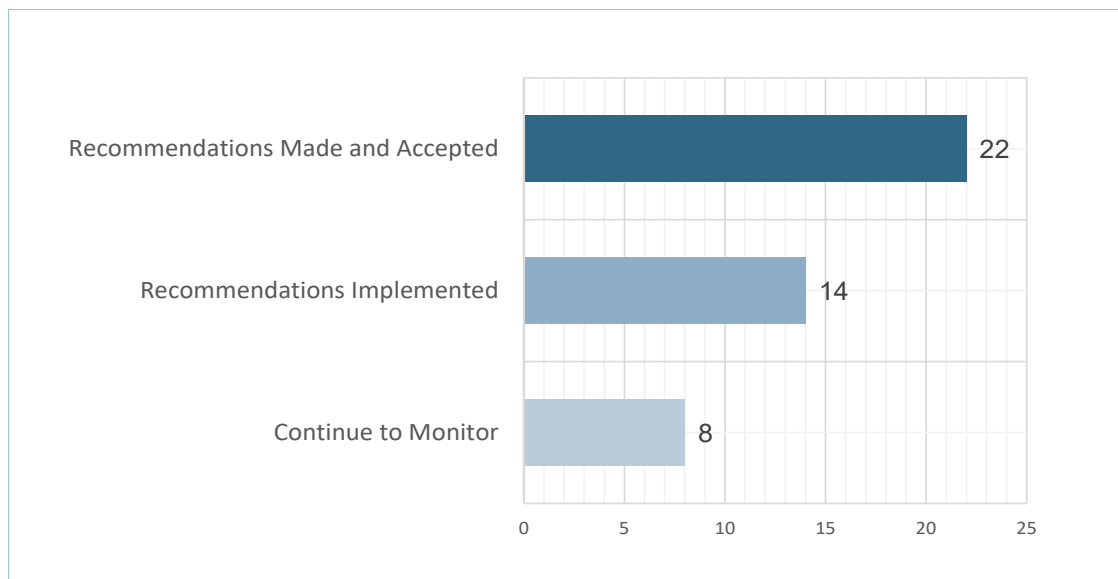


## Report on Investigations - Recommendations 2022-2023

The **Citizens' Representative Act** requires our Office to report the findings resulting from a formal investigation. Formal investigations are typically undertaken following complaints received from citizens where the presenting issue cannot be resolved through informal communication with the relevant public body.

The Act further provides the OCR with authority to make recommendations to provincial public bodies following formal investigations. Recommendations will flow from investigations where there has been a finding that a citizen has not been afforded administrative fairness. Any recommendations offered to public bodies will either suggest individual remedies to affected citizens or systemic change to improve the public service for the benefit of all citizens of the province. Generally, our recommendations are accepted. It is our goal to provide reasonable and responsible recommendations, but mostly, recommendations that are achievable. We appreciate the willingness of all public bodies to give respectful consideration to all recommendations and provide available updates on the implementation of the recommendations that have been accepted.

### Recommendations 2022-2023



For the fiscal year 2022-2023, 22 recommendations were offered to the following public bodies following completion of five formal investigations:

## Respondent Public Body: Digital Government and Service NL

### Complaint

A citizen complained about the unfair application and enforcement of the Protected Road Zoning Regulations (PRZ). The citizen submitted an application for a parcel of Crown land with the intention to build a retirement property. As the area of the application was subject to the PRZ, a permit was required to build on and develop land. The application to develop the property in question was refused by Digital Government and Service NL (DGSNL). The reason cited for the denial of the citizen's application acknowledged the parcel of land was within a Rural Conservation Zone. Under the PRZ, the permitted uses in a Rural Conservation Zone do not include residential, cottage or seasonal cottage. The citizen was provided with a right to appeal the decision. A decision to refuse the application to develop land under the PRZ was confusing to the citizen because there was a property built directly across the road and others within the same zoning area. The citizen did not understand how other properties were able to obtain development approvals, given they were all within the same Rural Conservation Zone and subject to the PRZ. The citizen reported what was believed to be infractions of the PRZ with respect to other developments in the area; however, they were not able to acquire any information in response to the circumstances that provided for their approval.

The OCR proceeded to investigate the following matters of administration:

- Whether the citizen's complaint about potential violations of the PRZ in Rural Conservation Zones was assessed and responded to in a fair and timely manner.
- Whether appropriate enforcement action is taken when DGSNL receives and investigates complaints about possible infractions of the PRZ.

Our Office concluded that DGSNL did not respond fairly to the citizen's complaint. The decision not to investigate the complaint based on insufficient information was unfair and unreasonable. There were shortcomings associated with DGSNL's complaint reporting process. It was found to be inaccessible and the amount of information required of citizens when making a complaint was found to be unreasonable. Furthermore, the complaint system was not supported by the existence of any policies, guidelines or protocols. Specific to the complainant, the decision of DGSNL not to investigate was not well explained. Full transparency was not available with respect to an explanation of recent developments in the particular Rural Conservation Zone.

### Recommendations Offered

1. DGSNL review its complaint-handling process and develop complaint management guidelines or policy that outlines how they receive, record, investigate, resolve and report on complaint outcomes. This policy should be available to the public and clearly identify information about the complaint process and which department will be accountable to complainants.

### Respondent Public Body: Digital Government and Service NL

2. DGSNL and the Department of Municipal and Provincial Affairs (MAPA) review and clarify roles and responsibilities under the **Urban and Rural Planning Act** (URPA) and Protected Road Zoning Regulations (PRZ) related to enforcement during the various stages of development and create a framework (protocols/guidelines, etc.) for enforcement.
3. DGSNL review procedures for dealing with developments out of compliance to ensure a level of accountability for everyone (both private and crown land applications).
4. That DGSNL investigate the citizen's complaint and if any existing structures are determined to be illegal non-conforming uses under section 108 of the URPA and section 24 of the PRZ that an amendment to the Southern Shore Highway Protected Road Zoning Plan take place, in order for the existing structures to continue.

#### Outcome

Digital Government and Service NL replied that it continues to work towards implementation of the first three recommendations above. In this regard, a draft Memorandum of Understanding has been developed by DGSNL and circulated to applicable departments which considers these recommendations. In relation to the fourth recommendation, as recommended by the OCR, an alternative to investigating existing structures to determine illegal non-conforming issues, the citizen has taken the necessary steps to rezone Crown land property that had been applied for development. For all intents and purposes, the OCR considers the final recommendation as reasonably implemented and will not require further follow-up. The OCR will continue to monitor implementation of recommendations one through three.

### Respondent Public Body: Fisheries, Forestry and Agriculture

#### Complaint

A citizen filed a complaint with the OCR related to the cancellation of an agriculture lease. The procedural fairness of the decision-making process to cancel the lease was questioned as the citizen was not informed of any non-compliance concerns and was not provided a meaningful opportunity to provide a response to the concerns. The citizen alleged there was no communication on the lease until a letter was received cancelling it. The investigation focused on a review of the process for obtaining agricultural land with specific attention on the transfer, termination and default of agricultural leases.

## Respondent Public Body: Fisheries, Forestry and Agriculture

This investigation concluded that it was unreasonable that the Department did not give notice of a lease cancellation and that the Department could not produce any documentation to confirm when it conducted inspections on the lease. The investigation further provided that in situations where it is determined that a leaseholder is not developing land in compliance with the terms of a lease which results in its cancellation, the Department needed to ensure the cancellation process is conducted in a procedurally fair manner.

### Recommendations

1. The Department develop policy and procedures related to the cancellation of agriculture leases to supplement Schedule C of the lease agreement. This should include clear guidance on the issuance of 30-day notice letters and any exception that might warrant a temporary accommodation made under extenuating circumstances (e.g. illness, weather event, etc.).
2. Ensure required documentation is on file to support the management and oversight of compliance inspections and monitoring.
3. Update relevant policies that are dated: Policy AD.005 (general processing of assignments but not specific to agriculture leases) and Policy AS-007 that serve as a basis for assignment processing.
4. Develop guidelines that annually monitors/records leaseholders' completion of their 5-year Farm Development Plan.

### Outcome

The Department acknowledged and accepted these recommendations. It advised that all policies related to the administration of Crown lands are under review and will include a review of the Agriculture Lease Schedule C title conditions to incorporate a process for the issuance of 30-day notice letters. New titles issued for agriculture purposes will include a statement to address non-compliance with their Five-Year Farm Development Plan and the ability to request a one-year extension to meet compliance requirements. Policy review includes the intention to simplify and clarify processes with a commitment to develop a process to monitor the compliance of approved Five-Year Farm Development Plans. The Department maintains a compliance file which includes agriculture titles and is updated when compliance inspections are completed with copies of inspection reports and supporting photographs, notes and maps related to inspections. Regional staff are encouraged during regular meetings to ensure consistency in collecting, organizing and storing information related to compliance inspections. A team lead is identified to ensure consistent and reliable data entry of file documents. The Department remains committed to review processes and procedures relating to updating Policy AD.005 and to develop guidelines to monitor the compliance of approved Five-Year Development Plans.

The OCR accepts that the second recommendation has been adequately implemented. We will continue to monitor the implementation of recommendations 1, 3, and 4.



## Respondent Public Body: Municipal Assessment Agency

### Complaint

A citizen complained to our Office and alleged unreasonable treatment by the Municipal Assessment Agency (MAA) related to access to assessment information and the professionalism of staff of the MAA. Although the citizen's complaint was not related to the outcome of an appeal, it did prompt a review of the appeal process. The complaint primarily related to difficulty accessing information about an assessment, and understanding the information that was received. While there is a right to challenge assessments, the citizen believed this right could not be effectively exercised without all the necessary information.

The investigation confirmed shortcomings with respect to the lack of guidance and training for Commissioners, as well as those related to communication and accessibility of information. The MAA's Annual Reports acknowledge attempts to improve transparency and understanding of municipal assessments by property owners. The following recommendations were intended to support these efforts.

### Recommendations

1. MAA work with the citizen to provide any further clarification on the assessment process to address any outstanding concerns not covered by the OCR report.
2. The MAA review their website and printed materials to provide more thorough information and clarification about:
  - a. what specific type of information the MAA is required to provide property owners;
  - b. unfamiliar property assessment and appraisal terminology;
  - c. enhanced information on methodologies and assessment standards, etc.;
  - d. **the Assessment Act, 2006**, speaks only to the commissioner. It does not identify the Appeal Commission or the Assessment Review Commission and it is often referred to as such. This may require clarification as it can be difficult to distinguish whether the MAA has a role in the "Commission".
3. The MAA examine their communication and complaint management strategies to ensure more effective communication of decisions and reasons.
4. The MAA review the policy on Field Data Collection and include guidance for assessors when the property owner is at home, but an interior inspection is unsafe because the property owner does not remain present.
5. The MAA engage with the Department of Provincial and Municipal Affairs to review whether amendments to the **Assessment Act, 2006**, are required to address the issues of correcting errors post-decision and the issue of conflict of interest.
6. The MAA work cooperatively with Municipalities NL and the Department of Provincial and Municipal Affairs to establish training, guidance and/or a Code of Conduct for Commissioners. We believe this will improve the consistency and procedural fairness in how the appeal hearings are conducted across the province.

## Respondent Public Body: Municipal Assessment Agency

### Outcome

The MAA accepted the above recommendations. Since the acceptance, the OCR has reviewed documentation that demonstrates each recommendation has been implemented. A new website is intended to provide more information to the public in a user-friendly format. The hire of a communications consultant has improved communication efforts and increased transparency of information sharing and clarity. It has reviewed policy and demonstrated efforts to provide supportive protocols related to field data collection. MAA has also appropriately engaged with the Department of Municipal and Provincial Affairs and Municipalities NL to discuss legislative issues and to contribute to education and guidance for Commissioners by making an online training course available. MAA commits to continuing work in all areas to improve services for citizens.



## Respondent Public Body: Newfoundland & Labrador Housing

### Complaint

A citizen, who was a tenant of Newfoundland and Labrador Housing (NLH), filed a complaint in relation to a lack of transparency and communication received from NLH following an alleged incident with an NLH employee, a subsequent workplace investigation, and a notice to vacate the NLH unit occupied by the citizen.

This investigation brought to light some shortcomings with respect to how NL Housing handled the matter, from its notice of evictions to its communications and internal investigation of an employee.

### Recommendations

1. Provide training and guidance to those responsible for internal investigations in regard to bias.
2. Create policy to guide workplace investigations.
3. Create policy that outlines how a tenant can formalize a complaint, which can be shared with tenants for transparency.
4. Should NL Housing create policy around forced entry like drilling out locks; get a legal opinion on this practice versus the **Residential Tenancies Act**.
5. Consider the inclusion of tenants in eviction prevention meetings that are held at NL Housing.

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## Respondent Public Body: Newfoundland & Labrador Housing

### Outcome

Newfoundland and Labrador Housing accepted all five recommendations and have confirmed their implementation. The OCR is satisfied that adequate steps have been taken to implement each recommendation. To mitigate the potential for bias, outside partners are being used to conduct investigations, with a conflict of interest waiver to be completed for any NLH managers involved in the process. The development of a Complaint Resolution Form available to tenants on the NLH website and the identification of updated and existing policy satisfies the implementation of all recommendations.

## Respondent Public Body: Justice and Public Safety

### Complaint

The OCR received multiple complaints in relation to a sewage backup which occurred on a unit at Her Majesty's Penitentiary. It was alleged that clean-up did not occur until 24 hours after the alleged incident and that not all affected cells were cleaned and disinfected. Further allegations were made that inmates were left to sleep on mattresses saturated with sewage and that they had no choice but to eat meals inside contaminated cells. Requests for inmate transfers to alternate units or cells were allegedly denied. Telephone calls to lawyers and the OCR were denied. The medical staff refused to administer medication due to the conditions and HMP staff failed to notify Service NL of the flooding event as per standard process.

The Department has a legal responsibility for the safety, security and well-being of inmates in custody in provincial institutions. This investigation found the Department failed in its responsibility to respond in an appropriate and expedient manner to any emergency situation that can affect the health and safety of both inmates and staff.

### Recommendations

1. Update policies to include mandatory documentation of all emergency sewer clean-up incidents that necessitate the hiring of outside contractors.
2. Create a policy to ensure inmates are not left in contaminated cells for extended periods of time and are removed as soon as possible.
3. The Department commit in writing to ensure our Office is provided with accurate, detailed and timely disclosure of evidence that is required for our investigation.

## Respondent Public Body: Justice and Public Safety

### Outcome

The Department advised it has a process in relation to reporting and resolving sewer incidents. It further stated that adult corrections policies are currently under review and this policy will be developed as part of this process. Similarly, current procedure to remove individuals from contaminated cells was provided; however, there was no policy provided. The Department has committed in writing to provide accurate, detailed, and timely disclosure of evidence that is required by the OCR in the course of an investigation. The OCR considers the third recommendation to be implemented and will continue to monitor the first two recommendations.



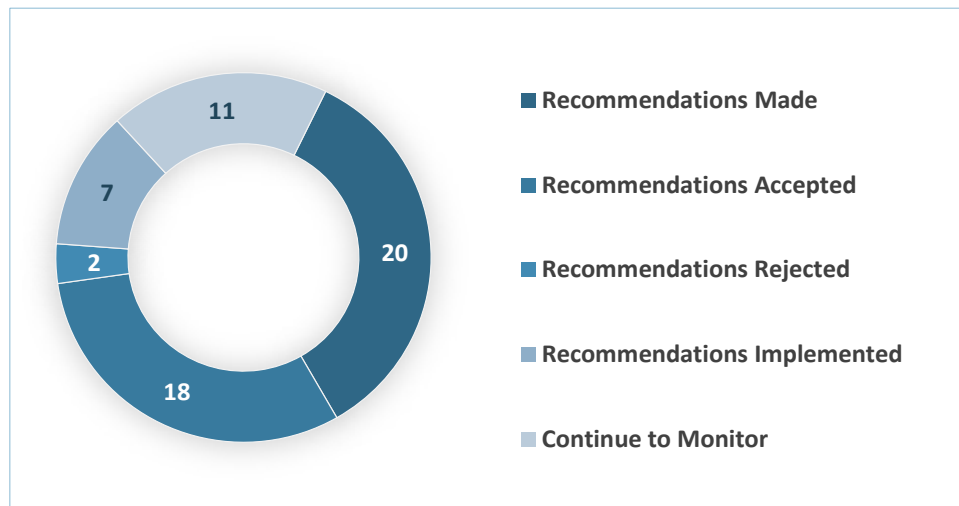


## Update on Recommendations from Previous Reports

In the fiscal year 2020-2021, the OCR began a process of actively monitoring the implementation of accepted recommendations. Once we determine public bodies have satisfactorily demonstrated implementation of recommendations made, the OCR will no longer formally monitor their implementation. The OCR will, however, continue to monitor these recommendations on an informal basis via ongoing inquiries with citizens who share their concerns with our Office.

In light of our commitment, we have requested updates from public bodies since the previous reporting period.

### Recommendations 2021-2022



For the fiscal year 2021-2022, NL Health Services has demonstrated implementation of one outstanding recommendation, thereby confirming implementation of all three recommendations. The OCR will continue to monitor the complete implementation of 11 outstanding accepted recommendations with the following public bodies:

- Department of Fisheries, Forestry and Agriculture (2 recommendations);
- Department of Justice and Public Safety (7 recommendations);
- Department of Children, Seniors and Social Development (1 recommendation);
- Environment and Climate Change (1 recommendation).

Details of these recommendations can be found on pages 9 through 16 of our 2021-2022 Annual Digest at <https://www.citizensrep.nl.ca/pdfs/OCRAnnualDigest2021-2022.pdf>

## Recommendations 2020-2021



Two remaining recommendations will continue to be monitored from 2020-2021 that involve amendments to the **Citizens' Representative Act** through the House of Assembly. Details of these recommendations can be found on page 12 of our 2020-2021 Annual Digest at <https://www.citizensrep.nl.ca/pdfs/OCRAnnualDigest2020-2021.pdf>

# Public Interest Disclosure

## PIDA - 2022-2023

The OCR is responsible for investigating allegations of wrongdoing under the following two pieces of public interest disclosure legislation:

**1. Part VI of the House of Assembly Accountability, Integrity and Administration Act (“HOAAIA”).**

Part VI serves as a portal for employees and Members of the House of Assembly to disclose potential wrongdoing at the House of Assembly that they believe should be investigated in the public interest.

**2. The Public Interest Disclosure and Whistleblower Protection Act (“PIDA”):**

A report to the House of Assembly under Section 20 of the PIDA is required annually. The report covering the period April 1, 2022 to March 31, 2023, was tabled on June 30, 2023. This report can be accessed electronically at <https://www.assembly.nl.ca/business/electronicdocuments/OCRPIDAAnnualReport2022-2023.pdf>

**During 2022-23, the OCR received two disclosures under HOAAIA.**

**The OCR handled seven inquiries under PIDA during 2022-23.**

# Individual Case Summaries

Case summaries allow us to expand on the specific course certain complaint files have taken through our complaint-handling system. In the fiscal year 2022-23, we identified a trend of citizens presenting with difficulty accessing public services. This is usually as a result of a lack of knowledge and clarity of process. In this section, we highlight examples of repaired communication between citizens and public bodies, in addition to the government's ability to be aptly flexible and responsive when it can. While complaint numbers increased during this fiscal year, we continue to see an increase in the level of complexity of the various complaints we receive. Many complaints that we manage include engagement with more than one public body, and on occasion, entities for which the OCR does not have jurisdiction. This often requires flexibility and knowledge of additional resources, programs and services. We acknowledge the dedication, commitment and professionalism of our staff and the people we contact in the public service, who try to help those who reach out to us.

The following cases, selected by staff, outline a cross-section of the complaints referred, mediated and investigated during 2022-23. Please refer to the section on recommendations for all investigations during 2022-23 that resulted in recommendations being made to public bodies.

## Provincial Government Departments

### Children, Seniors and Social Development

#### Income Support Division

#### Discretionary Decision-Making



The Income Support Division (the Division) provides financial benefits and other services to eligible low-income people and families to assist in meeting daily living expenses.

A citizen in receipt of income support contacted the OCR stating they had requested consideration of a special diet allowance. They had provided medical documentation on two different occasions from two different physicians requesting additional funding for a low histamine diet, consisting of fresh meats, organic fruits and vegetables, due to a recent diagnosis of Mast Cell Activation Syndrome (MCAS).

Under Income and Employment Support policy, a low histamine diet did not clearly fall under the prescribed list of approved diets. The policy further stated that special diets should not be approved for conditions that can be ordinarily controlled by following Canada's Food Guide (CFG). Further, in cases where a condition cannot be controlled by following CFG, a Client Services Manager may approve requests.



While the requested diet did appear to be controllable by following Canada's Food Guide, neither the CFG, nor the assessment of the requested diet considered the significant higher cost of organic fruits and vegetables compared to non-organic.

The OCR requested reconsideration of the denial of a special diet by a Client Services Manager taking into account the additional cost of purchasing organic fruits and vegetables as a medical requirement to treat the rare diagnosis. This request was reviewed by the Provincial Office and the diet was approved by the Client Services Manager. A retroactive payment was issued to the original date of the request and the special diet was included with future eligible benefits.

The Department of Environment and Climate Change (ECC) supports the environmental sustainability of municipalities, communities and regions. It is responsible for environmental protection and enhancement through implementing water resource and pollution prevention regulations and policies, as well as coordinating environmental impact assessments of proposed development projects and managing impacted sites.

A citizen contacted our Office and alleged ECC refused to provide them information in response to a complaint lodged with ECC against a private company believed to have been contravening environmental protection legislation. The citizen was requesting information on the result of the complaint and advised that having spoken with multiple staff of ECC, they were being refused this information.

Upon inquiry to ECC, confirmation of receipt of the complaint and documentation of communication with the citizen was provided. Documentation was also provided to demonstrate appropriate action was taken in response to the citizen's complaint. Quite commonly, public bodies take a stance that they would be contravening privacy legislation by sharing details of action taken against a private company. In this instance, ECC advised it was unable to share the information with the citizen due to the rules related to the protection of privacy of the private company.

### Discretionary Decision-Making (cont'd)

*"Thank you for never giving up on me and being part of my village..."*

*I want to thank you again for all your help; I wouldn't be where I am in getting support without you!"*

### Environment and Climate Change

#### Validating the Appropriateness of a Response



### Validating the Appropriateness of a Response (cont'd)

The citizen was advised of this information and the OCR's satisfaction with this response from ECC. The citizen was also provided with contact information for the Office of the Information and Privacy Commissioner in the event there were any outstanding issues related to the protection of privacy outweighing the right of the citizen to acquire the information being sought. The citizen was satisfied with our response.

### Fisheries, Forestry and Agriculture

#### Listening to the Needs of all Citizens



The Department of Fisheries, Forestry and Agriculture (FFA) aligns the Province's natural renewable resources of fisheries, aquaculture, forestry, agriculture and agrifoods. The Department is responsible for supporting the advancement and development of these industries. The Provincial Government works with industry and stakeholders to achieve sustainable economic growth in all sectors for the benefit of the people of Newfoundland and Labrador.

A citizen contacted the OCR with a complaint regarding the moose licence application process. The citizen stated that they could only apply for a moose licence online. The citizen had no access to a computer or the internet and felt it unfair that an application could not be accepted in any other manner. The citizen was willing to visit the local office of FFA and apply in person, if necessary. It was further alleged that the application process for other big game licences, such as that for a bear, was not exclusively online.

Upon inquiry to FFA, staff confirmed the process as described by the citizen. The application process for a moose licence transitioned to online application only based on internal data. As a means of resolution, staff suggested the citizen could avail of a computer and internet access at a public library to enable the submission of an online application. Our Office found this response to be unreasonable and upon further discussion, it was agreed the citizen should be able to go to an FFA service office and receive help from staff with the submission of an application on the available office computer. Staff advised they would contact the citizen to arrange for a mutually agreeable time for the office visit to complete the online application.

The Crown Lands Division is administered under the authority of the Department of FFA and is responsible for the management and allocation of Crown lands in the province for the continuous social and economic benefit of its residents.

A complaint was submitted to the OCR alleging an unfair denial of an application to Crown Lands for adverse possession of a parcel of Crown land that had been occupied by the family for approximately eighty years. The only rationale allegedly provided to the citizen indicated the conditions of section 26 of the **Lands Act**. The citizen had not received any further explanation as to which conditions had not been met, or any rationale as to how this conclusion was formed.

The Crown Lands Division was unresponsive to OCR informal inquiries. The matter was considered time sensitive as an appeal mechanism available to the citizen was about to expire. As a result of the unresponsiveness of the public body, a formal investigation was launched. Crown Lands did respond to our notice of intent to investigate the matter. It acknowledged that an error was made in the decision-making process which resulted in the previous denial of the citizen's application. The OCR confirmed contact by Crown Lands with the citizen who had started the completion of a revised application for the same parcel of land. The citizen requested the investigation be placed on hold to allow for processing of the new application.

Upon further follow-up with the citizen, they advised they were in the final stage of the process to obtain outright ownership of the property and no longer wished to pursue the original complaint. With this outcome, our investigation ceased.

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The Department of Health and Community Services (HCS) provides a leadership role in health and community services programs and policy development for the province. This involves working in partnership with a number of key stakeholders including regional health authorities, community organizations, professional associations, post-secondary educational institutions, unions, consumers and other government departments.

### The Value of an Explanation



### Health and Community Services

### All Feedback Welcome



**All Feedback  
Welcome  
(cont'd)**



The 811 HealthLine is a confidential and free telephone line staffed by experienced Registered Nurses. It is available to all residents of Newfoundland and Labrador any time, day or night, and is administered by HCS.

A citizen reached out to our Office requesting a review of an interaction they experienced when they accessed the 811 HealthLine. The citizen found the encounter upsetting because they felt it did not have any trained staff to help them with a mental health crisis. Furthermore, they felt there wasn't an accessible internal feedback process available to have their concerns addressed.

In response to our inquiry, HCS advised that any 811 HealthLine user could call 811 to provide either negative or positive feedback. A Health Care Navigator (HCN) would be responsible for registering the call and documenting any feedback provided. The citizen would be provided with the opportunity to have a manager follow-up with them if desired. Regardless of whether this follow-up was requested, the HCN will forward the call ID number to either the Director of Clinical and Client Services (Registered Nurses) or to the Director of Virtual Care (Nurse Practitioners) for investigation. If managerial follow-up is requested, it is to be provided within three business days.

The citizen was satisfied that their concerns could be addressed directly through the 811 HealthLine.

**Justice and Public  
Safety (JPS)**

**The Need to be  
Responsive**



The Department of Justice and Public Safety (JPS) is responsible for the provision of legal services to Government through the Office of the Attorney General and is responsible for the protection and safety of people in the province in respect of their persons and property. These responsibilities are met through: provision of legal advice to Government departments; police protection; prosecution of accused persons; administration of the courts, including family justice services; operation of the province's correctional systems; provision of services to victims of crime; protection of human rights; and legal aid services. The Department is also responsible for the Support Enforcement Program, Fines Administration, the Office of the Chief Medical Examiner, and the Serious Incident Response Team.

A citizen of NL who was temporarily working and living in a European country contacted our Office as they were having difficulty obtaining a response from JPS. The citizen had contacted JPS to obtain information regarding property ownership legislation that was required by the government of the European country. They stated that both the European country and Global Affairs Canada had reached out to JPS for the information on behalf of the citizen, but neither received a response. The citizen simply wanted to obtain the required response from JPS.

The OCR contacted JPS regarding the request for information and the lack of response to the citizen and other entities. JPS advised there was some confusion in relation to the correspondence received by them that had been rectified following our inquiry. JPS advised that officials with the Intergovernmental Affairs Secretariat were provided with the correspondence and were in contact with the foreign government entity seeking the information on behalf of the citizen. The citizen was appreciative of this resolution.

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Adult Corrections is a Division of the Corrections Branch of the Department of Justice and Public Safety (JPS). Adult Custody in the Province is comprised of five correctional facilities and two detention centres that provide services and programs for sentenced, remanded and detained offenders. Programs and services are delivered to assist offenders in reintegrating into the community following release from custody.

A citizen residing at the Newfoundland and Labrador Correctional Centre for Women (NLCCW) complained to the OCR of inadequate treatment and care during a three-month period of incarceration. A list of complaints directly related to the responsiveness of correctional staff to incidents relating to a medical condition and the citizen's overall mental health.

The investigation found that access to medical attention and the actions of correctional staff were appropriately responsive to the needs of the citizen. Specifically, several appointments and assessments were facilitated with various members of the medical staff including a doctor, nurse practitioner, psychologist and psychiatrist. Additionally, the citizen's participation in community programming to support mental health and addictions was facilitated by staff of NLCCW.

### The Need to be Responsive (cont'd)



### Adult Corrections

### All Supports in Place





### All Supports in Place (cont'd)



Furthermore, the investigation found the citizen had been subject to appropriate institutional checks in compliance with policy related to optimal safety of inmates with medical conditions. The citizen was also placed in a cell with a camera and the evidence indicated that more frequent checks occurred to ensure the citizen's medical safety. The evidence supported the position that staff were adequately trained and maintained current first aid training. In response to a specific complaint that a staff person did not employ best and current practice in response to a medical episode, the Department countered that despite the actions taken were not reflective of current practice, the actions of the staff person were made in good faith and were techniques used in the past to be responsive. Prior to the completion of this investigation, all staff had received updated first aid training and received the most updated protocols to employ following comparable medical episodes. We found this to be a reasonable response.

The OCR investigation was unable to conclude that the citizen was treated unfairly or contrary to departmental policy. The investigation determined that proper medical care and mental health supports were provided to the citizen during the brief period of incarceration at NLCCW.

### Adult Corrections

#### Costly Mistake



A citizen in a correctional institution contacted the OCR having deposited \$100 into an inmate trust account to use for canteen items. Upon placement of a canteen order, the citizen was advised that the account had a balance of only \$20. The citizen was unsure how the account had been depleted.

Upon inquiry, it was explained that during a previous release from incarceration several years prior, the individual was given more money than was actually in their account due to a "glitch" in the financial tracking system that miscalculated his balance. After the \$100 deposit, an account reconciliation was completed and the money that was given in error on the previous release was accounted for.

Given the amount of time that had elapsed since the citizen's release several years ago, the OCR inquired of JPS whether the citizen had been notified of the error and whether there was existing policy to support reconciliation of accounts and any time limitations for same.

As the money given to the citizen was the result of a departmental error and the total amount of the error was taken by the reconciliation, we inquired whether an alternate payment arrangement could be set up so that the citizen would not be without canteen money.

According to JPS, policy did not exist for inmate account errors. Furthermore, the citizen had not been contacted in the previous five years regarding the error. The OCR was advised that had the citizen not re-offended, provincial collections would have been set up to retrieve the funds. Given the lack of collection activity over the five years and the lack of communication with the citizen, the OCR questioned the fairness of collecting the funds at this time, in the full amount.

The Department advised upon further review, the money taken to consolidate the citizen's account was reimbursed to the citizen. It further acknowledged the lack of communication and ensured that steps would be taken to advise citizens of any account changes as they occur, and that a policy was being created regarding errors that occur with trust accounts.

### Costly Mistake (cont'd)



During a period of excessive hot weather, the OCR received a surge of calls from several individuals at Her Majesty's Penitentiary (HMP) alleging unbearable heat and poor ventilation on one specific unit. It was described as the worst they had experienced at HMP and there were concerns expressed for their well-being, including dehydration. As well, individuals with Asthma and Chronic Obstructive Pulmonary Disease (COPD) experiencing the rise in temperature and lack of air flow described concern as their symptoms were worsening. A further allegation was that there wasn't any drinking water available in the cells.

The OCR acknowledged that infrastructure issues tend to present in the summertime that impact the temperature control of the institution; however, this situation was very early in the summer and appeared to be far more extreme than any typical seasonal complaints received in the past. The OCR inquired of JPS the accuracy of the allegations and if verified, how the concerns might be addressed.

HMP acknowledged the complaint and advised that the company to service the ventilation system had visited and repaired the air conditioner. A malfunctioned computer had been reset to enable its proper operation. As well, the issue of providing additional water to the cells was also addressed.

### Adult Corrections

#### Improving Conditions



## Adult Corrections

### The Benefit of Proactive Communication



A citizen at the Newfoundland and Labrador Correctional Centre for Women (NLCCW) in Clarenville contacted the OCR upon learning of a temporary transfer to HMP in St. John's. The citizen was concerned about the lack of information shared in advance of the transfer. There was also concern in relation to the impact of the transfer on her ability to continue to access programming and counselling.

Upon receipt of the complaint, NLCCW advised that due to the high number of women inmates, the decision was made to house a number of low-risk women at HMP temporarily in a segregated unit. The OCR was also assured that the service providers for programming at NLCCW are based in St. John's; therefore, arrangements to continue uninterrupted programming to the women while at HMP were in place. Further assurance was provided that all required information would be shared with the women being transferred. The OCR was later advised that the housing of women at HMP was brief and without any concerns.

## Labrador Affairs

### More Information Required



The Department of Labrador Affairs administers two programs that provide financial help to Medical Care Plan (MCP) beneficiaries who incur out-of-pocket travel costs to access insured medical services that are not available in their community and/or within the province. These two programs are:

- Medical Transportation Assistance; and
- Medical Transportation Benefits for Income Support Clients.

### Medical Transportation Assistance

The Medical Transportation Assistance Program (MTAP) provides financial assistance to patients and their escort (if medically required) who incur substantial out-of-pocket travel costs to access specialized insured medical services which are not available in their immediate area of residence and/or within the Province.

A citizen from a rural area of the province contacted the OCR having submitted a claim for reimbursement of travel expenses incurred to attend a medical appointment in St. John's. The amount of reimbursement received was less than what had been submitted. There were expenses that were not considered in the processing of the claim.

Upon inquiry to the MTAP, it was indicated that additional information was required from the citizen to consider reimbursement of expenses not previously reimbursed. The citizen proceeded to provide the requested information and the remaining expenses were considered and reimbursed in accordance with policy provisions.

### More Information Required (cont'd)

## Boards and Agencies

Newfoundland and Labrador (NL) Health Services provides quality health care to all residents of the province. It provides a broad range of programs and services to citizens through a large suite of facilities, clinics and community services, overseen by five zones: Central, Eastern-Rural, Eastern-Urban, Labrador-Grenfell, and Western. It also includes the Newfoundland and Labrador Centre for Health Information.

### Newfoundland and Labrador Health Services

#### Eastern-Urban

A family reached out to the OCR regarding an experience with an acute care admission of their adult child with complex medical needs. The adult child has severe intellectual disabilities, is non-verbal and totally dependent with respect to activities of daily living. The parents indicated that while the adult child is low functioning, they enjoy life and communicate non-verbally with parents and caregivers.

### Support for Family Caregivers



During the acute care admission, the family indicated that while the adult child was in the hospital, one person was required to be there at all times. Two home support workers providing care in the home offered to continue support in the hospital, providing rest for the parents. It was later indicated that home supports were not approved by the Community Supports Program during an acute care admission, as per policy. The family alleged they were not offered the support of a Personal Care Attendant (PCA) until the day before discharge. The availability of this support was not clearly articulated to the family and the support was not often available; thus, the family felt they needed to be there all the time to ensure the one-on-one care required was available. It was further alleged that there was a shortage of PCAs and there weren't enough to support all patients. The PCA assigned was always a different person with varying abilities.

*"I have appreciated your support tremendously this past year. I do also understand and appreciate and greatly value your advice and impartial perspective."*

The parents suggested that it is necessary to create a practice/policy for acute care admissions, such that there are family consults for

### Support for Family Caregivers (cont'd)

children (adults included) with complex needs and an assessment of what the needs are and supports available during the acute care admissions. It was also suggested that there is value in permitting the approved home supports to continue in acute care admissions to support patients and the families optimally.

The family eventually declined to have their experience investigated under the **Citizens' Representative Act** due to competing demands on their time and attention. The general nature of the complaint, however, was incorporated into a relevant systemic investigation under section 15 of this legislation that was not concluded at the end of this reporting period.

### Responsive to Market Demand



A citizen facing eviction from a private landlord contacted the OCR. The citizen had demonstrated challenges with maintaining appropriate housing directly related to mental health and many circumstances beyond the citizen's control.

It was identified that the citizen was receiving financial support from three separate public bodies. The citizen was in receipt of the maximum permissible amount of rent from the Income Support Division of the Department of Children, Seniors and Social Development in accordance with statutory provisions. Likewise, the maximum amount of monthly funding available from Newfoundland and Labrador Housing was provided to the citizen. NL Health Services, Eastern-Urban, had also been providing financial support in an effort to meet the mental health needs of the citizen and to ensure access to appropriate housing.

The citizen was facing eviction as the landlord had increased the amount of the rent by \$150 per month; an amount that was beyond the citizen's ability to pay. Initially, the citizen was advised that additional funding could not be provided due to the landlord increasing the rent as a result of the rental market.

Upon inquiry of an available appeal for the citizen, the OCR was advised that a final decision had not been made by NL Health Services; thus, an appeal was not necessary. It later advised that following more discussion and further review of the information, the decision was made to approve an amount of funding to cover the rental increase.



NL Health Services is responsible for the delivery of medical services for incarcerated citizens in each of the province's correctional facilities.

A citizen incarcerated at the Newfoundland and Labrador Correctional Centre for Women (NLCCW) contacted the OCR regarding Opioid Dependence Treatment (ODT). Specifically, it was alleged that the citizen was experiencing an allergic reaction (hives) to the prescribed treatment. The citizen was requesting to switch to another ODT medication.

While clinical decisions related to medical assessments are outside the jurisdiction of our Office, NL Health Services staff advised that a side effect of the medication is itchy skin, which isn't abnormal or indicative of an allergy. It was indicated that the side effect, or the symptom would be treated.

The citizen later indicated that medication was prescribed to address the reaction to the ODT medication and it was working well. No further symptoms or side effects presented.

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Newfoundland and Labrador Housing (NLH) is a Crown corporation whose mandate is to develop and administer housing assistance policy and programs for the benefit of low to moderate income households throughout the province.

People currently living in places where smoking is permitted often feel they have little recourse to address their concerns. However, in cases where second-hand smoke is frequent, ongoing and affecting tenants' health, landlords have a responsibility to follow up on the concerns.

A citizen living in an attached dwelling owned by NLH contacted our Office with a complaint about smokers from an adjacent unit which was affecting their health. They felt that NLH was not taking action to address their concerns.

An inquiry was made to NLH to discuss whether these types of situations were typically addressed and if there were any options for the citizen to explore to improve the situation. NLH acknowledged the health concerns the citizen has raised. Tenants of NLH, except for those in designated non-smoking seniors' buildings, are permitted to

## Eastern-Rural

### Responding to Treatment Complexities



## Newfoundland and Labrador Housing (NLH)

### Balancing the Rights of All Tenants



### Balancing the Rights of All Tenants (cont'd)



smoke in and around their properties. When there is no lease violation, NLH can ask neighbours to be as respectful as possible and consider the impact of second-hand smoke on non-smokers who reside in adjacent properties. An alternate consideration is for the citizen to consider a transfer to a non-smoking building.

In this instance, the housing officer reached out to the tenants to look for ways to mitigate any smell or exchange of second-hand smoke. Maintenance staff also visited the building to investigate whether there was any way to improve the air quality and mitigate any issues with the smell of smoke entering the dwelling. With some minor work, the infiltration of smoke to the unit was reduced. The citizen was satisfied that NLH followed up on their concerns.

### Ensuring Housing Needs are Met



A citizen submitted a complaint against NLH related to concerns about a NLH initiated move from a four-bedroom housing unit to a three-bedroom housing unit. The move was required to enable necessary upgrades to the four-bedroom unit. The citizen believed the move was unsuitable and would not meet the needs of their family due to the family composition.

Following receipt of the complaint form, an inquiry to NLH brought forward the concerns and questions of the citizen. Primary concerns related to the citizen having full-time custody of their children. They raised safety issues; limited time to move and down-size; and questions in relation to the nature of the move, specifically, whether the move was temporary until upgrades to the unit were complete, and whether there would be an ability to move back to the four-bedroom NLH unit.

The OCR was advised the move was necessary to balance the need to have necessary repairs completed to the four-bedroom unit occupied by the family. Unfortunately, there weren't any four-bedroom vacancies available at the time and the only available option was the offer of the three-bedroom unit. Subsequent to the inquiry, NLH identified a four-bedroom unit and extended the time for the family's move to ensure the needs of the family would be met.

## Navigation, Self-Advocacy and Referral

A citizen who had an open file under the Protective Intervention Program of Child Protection and Youth Services, administered by the Department of Children, Seniors and Social Development (CSSD) submitted a complaint form to our Office. The complaint included concerns related to communication between the citizen and social workers engaged in the file, lack of consent to access information and connect with service professionals, and reasons why the file was not closed.

A person aggrieved must first exhaust all available administrative recourses before our Office will investigate a complaint. When citizens present to our Office with complaints related to child protection, we normally defer to the internal review mechanisms available within CSSD. In this scenario, a citizen can first request a review by the immediate supervisor responsible for the file, then make a request via the zone manager and finally, by the provincial inquiries coordinator. Upon submission of this complaint, the citizen had availed of a review by the immediate supervisor. Our Office reached out to CSSD to identify the zone manager for the area and redirected the citizen to the next available level of internal review to have the concerns addressed.

A citizen expressed concern with the service they received from a financial assessment officer concerning access to disability supports from NL Health Services. The citizen had asked to speak with the manager to discuss the concerns relevant to the disability supports; however, the request was unsuccessful.

The OCR reached out to the respective zone within NL Health Services and asked if the request could be elevated. A timely response was provided to the request and the OCR was satisfied the citizen was afforded the opportunity to have their concerns addressed.

For future reference, relevant contact information was provided to the citizen for the Client Relations Office for the zone. The Client Relations Office can be reached by telephone, email, or by mail correspondence when citizens want to share feedback concerning the care or services they have received.

### Engaging the Process



### Opportunity for Internal Resolution



### Seeking Direction



A citizen experienced a workplace injury while employed with a private business. The citizen stated that the employer instructed him to see a specific doctor at the local emergency room. It was alleged that the doctor was a relative of the employer and was a share-holder of the business. While being treated at the emergency room by a different physician, the citizen alleged that the doctor, believed to be a relative of the employer, appeared in the room to suggest a specific medical procedure. The citizen alleged a conflict of interest and was of the opinion that the doctor should not have attempted to interfere with his treatment. The citizen wanted to launch a complaint regarding the actions of the doctor, but was not sure of the appropriate avenue to make such a complaint.

The OCR advised the citizen that the actions of a doctor are not within OCR jurisdiction and provided contact information for the College of Physicians and Surgeons. The citizen was advised this route was appropriate for further exploration by the citizen to consider launching a complaint.

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### Mitigating Delays



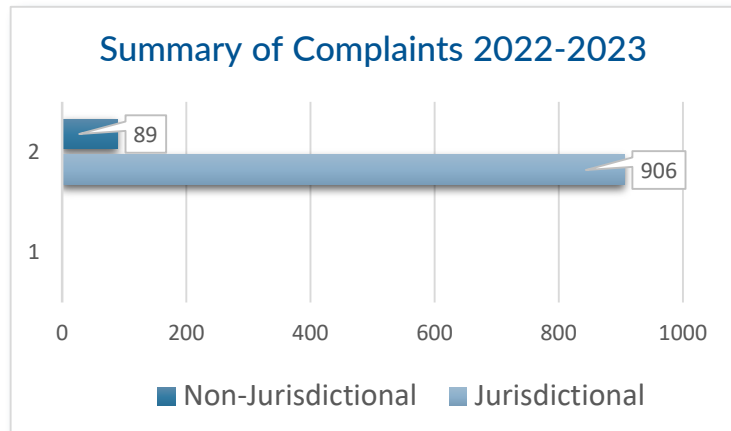
A citizen providing respite care to children in receipt of support through Child Protection and Youth Services alleged they had been experiencing regular delays in receiving pay for respite provided. It was alleged that the employer who was responsible to pay the hired respite staff, repeatedly contacted the assigned social worker who acknowledged the delay as being with the Department of Finance. The frustration intensified as the recurring delays required regular calls to the social worker.

The OCR suggested that the citizen make a connection with the Department's Provincial Inquiries Coordinator as a means of attempting to resolve the recurring delays in issued payments. The citizen later advised that the Provincial Inquiries Coordinator provided contact information for the Manager of Financial Services who ensured the outstanding payments were processed without further delays. The citizen was assured that payments would be on time in the future.

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## Statistics

During 2022-2023, the OCR received 995 complaints and inquiries.



The following tables illustrate the origin of the complaints we received and which government departments and agencies were concerned.

Complaints and Inquiries by Department April 1, 2022—March 31, 2023			
Departments	2022-2023	2021-2022	2020-2021
Children, Seniors and Social Development	17	15	22
Income Support Division	18	21	20
Digital Government and Service NL	9	16	19
Education	3	2	2
Environment and Climate Change	2	4	1
Finance	1	0	1
Fisheries, Forestry and Agriculture	13	19	12
Health and Community Services	12	49	17
Immigration, Population Growth and Skills	6	1	3
Industry, Energy and Technology	4	0	0
Justice and Public Safety -	7	18	18
Correctional Facilities	489	380	327
RNC Public Complaints Commission	1	5	5
Labrador Affairs	10	0	0
Municipal and Provincial Affairs	1	5	0
Tourism, Culture, Arts and Recreation	0	1	1
Transportation and Infrastructure	9	4	7
<b>Total Complaints and Inquiries</b>	<b>602</b>	<b>536</b>	<b>455</b>



<b>Complaints and Inquiries by Agencies, Boards and Commissions</b>			
<b>April 1, 2022—March 31, 2023</b>			
<b>AGENCIES/ BOARDS</b>	<b>2022-2023</b>	<b>2021-2022</b>	<b>2020-2021</b>
College of the North Atlantic	1	2	2
Conseil Scolaire Francophone Provincial de Terre-Neuve-et Labrador	0	2	2
Eastern Regional Waste Management Authority	0	0	1
Farm Industry Review Board	1	0	0
Human Rights Commission	2	2	3
Memorial University	1	5	2
Multi-Materials Stewardship Board	0	1	0
Municipal Assessment Agency	1	1	1
Nalcor Energy	0	0	2
Newfoundland and Labrador Medical Care Plan - MCP	1	2	2
Newfoundland and Labrador Housing Corporation	23	25	27
Newfoundland and Labrador Hydro	1	0	2
Newfoundland and Labrador Legal Aid Commission	19	11	8
Newfoundland and Labrador Liquor Corporation	0	2	1
NL Health Services - Correctional Health Services			
Labrador-Grenfell Zone	3	0	0
Western Zone	3	0	0
Central Zone	0	0	0
Eastern - Rural Zone	44	0	0
Eastern - Urban Zone	129	0	0
NL Schools	2	2	4
Public Procurement Agency	0	1	0
Public Service Commission	0	1	0
NL Health Services			
Central Zone	8	12	7
Eastern Zone	43	45	31
Labrador-Grenfell Zone	3	5	1
Western Zone	7	7	5
WorkplaceNL	11	15	8
Workers' Compensation Independent Review Board	1	3	2
<b>Total Complaints and Inquiries</b>	<b>304</b>	<b>144</b>	<b>111</b>

## Complaints/Inquiries by Electoral District April 1, 2022 - March 31, 2023

Electoral Districts	2022-2023
Baie Verte – Green Bay	5
Bonavista	7
Burgeo - LaPoile	0
Burin - Grand Bank	5
Cape St. Francis	6
Carbonear – Trinity – Bay de Verde	4
Cartwright - L'Anse au Clair	0
Conception Bay East – Bell Island	4
Conception Bay South	7
Corner Brook	11
Exploits	5
Ferryland	4
Fogo Island – Cape Freels	0
Fortune Bay – Cape La Hune	0
Gander	12
Grand Falls – Windsor – Buchans	6
Harbour Grace – Port de Grave	3
Harbour Main	6
Humber – Bay of Islands	1
Humber – Gros Morne	2
Labrador West	2

Electoral Districts	2022-2023
Lake Melville * <sup>1</sup>	36
Lewisporte - Twillingate	1
Mount Pearl - Southlands	2
Mount Pearl - North	0
Mount Scio	6
Placentia - St. Mary's	0
Placentia West - Bellevue	4
St. Barbe - L'Anse Aux Meadows	2
St. George's - Humber	1
St. John's Centre	4
St. John's East - Quidi Vidi * <sup>2</sup>	499
St. John's West	4
Stephenville - Port au Port	28
Terra Nova * <sup>3</sup>	126
Topsail - Paradise	2
Torngat Mountains	1
Unknown * <sup>4</sup>	180
Virginia Waters - Pleasantville	0
Waterford Valley	3
Windsor Lake	6
<b>Total Complaints &amp; Inquiries</b>	<b>995</b>

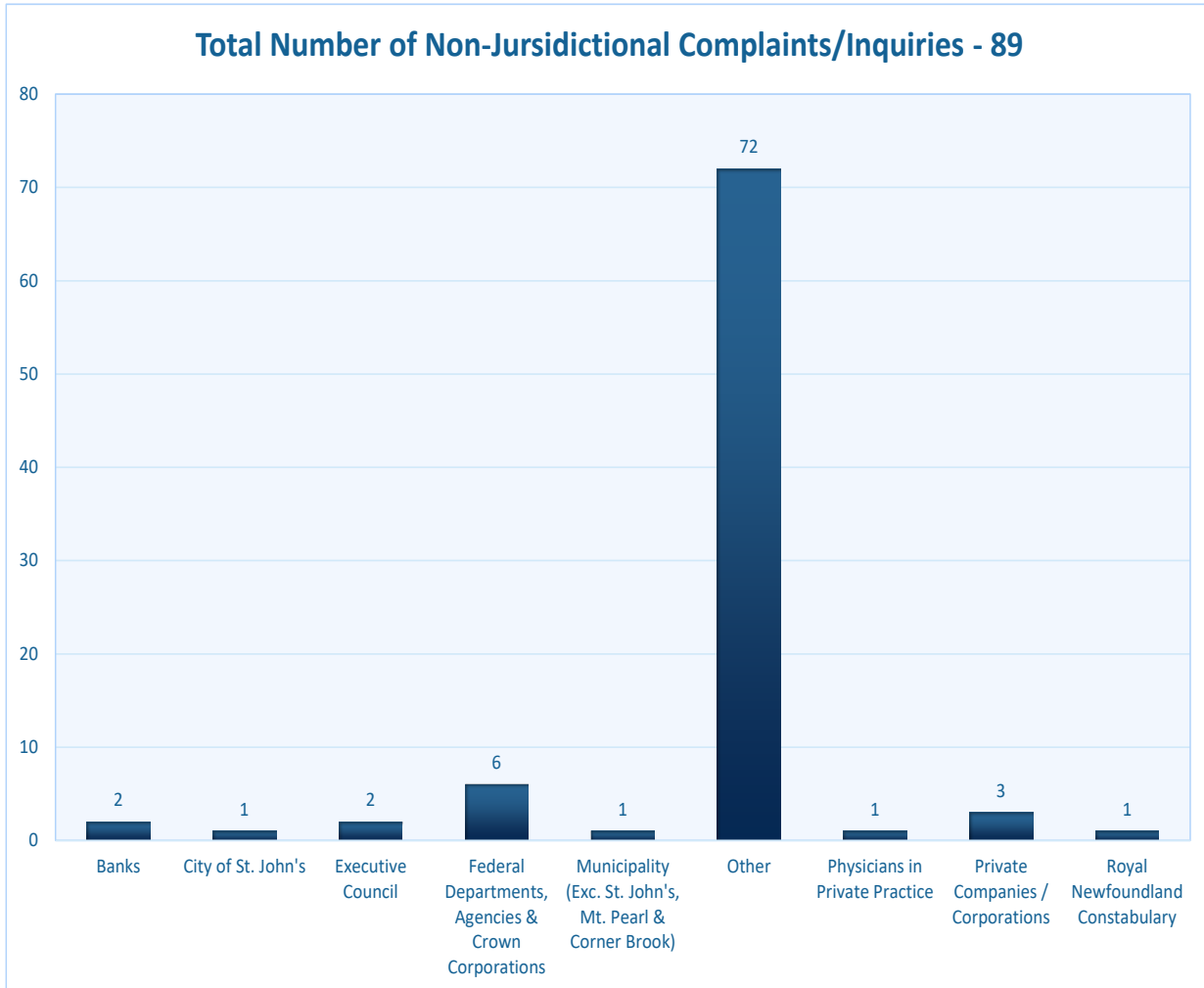
\* Note 1: The volume of complaints emanating from the District of Lake Melville is a result of the location of the Labrador Correctional Centre.

\* Note 2: The higher volume of complaints emanating from the District of St. John's East - Quidi Vidi is a result of the location of Her Majesty's Penitentiary (HMP).

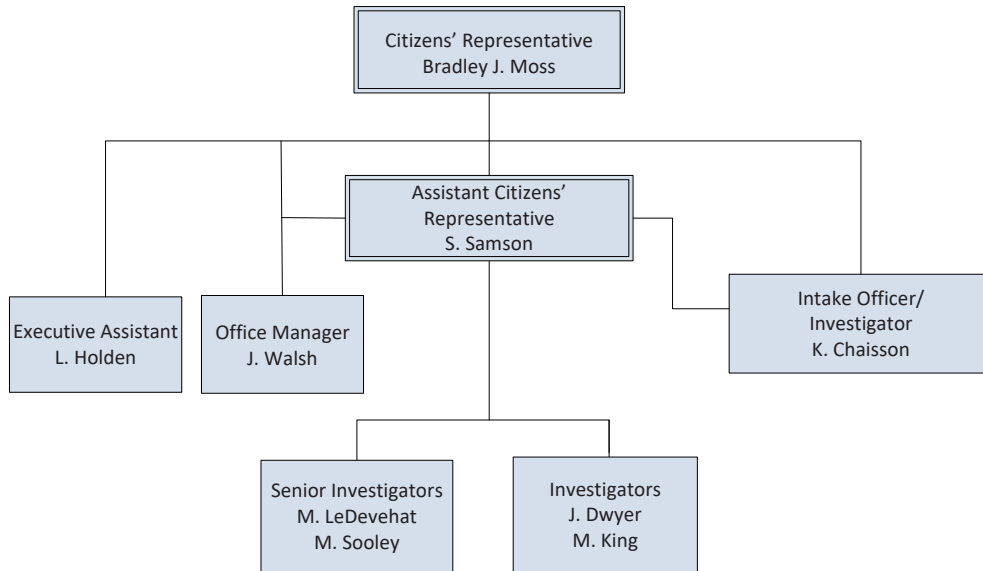
\* Note 3: The volume of complaints emanating from the District of Terra Nova is a result of the location of the Newfoundland and Labrador Correctional Centre for Women.

\* Note 4: This section includes complaints received from individuals who reside out-of-country or out-of-province who launch complaints about attempts to access services while visiting the province, or on behalf of citizens who currently reside in the province. It would also include systemic complaints involving more than one electoral district and situations whereby a citizen's address is not available.

## Complaints/Inquiries Non-Jurisdictional April 1, 2022 - March 31, 2023



# Office of the Citizens' Representative Organizational Chart



# HOW TO REACH US

## Office of the Citizens' Representative

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Facebook: [Office of the Citizens' Representative](#) –  
Newfoundland and Labrador

Twitter: [@NLCitizensrep](#)



Photos: Patricia Holden

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