

Establishing an Office of the Ombudsman for the Northwest Territories

Standing Committee on Government Operations

17th Legislative Assembly of the Northwest Territories

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“As an ultimate objective, the ombudsman can bring to the Legislature his observations on the misworking of administrative legislation. He can also focus the light of publicity on his concern as to injustices and needed change...***He can bring the lamp of scrutiny to otherwise dark places, even over the resistance of those who would draw the blinds.*** If his scrutiny and observations are well founded, corrective measures can be taken in due democratic process, if not, no harm can be done in looking at that which is good.”

– Chief Justice Milvain, of the Supreme Court of Alberta
Re: Ombudsman Act (1970) (72 W.W.R. 176, 190 - 193)

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Purpose of Report

This report has been prepared pursuant to Motion 12-17(4) of the Legislative Assembly, referring the matter of an office of the ombudsman to the Standing Committee on Government Operations for research, review and analysis. The purpose of the report is threefold:

1. To present, summarize and update the existing data compiled and research undertaken to date on the establishment of an office of the ombudsman in the Northwest Territories. This report draws heavily on tabled documents, committee reports and briefs already written on this subject – and relevant materials from other jurisdictions. All documents consulted in the preparation of this report are detailed in Appendix B.
2. To identify the current legislative environment of the Northwest Territories, within which an office of the ombudsman would operate. The report assesses existing legislative complaint mechanisms and provides analysis on the role of the ombudsman vis-à-vis these mechanisms. The report also considers how the NWT's legislative environment compares with that of other Canadian provinces and territories, and looks at best practices in other jurisdictions. The report then presents options for the creation of an office of the ombudsman for the Northwest Territories.
3. To provide analysis and observations to assist the Standing Committee on Government Operations to determine whether an office of the ombudsman is an appropriate structure for enhancing government accountability and meeting the needs of NWT residents and how that office might be structured.

This report refers to the office of the ombudsman as a function rather than a title recognizing that the Legislative Assembly has the discretion to establish this function under another name. The matter of what terminology is used to refer to ombudsman-like functions is addressed below.

Introduction

The modern concept of the ombudsman is said to date back to King Charles XII of Sweden, who ruled from 1682 to 1718. King Charles XII fought wars in Russia and was exiled in the Ottoman Empire. It is believed that, while in Turkey, he observed the operations of an office known as the Office of the Dewan-I-Mazalim (Redressal of Injustices). This inspired King Charles XII to create an office of the King's Highest Ombudsman, to ensure that government workers, judges, and the military were acting properly and following the rules he had left for them, while their King was away fighting wars. This, in turn, provided the inspiration for the creation of the first parliamentary ombudsman in Sweden in 1809.

There are two broad models for the ombudsman system. One has the ombudsman appointed by the legislature and completely independent of the executive. This is the model which serves as the basis for all of the provincial and territorial ombudsman offices in Canada. Prince Edward Island, Nunavut, and the Northwest Territories do not have ombudsman offices. Ombudsman offices have been established in the remaining nine provinces and the Yukon.

In the other model, the ombudsman is appointed by the executive, but acts independently of other administrative bodies. An example of this type of office in Canada is the Office of the Taxpayers Ombudsman, who is appointed by an Order-in-Council and acts as a special advisor to the Minister of Revenue.

In Canada, most departments of the federal government have ombudsman offices, as do crown corporations such as CBC and Canada Post. There is an Ombudsman for the Department of National Defence and the Canadian Forces, a Commission for Public Complaints against the RCMP, an Office of the Procurement Ombudsman, an Office for the Ombudsman for the Victims of Crimes, an Office of the Veterans Ombudsman, and the an Office of the Taxpayers Ombudsman, mentioned above. There are also several independent ombudsman offices in Canada, which often serve specific public and private sectors, such as the Ombudsman for Banking Services and Investments, the Association of Canadian College and University Ombudspersons and the Ombudsman for the BC Forest Safety Council.

Use of the Term “Ombudsman”

The word “ombudsman” (in original form “jusitieom-budsman”), is a Swedish word meaning “Procurator for Civil Affairs,” but translated loosely as “citizens’ defender”. The term is in common usage in many English-speaking countries worldwide and, therefore, benefits from widespread acceptance and understanding of what the role entails.

Unfortunately, however, the term is not gender-neutral. For this reason, British Columbia has opted to use the gender-neutral term “Ombudsperson.” Newfoundland and Labrador refer to their ombudsman as “Citizen’s Representative.”

In Québec, the term “Le Protecteur du citoyen” is used to describe the office of the ombudsman in French. This, too, is not a gender-neutral term. Haiti, which currently has a female ombudsman uses the gender-neutral term, “L’Office de la Protection du Citoyen,” but when referring directly to the presently-appointed office-holder, uses the term “La Protectrice.”

Whatever name might be used to refer to an office of the ombudsman for the Northwest Territories, it should be one that can be sensibly translated into Aboriginal languages.

Role of the Ombudsman

The role of an ombudsman is to ensure government accountability through effective oversight of the administration of government services. It can be helpful to conceptualize the role of ombudsman as a “commissioner for fairness.” The unique characteristics that are the hallmarks of the ombudsman’s office include:

- Independence of the office;
- Broad powers of investigation;
- Informal procedures for conducting investigations;
- Non-adversarial approaches to the resolution of problems;
- Power to make recommendations;
- Power to report publicly.

Ensuring fairness in public administration: The primary function of the ombudsman is to ensure fairness in public administration. The office of the ombudsman is given broad authority and responsibility to investigate complaints by members of the public, about government

administration, by working impartially with both the government and members of the public. These complaints may be related to any specific action, decision, recommendation or omission by any department or agency of the government relating to a matter of administration. An ombudsman can help all parties resolve their differences and find solutions.

Acting as an impartial investigator: An ombudsman is an impartial, objective investigator who follows up on people's complaints in a fair and respectful way, taking into consideration privacy issues. The ombudsman can determine when principles of administrative fairness have not been properly applied in government decision-making and recommend remedies to resolve complaints in particular instances.

Increasing public access to legal recourse: The ombudsman acts a single point of contact for members of the public who may be concerned about their treatment by government. The ombudsman helps members of the public understand how principles of administrative fairness should be applied when government makes a decision. The ombudsman assists members of the public to understand their rights and to navigate the many and complex appeal mechanisms that are established in law. Many cases brought to the ombudsman are resolved informally through contact with government ministries, departments and organizations. In this regard, effective communications is a key function of the office of the ombudsman.

Assisting the public service: The role of the ombudsman office is not to replace or oppose government decision making, but to help the public service become more aware of and responsive to the public's concerns. The ombudsman may act proactively to investigate systemic problems in government administration leading to unfair practices, or decisions that might sometimes not be apparent to government institutions. The ombudsman is uniquely situated to make observations about potential systemic problems of administrative unfairness because of the ability of the office to track trends in complaints across government.

Making non-binding recommendations: While an ombudsman has sweeping powers of investigation, the office does not have the authority to change the outcomes of government decisions or to compel either the government or a member of the public to accept a proposed solution. In this regard, the role of the ombudsman is very much an advisory role.

An office of last resort: The ombudsman does not provide the public with an "alternate" appeal mechanism in the event that a complainant is dissatisfied with the decision of an appeal body, or does not wish to avail themselves of appeal options available to them through the law.

The ombudsman does not have the authority to investigate complaints where the complainant has appeal options available under legislation, or where the time for exercising such options has not yet expired. Therefore, the office of the ombudsman can be viewed as complementary to the existing menu of appeal processes that exist in law.

Working in concert with others: The ombudsman relies heavily on positive working relationships to accomplish his or her goals. Ombudsman offices cooperate with MLAs by accepting referrals of constituents with complaints under the ombudsman's purview. Ombudsman offices work with government authorities by helping to address the complaints and concerns of the people these authorities serve.

The public "face" of government accountability: An ombudsman is non-partisan, client-centered, accessible and visible. An ombudsman is an officer of the legislature who works independently of government and political influences. The public perception encouraged by ombudsman offices is that they work to hold government accountable for its decisions. Ombudsman offices in Canada style themselves with tag lines such as "Ontario's Watchdog" and "BC's Independent Voice for Fairness."

Scope of the Ombudsman's Powers

In all provinces and territories, the ombudsman is an officer of the Legislative Assembly who operates independently of the executive branch of government. This reporting relationship lends itself to the impartial functioning of the ombudsman office, allowing the office to carry out investigations free from bias or undue influence by government officials.

"Ombudsman offices are designed and structured to be impartial. Security of tenure, broad powers of investigation and the power to report publicly insulate the Ombudsman from political interference. Historically, elected officials have demonstrated tremendous respect for the independence of Ombudsmen. Like the public, legislators can rely upon the neutrality of the office. The job of an Ombudsman is to investigate complaints and recommend improvements to the administration and implementation of government programs and services. The effective administration of government programs is a goal shared by all legislators." – Manitoba Ombudsman

To date, research undertaken with respect to establishing an office of the ombudsman for the Northwest Territories has considered a model of ombudsman office whose mandate only covers the public sector, that is, the territorial government, its officials and employees.

Powers defined in legislation: The role, powers and influence of the office of the ombudsman are defined in legislation. Within these parameters, the scope of an ombudsman's powers varies from one provincial/territorial jurisdiction to another. Ombudsman legislation creates the office to be independent of the government and all political parties, and provides ombudsmen the authority to hire the necessary staff and establish their own procedures.

Reach of the ombudsman: As pointed out in previous reports on establishing an office of the ombudsman for the NWT, determining which government bodies are subject to the powers of the ombudsman is an issue that requires consideration. In addition to government departments, ombudsman legislation can include institutions such as boards appointed under the authority of the Legislative Assembly, municipalities, hospitals, crown corporations, police, schools and school boards, professional associations that are established by an act, long-term care homes, children's aid societies and similar bodies. In the lexicon of the ombudsman, these institutions are referred to as the "MASH" or "MUSH" (**m**unicipalities, **a**cademic institutions/**u**niversities, **s**chool boards, **h**ealth authorities) sector. For a detailed comparison of the differing mandates of provincial/territorial ombudsman offices see the Jurisdictional Overview (Appendix A).

Broad powers of investigation: The enabling legislation that gives an ombudsman's office its power generally indicates the basis upon which investigations may be undertaken. This part of the legislation specifies that an ombudsman may initiate an investigation on the basis of a complaint received by a person or group who feels that they have been treated unfairly by government. It also authorizes the ombudsman to undertake an investigation on the basis of a referral made by an authority specified in the act. For example, the Yukon *Ombudsman Act* provides that the ombudsman may initiate an investigation on the basis of a referral from a municipality or Yukon First Nation.

Additionally, in this section of the legislation all provinces have empowered their ombudsmen to undertake investigations upon the ombudsman's own volition. This enables an ombudsman, who is uniquely poised to assess areas of government operations where there is systemic unfairness, to track trends in complaints and to investigate problems on their own initiative. The Yukon legislation does not appear to similarly empower their ombudsman to do the same.

This section of the legislation further specifies that the ombudsman may investigate a matter of administration where a decision or recommendation made, an act done or omitted, or a procedure used, has either caused or may cause someone to be aggrieved. Legislation also determines the grounds upon which an ombudsman may refuse or opt not to investigate.

Access to information and records: The function of the ombudsman is not to assign blame but to recommend improvements that will lead to greater administrative fairness. To fulfill this role effectively, the ombudsman requires liberal access to information. Legislation generally requires members of the public service to co-operate with the ombudsman and provide information in a timely manner during an investigation. The powers of the ombudsman to obtain information may include: the power to: conduct hearings; enter, remain on, and inspect the premises occupied by an authority and converse in private with any one there; require a person or authority to produce documentation, and; summon and examine under oath anyone the ombudsman believes is able to give information relevant to an investigation, whether or not that person is a member or employee of an authority.

Powers paramount: It is important to note that the powers of an ombudsman, as defined in legislation, are considered paramount to the powers granted to the offices, boards and agencies over which the ombudsman has been given oversight authority. The powers conferred on the ombudsman may be exercised despite any provision in any statute suggesting that decisions made under that particular statute are final and cannot be questioned. The provision in the enabling legislation, which provides these powers to the ombudsman, is generally worded as follows:

“The powers and duties conferred on the ombudsman may be exercised and performed despite a provision in an act to the effect that: (a) a decision, recommendation, or act is final; (b) no appeal lies in respect of the act; or (c) no proceeding or decision of the authority whose decision, recommendation or act it is shall be challenged, reviewed, quashed or called into question.” –

Ombudsman Act, Yukon

Power to report, not compel: Another unique aspect of the ombudsman’s function lies in the fact that the ombudsman is not established with the authority to overturn any action or decision of government, nor to make recommendations that any authority is required to comply with. The ombudsman’s function is purely advisory and the true power of the ombudsman lies only in the authority of the office to report publicly on matters of administration where the ombudsman determines that there has been unfair treatment. This is

another distinguishing characteristic that sets the ombudsman's function apart from other statutory appeal bodies and processes and the courts. While these mechanisms can and do reverse decisions made by authorities, the ombudsman has no such influence. The ombudsman's office can only recommend non-binding ways for authorities to improve their decisions and decision-making processes.

“In the early days, there was considerable trepidation that the Ombudsman’s approach when conducting an investigation would be punitive. It was the fear of the unknown. That trepidation has significantly lessened, because, in general, regulatory bodies have concluded it’s a collaborative approach, and it’s a quality-improvement focus, ensuring that the legislative structure was followed, and a fair process provided. Any regulatory body will always strive to do those two things.” — James T. Casey, Q.C., legal counsel with Field Law’s Professional Regulatory Group, and author of the Regulation of Professions in Canada, in Alberta Ombudsman Annual Report, 2012-13.

Provincial/Territorial Ombudsman Powers at a Glance

What an Ombudsman does:

- ✓ Oversees the administrative actions of prescribed government departments, agencies and authorities;
- ✓ Conducts thorough, impartial and independent investigations of complaints;
- ✓ Considers and makes recommendations regarding the possible resolution of complaints;
- ✓ Determines administrative fairness;
- ✓ Consults with, provides reasons, and makes recommendations to authorities to resolve issues of unfairness and to improve administrative practices;
- ✓ Conducts investigations arising from a referral made by a committee of the Legislative Assembly or a Minister;
- ✓ Provides reports to the Legislative Assembly and the public about administrative fairness issues and how they can be remedied;
- ✓ Responds to inquiries from the public; and
- ✓ Provides information and advice about administrative fairness.

What an Ombudsman does not do:

- ✗ Act as an advocate for complainants;
- ✗ Represent government departments or agencies, or professional organizations;
- ✗ Investigate any decision where the citizen has a right of appeal to a court or tribunal but has not yet done so, or where the time for doing so has not yet expired;
- ✗ Investigate complaints about the federal government;
- ✗ Investigate the Legislative Assembly or any of its committees;
- ✗ Investigate Cabinet or any of its committee;
- ✗ Investigate complaints about MLAs and individual elected officials, including government ministers;
- ✗ Investigate decisions of a court, judge or a justice of the peace, including lawyers acting on behalf of the government; or
- ✗ Investigate complaints of a criminal matter.
- ✗ Investigate complaints pertaining to the actions of private companies, agencies or individuals.
- ✗ Enforce its findings.

What an Ombudsman might do:

- ? Conducts investigations taken on his or her own initiative;
- ? Investigate complaints of unfairness involving Aboriginal governments;
- ? Investigate complaints of unfairness involving the “MUSH/MASH” sector: **municipalities, universities, school boards and hospitals;**
- ? Undertake investigations referred by municipalities or Aboriginal governments.

Administrative Fairness

The ombudsman promotes standards of fairness and has the authority to make recommendations if his or her investigation identifies administrative unfairness. Administrative fairness consists of applying well-recognized principles of procedural fairness and effective public administration.

For public authorities, practicing administrative fairness includes:

- Acting with appropriate legal authority;
- Operating with useful policies and procedures;
- Providing clear public information;
- Having accessible programs;
- Using consistent standards of practice;
- Adequate monitoring and enforcement;
- Timely and responsive complaint resolutions.

For members of the public receiving government services, administrative fairness includes the right to:

- Be treated with respect and dignity;
- Speak on your own behalf or to have an advocate speak for/with you;
- Be heard;
- Participate in decisions that affect you;
- Receive clear, complete, and appropriate reasons for a decision;
- Obtain all information that led to the initial decision or that is being considered in an appeal;
- An impartial review of a decision that affects you; a review that is accessible, flexible, timely, and easy to use; and
- An appeal procedure that has a built-in mechanism to protect against retribution.

The public message conveyed by the establishment of an ombudsman office bears consideration. The existence of an ombudsman underscores the government's legal obligation to treat people fairly and the commitment of government to administrative fairness and a method of public accountability.

Administrative Fairness at a Glance

Communication:

- Public information is available and understandable
- Forms are in plain language
- Clients are given all of the information they need
- Clients are treated with courtesy
- Information is available in all official languages

Facilities and Services:

- Telephones are answered promptly
- Voicemail, answering machines or toll-free numbers are available
- Premises are easily accessible and suited for wheelchairs
- The environment is safe and healthy for workers
- The public's right to privacy is respected

Decision Procedures:

- Those affected by a decision have a chance to give information and evidence to support their position
- Decisions are made within a reasonable time
- Reasons are given for decisions

Appeal, Review and Complaint Procedures:

- At the time of decisions, people are told of any existing appeal or review procedures
- Complaint procedures are clearly defined
- The public is asked for ideas on improvements in service

Organizational Issues:

- Staff are given clear titles for the functions they perform
- Agencies consider whether reorganizing would provide better quality service
- Agencies cooperate with one another to provide better service to the public

Agency Review and Planning:

- The public is invited to participate in planning programs
- How decisions will be made is clear from the beginning
- Statistical information needed to evaluate and improve performance is recorded and maintained

Adapted from: BC Ombudsperson Fairness Checklist

Trends in Ombudsman Services

Proactive investigations: The role of the parliamentary ombudsman has many traditional components. It also is dynamic and evolving. Traditionally, the role of the ombudsman was seen as a reactive one – to respond to complaints as they are raised. In recent years, provincial ombudsmen offices have become more proactive and have initiated studies and reviews of government processes in areas of concern to the ombudsman. The trend today emphasizes a more proactive approach to service delivery. Initiatives aimed at focusing more resources on systemic issues affecting larger numbers of people has resulted in an increase in the scope of in-depth investigations and policy reviews.

For example, as the Office of the Ontario Ombudsman was approaching its 30th anniversary, some suggestions were heard that the \$10 million office should be closed. The office decided to tackle major systemic problems, in addition to handling the usual complaints from individuals. This model of practice was called the Special Ombudsman Response Team, or SORT (for more details regarding SORT, see ‘Ontario’ in the Jurisdictional Overview (Appendix A).

As a result of the SORT approach, an investigation into the province’s screening program for newborns revealed testing for treatable genetic diseases was inadequate and adjustments led to a reduction in death and disability for about fifty infants per year. One highly publicized review was of the Ontario Lottery Board. The Ombudsman launched an investigation before receiving a complaint. People stepped forward with complaints. The Ombudsman found serious lapses of security and recommended changes that were made, i.e., purchasers now sign their ticket and they can check to see if they have won. Also background checks are done on retailers.

Almost all provincial/territorial ombudsman statutes now empower their ombudsman offices to undertake proactive investigations into systemic problems. The Yukon appears to be the only exception to this norm.

Availability to Aboriginal governments: While the Yukon appears to be lagging in comparison to the provinces with respect to proactive investigations, it leads the country as the only ombudsman’s office in Canada specifically mandated to undertake investigations on behalf of Aboriginal governments. The legislation is specifically worded such that this can only occur at the request of the Aboriginal government and is to be done on a cost-recovery basis.

Access to health care: In Québec, the Ombudsman specifically has the mandate to provide the health minister with recommendations regarding the improvement of health care and services. The Ombudsman is also charged with collecting public data, which provides valuable information concerning patients' satisfaction with the system and highlights specific problems.

Accountability to elders: Some provinces, such as Nova Scotia and British Columbia, now have ombudsmen representatives dedicated to senior issues. In February 2012, the BC Ombudsman released *“The Best of Care: Getting it Right for Seniors in British Columbia (Part 2),”* a comprehensive investigation that made 143 findings and 176 recommendations.

Impetus to Create an Office of the Ombudsman in the Northwest Territories

The notion of creating an office of the ombudsman for the Northwest Territories has been under discussion periodically since early in the 12th Legislative Assembly.

- 1992:** GNWT Minister of Justice tabled *Government Accountability: A Legislative Action Paper on Access to Government [Tabled Doc 33-12(2)]* in response to a private member's bill on access to information. This paper considered access to government generally and proposed a bill combining an access to information model with elements found in ombudsmen legislation in other jurisdictions. It proposed a direct linkage with the official languages commissioner at the least, or preferably a combination of all functions under one office and that this officer would report to the Legislative Assembly.
- 1993:** Standing Committee on Legislation (SCOL) issued a *Report on Tabled Document 33-12(2): Government Accountability: A Legislative Action Paper on Access to Government*. In preparing this report SCOL held public hearings in eight communities, to explore the public's views on access to information and ombudsman legislation. The committee heard resounding support for making public access to government information a priority of the GNWT.

The committee reached the conclusion that the creation of an ombudsman office for the NWT could be justified, but felt the ombudsman function did not receive the same level of attention as did access to information, perhaps because the function was not as well understood. Accordingly, the committee recommended that the government move immediately to establish access to information legislation and that the government further develop a proposal for the creation of an ombudsman.

- 1994:** GNWT tabled *Legislative Action Paper: Office of the Ombudsman [Tabled Doc 03-12(6)]*. This report noted the intent of the Minister of Justice to introduce access to information/protection of privacy legislation in the winter of 1994/95. The report considered and presented options on how the access to information commissioner, the official languages commissioner and ombudsman functions could be integrated. The report also detailed the function of an ombudsman and even included a legislative proposal in the form of a draft ombudsman act.

The report recommended that: 1) ombudsman legislation be developed on the understanding that the duties of the access to information commissioner and the ombudsman would be exercised by the same person; 2) ombudsman legislation not be proclaimed for a period of two years after the introduction of the access to information regime; and 3) decisions on whether or not to merge the office of the official languages commissioner with the access to information/ombudsman office would be withheld until the effectiveness of merging the ombudsman with the access to information commissioner had been assessed.

1995: The Standing Committee on Legislation (SCOL) tabled committee report 02-12(7), *Report on the Legislative Action Paper on the Office of the Ombudsman for the Northwest Territories*. In the preparation of this report SCOL held public meetings in Yellowknife in December 1994 at which the committee “consistently heard that members of the public would be receptive to the creation of an ombudsman-like office.” (p. 6)

The Committee appeared to be in agreement with the government that the most effective way to deliver an ombudsman service would be through the amalgamation of the ombudsman function with the access to information and privacy commissioner. SCOL was of the opinion that legislation to create an office of the ombudsman should not be brought forth until the government could determine how effective the recently passed Access to Information and Protection of Privacy Act was and whether there was deemed to be a need for a more general type of ombudsman.

2009: Member’s Statement in favour of establishing an office of the ombudsman by Robert Hawkins, MLA Yellowknife Centre (*Hansard*, Feb. 20, 2009, p. 2429).

2010: Member’s Statement in favour of establishing an office of the ombudsman by Wendy Bisaro, MLA Frame Lake (*Hansard*, Feb. 4, 2010, p. 3946).

2010: Oral Questions in favour of establishing an office of the ombudsman by Mr. Bob Bromley, MLA Weledeh (*Hansard*, Oct. 19, 2010, p. 5142).

2011: Member’s Statement in favour of establishing an office of the ombudsman by Wendy Bisaro, MLA Frame Lake (*Hansard*, Aug. 25, 2011, p. 6973).

2012: Motion recommending that the Government of the Northwest Territories bring forward legislation to establish an office of the ombudsman (*Hansard*, Motion 9-17(3) June 8, 2012, p. 1044) followed by debate in the House. Motion carried.

Government Response to Motion 9-17(3) – *Discussion Paper: Establishing an NWT Ombudsman Office*. This paper concludes that it is difficult to determine that there is a pressing need for an independent parliamentary ombudsman office without more information on precisely what sort of complaints are judged to fall outside of existing processes.

2013: Motion carried referring the proposal to establish an office of the ombudsman to the Standing Committee on Government Operations for research, analysis and review (*Hansard*, Motion 12-17(4) March 14, 2013, p. 2647).

Jurisdictional Overview: Provincial-Territorial Ombudsman Offices at a Glance*

<i>*adapted from the web site of the Ontario Ombudsman</i>	AB	BC	MB	NB	NFLD	NS	ON ¹³	PQ	SK	YT
Year Established	1967	1979	1970	1967	2002	1971	1975	1968	1973	1996
Length of Term in Years	5	6	6	10	6	5	5	5	5	5
Budget (\$000's)	3,011	5,372	3,075	876 ¹²	846	1,776	11,159	14,800	3,075	768
Number of Employees	~30	46 ¹¹	31	12 ¹²	8	17	80	13	24	5
Number of Complaints	4,269	7,431	4,835	2,423 ¹²	393	2,435	20,000+	20,000+	3,163	276
Combined with IPC Office	✗	✗	✓	✗	✗	✗	✗	✗	✗	✓
Responsible for Whistleblower Legislation	✓	✓	✓	✓	✓	✓	✗	n/a	✓	n/a
Independent Officer of the Legislature	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Proactive Investigation of Systemic Unfairness	✓	✓	✓	✓	✓	✓	✓	✓	✓	✗
Boards of Education	✗	✓	✗	✓	✓	✓	✗	✗	✗	✓
Child Protective Services	✓	✓	✓	✓ ⁶	✓	✓	✗	✓ ⁹	✓	✓
Public Hospitals and Health Authorities	✓ ²	✓ ⁴	✓	✓ ⁷	✓	✓	✗	✓	✓	✓
Nursing Homes and Long-Term Care Facilities	✓ ³	✓	✓	✗	✓	✓	✗	✓	✓	✓
Municipalities	✗	✓	✓	✓	✗	✓	✗ ¹	✗	✗	✓
Police Complaints Review Mechanism	✓	✗	✓ ⁵	✓ ⁸	✓	✓	✗	✓	✓	✗ ¹⁰
Universities	✗	✓	✗	✗	✓	✗	✗	✗	✗	✗

Provincial-Territorial Ombudsman Offices at a Glance

Notes:

1. In Ontario, the Ombudsman has jurisdiction to investigate complaints about some municipal closed meetings.
2. In Alberta, the Ombudsman has jurisdiction to investigate complaints about the patient concerns resolution processes of hospitals.
3. In Alberta, the Ombudsman has jurisdiction to investigate complaints about the patient concerns resolution processes of long-term care facilities and nursing homes.
4. In British Columbia, the Ombudsman also has jurisdiction over regional health boards and regional hospital districts.
5. In Manitoba, the Ombudsman's jurisdiction over police, which are municipal, flows from his jurisdiction over municipalities. The Ombudsman also has jurisdiction over the Law Enforcement Review Agency (LERA), which is part of the Justice Department.
6. In New Brunswick, the Ombudsman is prevented from investigating a matter that is or has been investigated or reviewed by the Office of the Child and Youth Advocate. Currently, the New Brunswick Ombudsman is also the Child and Youth Advocate.
7. In New Brunswick, the Ombudsman has jurisdiction over Regional Health Authorities, which operate, own and dispense all services for hospitals.
8. In New Brunswick, the Ombudsman has jurisdiction over the New Brunswick Police Commission. The Commission is not included in the Schedule to the Ombudsman Act, but the Ombudsman has a working agreement with the Commission allowing them to review Commission files.
9. In Quebec, the Protecteur du citoyen has some jurisdiction over administrative procedural matters relating to child protection services provided by the directors of youth protection.
10. The only police force operating in the Yukon is the RCMP, a federal body.
11. Of these 46 employees, 13 are shared services employees.
12. Figures are for 2011-12, as 2012-13 data not yet available.
13. On March 24, 2014, the Ontario government tabled Legislation to expand the Ontario Ombudsman's oversight to include municipalities, universities, and school boards. They would also create a new Patient Ombudsman for complaints about hospitals and long-term care homes, and give the existing Provincial Advocate for Children and Youth the power to investigate children's aid societies.

The Argument in Favour of the Ombudsman

Establishing an office of the ombudsman for the Northwest Territories may be viewed as a natural development in the evolution of responsible government.

Complex legislative environment: Members of the public who access government programs and services and public servants who deliver those programs and services are interacting with one another in an increasingly complex legislative environment. Despite the relatively small size of the NWT population, the GNWT provides an array of programs and services on par with any smaller Canadian province. As the GNWT implements self-government with its Aboriginal government partners; as it decentralizes; as it assumes the additional responsibilities associated with devolution; and as the GNWT naturally evolves, it will continue to develop increasingly more sophisticated governance structures and systems of delivery.

It is in this environment that the GNWT has developed a safe-disclosure Memorandum of Agreement with the Union of Northern Workers, out of recognition of the very real possibility that employees may become cognizant of government wrongdoing and that they are deserving of protection in such instances. In such an environment, an ombudsman serves, quite simply, as another check and balance designed to ensure that NWT residents are being treated fairly and are protected in their interactions with the territorial government.

Single first point of contact: There can be no question that the majority of Northwest Territories citizens employed in the GNWT's public service are dedicated to their jobs and perform their duties with a great deal of integrity and conscientiousness. However, even when the greatest degree of care is taken, mistakes can happen and members of the public may be subjected to unfair treatment.

When mistakes do occur, an ombudsman is a visible and well-understood means of recourse for an individual who may not know where to turn to obtain relief. This can be a welcome point of contact for individuals who have a complaint, but who do not necessarily understand the complexities of government well enough to know what avenues of appeal are available to them, or how to go about making a complaint. The office of the ombudsman has the additional benefit of being staffed by individuals who are specially trained to deal with complainants. Assisting members of the public to

understand how the government's various appeal mechanisms work, and where to seek relief and when, is an accepted part of the ombudsman's work and no other office in government is as uniquely situated to perform this function.

Fulfilling a unique role: The GNWT correctly points out, in its December 2012 Discussion Paper "Establishing an NWT Ombudsman Office," that it has established statutory appeal mechanisms in more than two-dozen pieces of legislation. The purpose of these appeal mechanisms is to allow recourse for citizens who are dissatisfied with the outcome of a government decision. The GNWT asserts that the role of an ombudsman would be to handle complaints only where there are "gaps" in the legislation wherein appeal mechanisms have not been legislated. In fact, the December 2012 Discussion Paper concludes:

*"The NWT has already legislated a number of "program and issues" specific processes to investigate complaints of unfairness, and the Legislative and Executive branches have established several forums and offices to investigate allegations of unprofessional or inappropriate practices. In addition to these more formal processes, the GNWT is always prepared to investigate formal complaints that fall outside the scope of any established legislation or policy. Given the current legislative and program context, **it is difficult to determine that there is a pressing need for an independent parliamentary ombudsman office...More information on the specific sort of complaints which cannot be addressed through existing processes, including information on the frequency and significance of those complaints, is required.**"*

Department of Executive, Discussion Paper: Establishing an NWT Ombudsman Office, December 2012

Respectfully, this report disagrees with this position. The existence of a panoply of appeal mechanisms is evidence of the growing complexity of today's GNWT, but it is not an adequate defense against having an ombudsman. If this were the case then the province of Ontario, having over 500 boards and agencies under the purview of their ombudsman, must surely have, in proportion, as many or more legislative appeal bodies as does the Northwest Territories. Nonetheless, the Ontario Ombudsman is arguably one of the most active and proactive in the country.

The actions and decisions of government should not only be fair, but be seen to be fair. Thirteen pages of the Government's 18-page discussion paper consist of a list of NWT Appeal Bodies and Statutory Appeal Officers. The sheer number and complexity of the various tribunals and processes can contribute to citizens' perceptions of powerlessness and unfairness.

Fundamentally, the ombudsman's office is designed to work differently than other appeal processes. The distinctive role of an ombudsman is most eloquently described by Chief Justice Dickson, of the British Columbia Supreme Court, in a key ruling that has helped to define the role of the ombudsman in Canadian case law:

*"The Ombudsman represents society's response to...problems of potential abuse and of supervision. **His unique characteristics render him capable of addressing many of the concerns left untouched by the traditional bureaucratic control devices.** He is impartial. His services are free, and available to all. Because he often operates informally, his investigations do not impede the normal processes of government. Most importantly, his powers of investigation can bring to light cases of bureaucratic maladministration that would otherwise pass unnoticed. [...] On the other hand, he may find the complaint groundless, not a rare occurrence, in which even his impartial and independent report, absolving the public authority, may well serve to enhance the morale and restore the self-confidence of the public employees impugned...**In short, the powers granted to the Ombudsman allow him to address administrative problems that the courts, the legislature and the executive cannot effectively resolve.**"* – Chief Justice Dickson, Re: British Columbia Development Corp. et al v. Friedmann et. al. (1984)

A partner in the effective administration of government programs: Justice Dickson makes the point that the ombudsman can serve to support the public service when, through the inquiries of the office, it is demonstrated that the GNWT has appropriately followed procedure and rendered fair decisions. Because the ombudsman does not have the authority to reverse the decisions of government, nor to compel a different outcome, it has been the experience in other jurisdictions that, with time, government officials have come to view the ombudsman as having a collaborative, quality-improvement focus, rather than one based on assigning blame and punishment.

An office of last resort: The role of the ombudsman should not be viewed as one that is in competition with legislative appeal mechanisms, but rather as one that complements existing processes. The intention that the ombudsman's role work in tandem with legislated appeal processes is evident in the design of ombudsman legislation which, in all Canadian jurisdictions, provides that the ombudsman *not* entertain any complaint where there is an existing appeal process that the complainant has not yet availed himself of. The notion behind this is that the ombudsman's office is meant to function as an avenue of last resort, only when all other avenues of complaint have been exhausted.

Poised to identify systemic problems: The ombudsman is uniquely positioned to identify systemic problems which may result in unfairness to groups or segments of the government's clientele. This is because the ombudsman has the singular ability to track complaints, particularly ones which cut across departments or agencies and which, by their nature, might point to larger systemic issues. If the ombudsman's office is proactive, it may discover flawed systems and identify ways of correcting them. The Executive branch of government may act upon these findings and/or the Legislative Assembly may create new legislation designed to address them.

Providing access to the justice system: While the ombudsman does not have the power to compel government offices to render different decisions, one of the strengths of the ombudsman's office is that it may broker solutions using alternate dispute resolution techniques. The Newfoundland Office of the Citizen's Representative comments on this in its annual report of 2012-13:

*"The demand on our courts has grown exponentially. Citizens are increasingly representing themselves in court. The costs of criminal and civil litigation are prohibitive for many. Policy makers are challenged to find alternatives for dispute resolutions. Some relief may be found once we understand that access to justice means more than access to the courts. **The ombudsman institution can provide the means by which citizens can seek redress for their grievances in a non-adversarial, conciliatory environment. Resolution of disputes can occur in the absence of formal findings of fact and application of legal precedents.**"*

– NFLD OCR Annual Digest, 2012-13.

A voice for the people: In a recent review of the Yukon ombudsman's office, several respondents expressed the opinion that the independence of the Ombudsman/IPC is uniquely important for Yukon because of the close relationships between levels of government and between government agencies at all levels and the public. It is important for citizens to know that they have an independent forum to voice their concerns/complaints. The situation is similar in the NWT.

The Argument Against the Ombudsman

The most persuasive argument against the ombudsman is brief, but compelling; it is cost. Cost is a key consideration, especially in an environment of competing priorities. The budgets of other ombudsman offices in Canada and other Statutory Offices in the Northwest Territories are illustrative.

The budgets for full-time ombudsman offices across Canada vary from a low of \$768,000 for the Office of the Yukon Ombudsman to \$14.8 million for the Office of the Québec Ombudsman. It should be noted that, as with Manitoba, the Office of the Yukon Ombudsman is combined with the Office of the Information and Privacy Commissioner. The budget for the Yukon Ombudsman/IPC Commissioner increased from \$497,000 in 2012 to \$628,000 in 2013. This increase is attributed to a change in the Ombudsman/IPC position from a half-time to full-time position.

The Northwest Territories currently has a number of statutory officers reporting to the Legislative Assembly. These include the Languages Commissioner, Conflict of Interest Commissioner, Information and Privacy Commissioner, Equal Pay Commissioner, Human Rights Commission and Human Rights Adjudication Panel. Together, the estimated budget for these offices in the 2014-15 fiscal year is \$1.91 million. Of these statutory offices, the majority of the budget is allocated to the Languages Commissioner (\$250,000) and to the Human Rights Commission/Human Rights Adjudication Panel (\$1.52 million).

If the political will exists to establish an office of the ombudsman for the Northwest Territories, then options can be explored for how this office will be funded. What follows is a proposal with suggestions for the creation of an NWT ombudsman's office.

Proposal for Establishing an NWT Ombudsman Office

Nature of the Position: The Standing Committee on Government Operations proposes that an ombudsman position be established, to be overseen by the Speaker and Board of Management of the Legislative Assembly, as is the case with other statutory officers.

Consideration should be given to making the ombudsman position a full-time senior management-level position, with a requirement for the incumbent to demonstrate extensive qualifications in the field of administrative law and policy. In order to attract suitable candidates, consideration should be given to making this position a “deemed member of the public service” for pension purposes, as recommended in a recent review of the Yukon ombudsman office, and similar to changes implemented for the position of Director of the NWT Human Rights Commission.

The ombudsman will be expected to work closely with Regional Directors and Government Service Officers in communities, as well as other statutory officers.

Budget: For the purposes of discussion only, the Committee has developed the following preliminary estimate of the costs that may be associated with establishing an office of the ombudsman:

	Year One	Year Two
Ombudsman salary & benefits	\$180,000	\$180,000
Executive Assistant s & b	\$90,000	\$90,000
Investigator/Mediator s & b	-	\$135,000
Travel (5 trips @ \$5K)	\$25,000	\$35,000 (2 employees)
Purchased services	\$60,000	\$60,000
Contracts	-	\$50,000
Other O&M	\$45,000	\$50,000
Total	\$400,000	\$600,000

The Committee suggests initially funding the ombudsman’s office at approximately \$400,000 for the first year, assuming office space can be provided by the GNWT at a nominal rent. This would allow for the ombudsman’s salary, a part- or full-time executive assistant, some travel, necessary communications tools such as advertising, printing of an annual report, a website and a 1-800 number, annual legal/audit, and ongoing office expenses.

Funds might initially be obtained through internal reallocation from the budgets of other statutory offices or from within departments responsible for the administration of appeal bodies and/or statutory appeal offices.

Consideration should be given to adding at least one investigator/mediator position, similar to Yukon, in the second year, and research contract funding, depending upon the anticipated research/complaints workload. This would raise the budget to approximately \$600,000 per year. Further increases to staff would depend on the level and complexity of the workload as it develops.

The Committee wishes to stress that the costs associated with establishing an office of the ombudsman will depend, in large part, on the how the office is structured.

Co-location and other efficiencies: The Committee suggests that careful consideration be given to combining the ombudsman position with that of the NWT Information and Privacy Commissioner, which is currently a part-time contract position, and possibly with that of the Equal Pay Commissioner.

A recent review of Yukon's ombudsman office notes that pending whistleblower legislation will increase the workload of the office. Consideration should be given to the role of an ombudsman in such legislation in the NWT.

Efficiencies should be investigated, including co-locating with the Human Rights Commission, which also employs investigators, and/or the Official Languages Commissioner.

It is recommended that the ombudsman develop a performance management framework within the first two years to ensure the operations of the office provide value for money and client satisfaction. The ombudsman may be able to identify additional funds through efficiencies resulting from the overall streamlining of GNWT complaints and appeals processes.

Legislative considerations: The establishment of an ombudsman office in the Northwest Territories should involve a thorough examination of the recently-completed review of the Yukon Ombudsman/Information and Privacy Commissioner's Office and pertinent legislation, as well as current legislation across Canada and elsewhere.

Any legislation should take into account the need for review, updating and possible expansion of the ombudsman's functions within five years to ten years of implementation. As the ombudsman's office is implemented, further recommendations for legislative change to statutory complaints and appeals processes may be recommended.

The Committee urges the preparation of a proposal and the introduction of a bill before the end of the 17th Assembly.

Conclusion

Discussions about the creation of an ombudsman for the Northwest Territories have been raised intermittently in the Legislative Assembly since 1992. With the recent achievement of devolution, the GNWT has marked a significant milestone in its evolution. Never before has the territorial government been more complex or sophisticated. Never before has the need for an ombudsman been greater.

The Standing Committee on Government Operations considers that there is now, more than ever, a pressing need for an office to act, first and foremost, as a point of first contact and central clearing house of information for citizens who have complaints or concerns with government actions or decisions.

The establishment of an office of the ombudsman for the Northwest Territories would assist the people of the Northwest Territories to navigate the complex myriad of appeal mechanisms that exist in policy and legislation, and would help to ensure that the GNWT meets the commitment to accountability and transparency that it has made to the people of the Northwest Territories.

Appendix A – Jurisdictional Overview

Each province in Canada, except Prince Edward Island, has an ombudsman. In some jurisdictions, the functions of the ombudsman and information and privacy commissioner are handled by the same individual. The Yukon is the only territory with an ombudsman. There has been a call in the Nunavut Legislature for the establishment of an ombudsman there. The material presented below has been borrowed from the websites of the various ombudsman offices.

Alberta

In 1967, Alberta was the first Canadian jurisdiction to appoint an Ombudsman. The Alberta Ombudsman is described as being “Focused on Fairness.” The Ombudsman, described in legislation as a ‘commissioner of investigations’, is an independent officer of the Legislature appointed pursuant to the *Ombudsman Act* for a 5-year term, with a possible six-month extension.

The Alberta Ombudsman employs approximately 30 people and has an annual budget of approximately \$3 million. In 2012/13, the office received 4,269 complaints and inquiries (3,361 oral, 908 written) and carried over 284 files from previous years.

Jurisdiction:

- Provincial government departments and authorities;
- The patient concerns resolution process of Alberta Health Services;
- Designated professional organizations under the Alberta:
 - *Health Professions Act*;
 - *Regulated Accounting Profession Act*;
 - *Regulated Forestry Profession Act*;
 - *Veterinary Profession Act*; and the
 - *Agrology Profession Act*.
- Worker’s Compensation Board.

No Jurisdiction:

- federal or municipal governments
- MLAs
- federal/municipal police forces

- universities/schools
- matters handled by the courts and/or private matters.

In June 2013, the Government of Alberta introduced the *Public Interest Disclosure (Whistleblower Protection) Act*. Under the auspices of this Act, the Ombudsman began additional duties as the province's Public Interest Commissioner. The act provides Alberta's public servants with an avenue to speak out about wrongdoings in their workplace – and provides them with protection from reprisals for speaking out.

Like the Ombudsman, the Public Interest Commissioner is independent from government and government institutions, and is an officer of the Legislative Assembly. Among the duties of this role, the Public Interest Commissioner will provide the oversight of disclosures and investigations in the public sector. The Commissioner can also provide advice to public servants regarding wrongdoing, resolve complaints, and investigate matters and make recommendations to government.

British Columbia

In British Columbia, the Ombudsperson is described as “BC’s Independent Voice for Fairness”. The Ombudsperson is an independent officer of the Legislature, appointed pursuant to the *Ombudsperson’s Act*, for a 6-year term, with a two-term maximum. The Ombudsperson also has responsibilities as a designated officer under BC’s *Whistleblower Protection Act* but does not have jurisdiction to investigate complaints that are within the purview of the Information and Privacy Commissioner.

The ‘Office of the Ombudsperson’ has a budget of approximately \$5.4 million and employs 33 core staff and 13 shared services staff. In 2012/13, the office received 7,431 inquiries and complaints involving 274 different public authorities.

Jurisdiction:

- Provincial government ministries, including complaints regarding income assistance and the Family Maintenance Enforcement Program;
- Crown corporations such as ICBC and BC Hydro;
- Government boards such as WCB and the BC Human Rights Tribunal;
- Hospitals, regional and local health agencies, and health-related; government agencies such as Medical Services Plan and Pharmacare;

- Schools and school districts;
- Universities and colleges;
- Municipal and regional governments;
- Self-regulating professions such as the Law Society, the College of Physicians and Surgeons, and the College of Registered Nurses of British Columbia.
- The schedule to the *Ombudsperson Act* contains a complete list of authorities.

No jurisdiction:

- Banks;
- Consumer inquiries;
- Courts and lawyers;
- Doctors
- Federal government and programs ;
- Home and property insurance ;
- Private life and health insurance;
- Private schools;
- RCMP or municipal police;
- Employment issues involving private companies;
- Landlord and tenant (residential) inquiries.

The BC Forest Safety Council has a BC Forest Safety Ombudsman.

Manitoba

'Manitoba Ombudsman,' refers both to the office established in 1970 and to the person appointed as Ombudsman pursuant to the [Ombudsman Act](#). The Ombudsman is an independent officer of the Legislature, appointed for a 6-year term with a two-term maximum.

'Manitoba Ombudsman' accepts and investigates four broad areas of complaint:

- Government administration (fairness of actions or decisions) (*Ombudsman Act*);
- Government 'wrongdoing' [*Public Interest Disclosure (Whistleblower Protection Act)*];
- Access to information and privacy (*Freedom of Information and Protection of Privacy Act*);

- Access to personal health information and privacy (*Personal Health Information Act*).

Manitoba Ombudsman has a budget of approximately \$3 million and employs 30 people. In 2012/13, the office received 4,835 inquiries and complaints. There are two divisions in the office: the Access and Privacy Division deals with access to information and privacy matters, while the Ombudsman Division deals with administrative matters and disclosures of wrongdoing.

Jurisdiction:

- Provincial government departments and agencies;
- Crown corporations
- Boards and commissions;
- Local government districts, planning districts, and conservation districts;
- Regional health authorities;
- Municipalities.

No Jurisdiction:

- Federal government and programs;
- Private businesses.

Other responsibilities:

- Under *The Public Interest Disclosure (Whistleblower Protection) Act*, anyone can make a disclosure of wrongdoing (a very serious act or omission that is an offence under another law; that creates a specific and substantial danger to the life, health, or safety of persons or the environment; or gross mismanagement, including mismanagement of public funds or a public asset). The Ombudsman has the authority under the Act to: provide advice to employees, at their request, who are considering making a disclosure; receive disclosures from employees and members of the public outside the civil service; investigate disclosures; and take the steps they deem necessary to resolve the matter.
- Under *The Fatality Inquiries Act*, the Chief Medical Examiner may direct that an inquest be held into the death of a person. Following the inquest, the judge submits a report and may recommend changes in the programs, policies and practices of government that, in his or her opinion, would reduce the likelihood

of death in similar circumstances. The Manitoba Ombudsman began monitoring the implementation of inquest report recommendations in 1985.

- In 2008, *The Child and Family Services Act* was amended. The Children's Advocate conducts comprehensive reviews of the deaths of children. The Ombudsman receives the child death review reports with recommendations from the Children's Advocate, and monitors the implementation of those recommendations.

New Brunswick

The Office of the Ombudsman was created in New Brunswick in 1967. The Ombudsman is an independent officer of the Legislative Assembly, appointed under the New Brunswick *Ombudsman Act* for a 10 year term, with no eligibility for reappointment. The Ombudsman has responsibility for the province's *Public Interest Disclosure Act* and is considered a Commissioner for the purpose of public inquiries under the *Inquiries Act*.

The Office of the Ombudsman has a budget of approximately \$876,000 and employs 12 people. In 2011/12, the office received 2,423 inquiries and complaints.

The office also has responsibilities under New Brunswick's:

- Civil Service Act
- Archives Act

Jurisdiction:

- Government departments;
- Municipalities;
- School districts;
- District education councils;
- Regional health authorities;
- Crown agencies;
- Agencies responsible to the province, including some commissions and boards as defined under the New Brunswick *Ombudsman Act*.

No Jurisdiction:

- Federal government and programs;
- Matters of a criminal nature;

- Private companies and individuals;
- Judges and functions of any court;
- Deliberations and proceedings of Cabinet or any committee thereof.

Newfoundland and Labrador

The Office of the Citizens' Representative provides a province-wide ombudsman service. It was opened in 2002 and is an independent office of the House of Assembly.

The Citizens' Representative is appointed pursuant to the *Citizens' Representative Act* for a 6 year term, with a 2-term maximum.

The Office of the Citizens' Representative has a budget of approximately \$846,000 and employs 8 people. In 2012-13, the office received 393 inquiries and complaints.

Under Part VI of the *House of Assembly Accountability, Integrity and Administration Act* the Citizens' Representative is the lead investigator of disclosures made in the public interest by members and employees of the House of Assembly and its Statutory Offices. There were no disclosures registered with the OCR during 2012-2013.

Jurisdiction:

- Provincial Government Departments
- Boards/Authorities and Agencies:
 - Health Authorities
 - School Boards/Districts and Universities
 - Human Rights Commission
 - Labour Relations Board
 - Legal Aid Commission
 - Municipal Assessment Agency
 - Newfoundland and Labrador Housing Corporation
 - Newfoundland Liquor Corporation
 - Public Service Commission
 - Public Utilities Board
 - RNC Police Complaints Commission
 - Workers' Compensation Review Division
 - Workplace Health, Safety and Compensation Commission

- Miscellaneous Agencies - for example (list is not exhaustive):
 - Crown corporations
 - Various appeal boards
 - Licensing boards
 - Business Investment Corporation
 - Mental health review boards
 - Agricultural boards
 - Insurance Adjusters, Agents and Brokers Appeal Board
 - An adjudicator appointed under section 67 of the *Labour Standards Act*
 - Mineral Rights Adjudication Board
 - Mining Tax Review Board
 - Newfoundland and Labrador Arts Council
 - Newfoundland and Labrador Centre for Health Information
 - Provincial Apprenticeship Board

No jurisdiction:

- House of Assembly (Legislature) or a committee thereof;
- Executive Council (Cabinet) or a committee thereof;
- Court, judges, lawyers or justices of the peace;
- Any arbitrator appointed under the *Arbitration Act*;
- Any decision where the citizen has a right to appeal to a court or tribunal but has not yet done so or where the time for doing so has not expired;
- Decisions by the Access to Information Commissioner;
- Any problem that the Child and Youth Advocate has the power to deal with;
- Federal government or programs (for example, CPP or EI);
- Municipal governments;
- Banks;
- Doctors;
- Private companies, agencies and individuals.

Nova Scotia

In Nova Scotia, the Office of the Ombudsman was created in 1971. The Ombudsman, described in legislation as a 'commissioner of investigations', is an independent officer of the Legislature appointed pursuant to the *Ombudsman Act* for a 5-year term, with eligibility for reappointment.

The Office of the Ombudsman has a budget of approximately \$1.8 million and employs 17 people. In 2012/13, the office received 2,435 inquiries and complaints.

The role of Nova Scotia's ombudsman includes administrative, policy and systems reviews. In all cases, the office's recommendations have been accepted and implemented. The office may monitor the implementation of its recommendations, depending on their nature.

The office constitutes three oversight bodies in one: a general avenue of complaints for all members of the public, specialized services for youth and seniors, and a recently expanded mandate for complaints under the new *Public Interest Disclosure of Wrongdoing Act*. The Ombudsman is considered a commissioner for the purposes of the Nova Scotia *Public Inquiries Act*.

Nova Scotia's *Ombudsman Act* has corresponding regulations, known as the *Designation of Agency Regulations*, which identify the Ombudsman's jurisdiction.

Jurisdiction:

- Government departments and agencies (including any boards, commissions, foundations or corporations administered and funded by government);
- Municipalities and municipal agencies;
- Child welfare agencies;
- Licensed child care facilities;
- Nursing homes and homes for the aged;
- Residential care facilities;
- School boards;
- Hospitals;
- Community colleges.

No jurisdiction:

- Executive Council (Cabinet) or a committee thereof;
- Court, judges or justices of the peace;
- Federal government departments, agencies and programs;
- Private individuals and corporations;
- Elected provincial or municipal officials;

- Any individual whose complaint is represented by a union;
- Any legislative avenue of appeal to a court or tribunal.

Ontario

Ombudsman Ontario, “Ontario’s Watchdog,” was established in 1975. The Ombudsman is an independent officer of the legislature who is appointed pursuant to Ontario’s *Ombudsman Act*. The Ombudsman’s appointment is for a term of 5 years, with the option of re-appointment for an additional term or terms. The *Ombudsman Act* is complemented by *Regulations* and *Procedures*.

Ontario has a separate Integrity Commissioner responsible for the province’s disclosure legislation and a separate Information and Privacy Commissioner responsible for health information and provincial and municipal freedom of information and protection of privacy statutes.

Ombudsman Ontario receives upwards of 20,000 complaints a year. Sixty percent of cases are resolved in one week.

The office has called for changes to allow for investigating complaints regarding the MUSH sector, noting that Ontario’s legislation is 38 years old and in need of updating. On March 6, 2014, the Ontario government announced new accountability measures that would expand the Ontario Ombudsman's oversight to include municipalities, universities, and school boards. They would also create a new Patient Ombudsman for complaints about hospitals and long-term care homes, and give the existing Provincial Advocate for Children and Youth the power to investigate children’s aid societies. The legislation was tabled on March 24, 2014.

The office employs 80 people and had a total operating expenditure of just over \$11 million for 2012-13.

Ombudsman Ontario is organized as follows:

Special Ombudsman Response Team (SORT)

The Special Ombudsman Response Team (SORT) was created in 2005 to conduct specialized systemic investigations on high-profile issues affecting large numbers of

people. **SORT investigations** are conducted after a thorough study of the issues, and only after the Ombudsman is satisfied that there is sufficient evidence to warrant an investigation. SORT investigations include extensive document review and witness interviews. Witness interviews are often taped in order to ensure accuracy. Findings and recommendations produced after a SORT investigation are generally made public, once the Ombudsman's report is submitted to the Legislature.

SORT investigations are considered where:

- there is a serious and sensitive issue with a high public interest component;
- there are broad systemic implications;
- the facts of the complaint are complex and/or not agreed upon and;
- there is no likelihood of an informal resolution to the complaint.

Operations

The operations team, led by the Deputy Ombudsman, includes an early resolutions team and an investigations team. The early resolutions team operates as the office's front line, taking in complaints, assessing them and providing advice, guidance and referrals. Early resolution officers use a variety of conflict resolution techniques to resolve complaints that fall within the Ombudsman's jurisdiction. The investigations team is comprised of experienced investigators who conduct issue-driven, focused and timely investigations of both individual and systemic complaints.

Legal Services and Human Resources

This team, led by the office's senior counsel, supports the Ombudsman and his staff, overseeing human resources, ensuring that the office functions within its legislated mandate and providing expert advice in support of the resolution and investigation of complaints. Members of the team play a key role in the review and analysis of evidence during investigations and the preparation of reports and recommendations.

Open Meeting Law Enforcement Team

The team with the notable acronym, OMLET, was created to investigate public complaints about closed municipal meetings. Under the *Municipal Act*, the Ombudsman investigates such complaints in all municipalities that have not appointed their own investigators.

Communications and Corporate and Administrative Services

Communications publishes reports, maintains the website and supports the Ombudsman in media interviews, press conferences, speeches, outreach and public statements on the results of investigations. Corporate and Administrative Services provide support in the areas of finance, administration and information technology.

Jurisdiction:

- Provincial government departments, including about 500 provincial ministries
- Crown corporations
- Tribunals
- Agencies
- Boards and Commissions
- Municipal Council Meetings (limited scope to investigate complaints about closed meetings)

No jurisdiction:

- Ontario Cabinet;
- Federal government ;
- Doctors;
- Lawyers and decisions of judges or courts;
- Private companies or individuals
- “MUSH” sector – municipalities, universities, school boards, hospitals, nursing homes and long-term care facilities, police, and children’s aid societies.

Québec

The Office of the Ombudsman (Le Protecteur du citoyen) was created in Québec in 1968. Since 2006, the Québec Ombudsman has also taken responsibility for protecting the rights of health and social services network users as Health and Social Services Ombudsman.

The Ombudsman is appointed by the sitting members of the National Assembly, pursuant to the *Public Protector Act*, and is therefore an independent officer of the legislature. The Ombudsman is appointed for a 5 year term, however, the legislation requires that the appointee remain in office, notwithstanding the expiration of the term, until another Ombudsman is appointed.

The Office of the Ombudsman has a budget of approximately \$14.8 million and employs 13 people. The office deals with approximately 20,000 complaints a year.

Jurisdiction:

- Québec government ministries
- Public agencies
- Recognized establishments in the health and social services network

No Jurisdiction:

- Educational institutions (school board, elementary school, high school, general and vocational colleges [CEGEP] or university)
- Federal government ministries, bodies or agencies
- Municipalities
- Public enterprises such as Hydro-Québec or Loto-Québec
- Legal aid
- Human Rights and Youth Rights Commission
- Private companies, merchants or individuals

The Ombudsman is governed by the following acts:

- *Public Protector Act*
- *Act respecting the Health and Social Services Ombudsman*
- *Regulation respecting Contracts of the Public Protector*

The Office of the Ombudsman makes use of the following legislation:

- *Act Respecting Administrative Justice*
The *Act respecting administrative justice* (R.S.Q., chapter J-3) governs the procedures ministries and agencies must follow in rendering decisions regarding individuals or businesses.
- *Public Administration Act*
The *Public Administration Act* (R.S.Q., chapter A-6.01) puts forward the principle of transparency. It requires ministries and agencies providing services directly to citizens to publish a statement regarding the nature and quality of services provided.
- *Act Respecting Health Services and Social Services*
The *Act respecting health services and social services* (R.S.Q., chapter S-4.2)

institutes the health and social services plan and sets out the rights of users of these services.

The Québec Ombudsman can propose amendments to existing or draft acts, regulations, directives, and administrative policies in order to improve them on behalf of the public good.

In the 2012-13 Annual Report, the Québec Ombudsman noted with concern a rise in the number of complaints, totaling 210, regarding service provided by Hydro-Québec, which is outside of the Ombudsman's jurisdiction.

Saskatchewan

The office of the Ombudsman has been "Promoting Fairness Since 1973," and thus celebrated its 40th anniversary in 2013. As in all other jurisdictions, the Ombudsman is an independent officer of the Legislature. The Saskatchewan Ombudsman is appointed pursuant to the [Ombudsman Act 2012](#), for a 5-year term, with eligibility for reappointment for an additional five-year term.

Ombudsman Saskatchewan has the authority to review decisions of a broader range of publicly-funded health entities including some privately-owned health care organizations. Saskatchewan's Ombudsman is also the Public Interest Disclosure Commissioner.

The Office of the Ombudsman has a budget of approximately \$3.075 million and employs 24 people. The office received 3,163 complaints in 2012-13, of which 668 were deemed to be outside of the Ombudsman's jurisdiction. There has been a 15% increase in complaints in the last fiscal year, which is attributed to growing public awareness of the role of the Ombudsman.

Jurisdiction:

- Ministries
- Agencies
- Crown corporations
- Boards
- Commissions

- Health entities, including some private ones (eg. Regional Health Authorities, Saskatchewan Cancer Agency, EMS and ambulance services, hospitals and health care centres, special care homes, addiction services and treatment centres).

No Jurisdiction:

- Federal government
- Courts
- Decisions of Cabinet
- School boards
- Police
- Municipal governments
- Band councils
- Private companies
- Banks

During the first two decades of its existence, the work of the office became known, and the number of complaints rose to 1,878. Now, the office receives about 2,500 “in-jurisdiction” complaints each year.

The legislation has also developed over the years. For example, in 1992, Deputy Ministers – who were previously not subject to the Act – were brought within the office’s jurisdiction. Additional amendments include a 1994 change to establish a Children’s Advocate, and a year 2000 change to enable public education about the powers and duties of the Ombudsman.

Over the years, Ombudsman Saskatchewan explored non-adversarial ways to resolve complaints. In 1998, the office introduced Alternative Case Resolution, a means of resolving some complaints through “alternative” measures such as negotiation and mediation. Today, these options are fully integrated and are part of the standard range of services. The Office of the Ombudsman has two locations: Regina and Saskatoon.

Yukon

The Office of the Yukon Ombudsman/Information and Privacy Commissioner was established in 1996. The Office has a budget of approximately \$768,000 and employs 5 people – the Ombudsman/IPC, three investigator/mediators (one who also acts as Legal Counsel) and an administrative position. The Ombudsman/IPC position became a full-time position last year, after an Operational and Organization Review substantiated the assertion made by previous commissioners that the workload of the office warranted a full-time Ombudsman/IPC.

The Yukon Ombudsman is appointed as an independent officer of the Legislature pursuant to the [Ombudsman Act](#), for a term of five years, with the option to extend for additional five year terms. The Information and Privacy Commissioner (IPC) responsibility is assigned to the Ombudsman pursuant to the [Access to Information and Protection of Privacy Act \(ATIPP Act\)](#).

In the Yukon, as in Manitoba, the Ombudsman's office includes both Ombudsman and Access and Privacy commissioner roles. The Ombudsman and the Information and Privacy Commissioner have distinct functions. The Ombudsman promotes and protects fairness in the delivery of government services. The Information and Privacy Commissioner ensures that public bodies respect the privacy and access rights of all Yukoners.

In 2012/13, the office received 276 inquiries and complaints.

The Ombudsman's role is to independently and impartially investigate any complaint about a matter of administration of the Government of Yukon which affects any person or body of persons and recommend corrective action if the complaint is justified. The Ombudsman investigates and reports on any jurisdictional matter referred by the Yukon Legislative Assembly or a committee of the Yukon Legislative Assembly. It is interesting to note that the Ombudsman also has the authority to investigate and report on any matter referred by a municipality or a Yukon First Nation government on a cost-recovery basis.

Jurisdiction:

- Yukon Government departments

- Crown corporations
- Authorities and Boards
- Public Schools and Yukon College
- Hospitals
- Professional and Occupational Governing Bodies
- Municipalities and Yukon First Nations (at their request)

No Jurisdiction:

- Federal Government
- Courts and Lawyers
- Yukon Legislature
- Yukon Elections Office
- Landlord-Tenant Matters
- RCMP
- Home or Auto Insurance
- Private Businesses
- Matters occurring before the coming into force of the *Ombudsman Act* (1996)

Appendix B – List of Resources

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Province of Nova Scotia, ***Ombudsman Act***, Chapter 327 of the Revised Statutes, 1989.

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Website, ***Manitoba Ombudsman*** (<https://www.ombudsman.mb.ca/>).

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Website, **Office of the Citizens' Representative, Province of Newfoundland and Labrador: Seeking Fairness, Finding Solutions** (<http://www.citizensrep.nl.ca/links.htm>).

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Appendix C – NWT Appeal Bodies and Statutory Appeal Officers

(Reproduced from the Department of Executive *Discussion Paper:*
Establishing an NWT Ombudsman Office, December 2012)

This is a list of the possible statutory remedies available for persons with complaints or concerns about the actions of a government body or a decision made by a government body. The appeal bodies and officers are grouped by subject matter in order to provide an overview of the types of matters that a person can appeal or about which he or she can lodge a complaint and be heard.

The numbered paragraphs under each Act indicate the relevant section of the Act or Regulations that provides the remedy.

Personal and Legal Rights

Human Rights Commission and Adjudicators

The *Human Rights Act* provides that:

29.(1) Any individual or group of individuals having reasonable grounds for believing that a person has contravened this Act and claiming to be aggrieved because of the alleged contravention of this Act, may file with the Commission a complaint in a form satisfactory to the Commission.

45. Where a complaint or part of a complaint is dismissed, any party to the complaint may, within 30 days after service of the written notice of the dismissal, appeal the dismissal by filing a notice of appeal with the adjudication panel and serving it on all the parties to the complaint and the Director.

59. For the purposes of adjudicating a complaint or hearing an appeal, an adjudicator has all the powers of a Board adjudicating a complaint or hearing an appeal under the *Public Inquiries Act*.

Information and Privacy Commissioner - complaints and applications

The *Access to Information and Protection of Privacy Act* provides that:

28.(1) A person who makes a request to the head of a public body for access to a record or for correction of personal information may ask the Information and Privacy Commissioner to review any decision, act or failure to act of the head that relates to that request.

37.(1) Where the Information and Privacy Commissioner concurs under subsection 35(1) with a decision, act or failure to act of the head of a public body, an applicant or a third party may appeal the decision, act or failure to act of the head to the Supreme Court by filing a notice of appeal with the Supreme Court and serving the notice on the head within 30 days after the day the appellant receives the copy of the report of the Information and Privacy Commissioner.

Official Languages Commissioner

The *Official Languages Act* provides that:

21.(1) The Languages Commissioner shall investigate any reasonable complaint made to the Languages Commissioner arising from any act or omission to the effect that, in any particular instance or case, in the administration of the affairs of any government institution.

Legal Services Board

The *Legal Services Act* provides that:

A right of appeal lies to the Board from any decision refusing an application for legal services; or made by the Executive Director or the person designated by the Executive Director under section 50.

Plan of Care Committee

The *Child and Family Services Act* provides that:

20.(1) Any person who has signed a plan of care agreement may, on 10 days written notice to all members of the plan of care committee, request the plan of care committee to review the agreement and, on review, the term of the agreement may be extended and any term or condition modified with the consent of a majority of the members of the plan of care committee.

Chief Electoral Officer

The *Elections and Plebiscite Act* provides that:

72.(1) A person whose application under subsection 68(1) is denied may, in the approved form and within four days after the decision of the returning officer, appeal the decision to the Chief Electoral Officer.

(2) A person referred to in subsection 70(3) who is dissatisfied with the decision of the returning officer may, in the approved form and within four days after the decision, appeal it to the Chief Electoral Officer.

279.(1) The Chief Electoral Officer may investigate any matter that comes to his or her attention in respect of an act or omission of an election officer, candidate, official agent or other person that may constitute an offence under this Act.

Landlord Tenant Officer

The *Residential Tenancies Act* provides that:

68.(1) An application by a landlord or a tenant to a rental officer must be made within six months after the breach of an obligation under this Act or the tenancy agreement or the situation referred to in the application arose.

Disciplinary Board and Director of Corrections

The *Corrections Act* provides that:

21. An inmate may appeal a decision of the Disciplinary Board to the Director, who shall dispose of the appeal in the best interests of the inmate and his or her rehabilitation.

District Education Authority Appeal Committee or Divisional Education Council Appeal Committee

The *Education Act* provides that:

41.(1) The District Education Authority may establish an appeal committee in accordance with the regulations.

42.(3) The Divisional Education Council may establish an appeal committee in accordance with the regulations.

Returning Officer

The *Plebiscite Regulations* under the *Plebiscite Act* provide that:

47. Where a voter is asked to take an oath other than the prescribed or approved oath and the voter refuses, the voter may appeal to the returning officer and if, after consultation with the deputy returning officer or the poll clerk of the appropriate polling station, the returning officer decides that the oath was not in fact the prescribed or approved one, as the case may be, the returning officer shall direct that

- (a) the voter be again admitted to the polling station; and
- (b) once the voter has taken an oath, the voter be allowed to vote, if the voter is otherwise qualified to vote.

Staffing Review Officer

The *Staffing Appeals Regulations* under the *Public Service Act* provide that:

5.(1) A Staffing Review Officer shall review an appeal within four days after its receipt by the Deputy Minister to determine if

- (a) the appellant is entitled to appeal the appointment;
- (b) the appointment may be appealed; and
- (c) it appears that there may be grounds for the appeal.

6.(1) If after conducting the review under subsection 5(1) the Staffing Review Officer determines that an appeal may proceed, he or she shall hold a hearing within four days or within such further time as he or she may determine.

An Adjudicator appointed by the Minister

The *Driver's Licence Demerit Point Regulations* under the *Motor Vehicles Act* provide that:

7.(2) A person who is the subject of a suspension or prohibition under subsection (1) may appeal the suspension or prohibition in accordance with section 112 of the Act.

112.(1) A person named on a certificate of registration may appeal a decision of the Registrar under section 65.1 suspending or cancelling the certificate.

(2) The holder of a driver's licence may appeal a decision of the Registrar cancelling the licence under section 104 or 111.

113.(1) An appellant shall submit a notice of appeal and the prescribed fee to the Registrar within 45 days after receiving notice of the Registrar's decision

(2) On receipt of a notice of appeal, the Registrar shall notify the Minister who shall designate an adjudicator to hear the appeal, or assign the appeal to an adjudicator who has already been designated.

114.(1) On being assigned an appeal, an adjudicator may require the Registrar to provide, to the adjudicator, copies of all records and information relevant to the decision under appeal;

hold hearings and determine matters of procedure at hearings;

receive written or oral evidence relating to the appeal;

require the Registrar or any other person to provide additional information before making a decision on the appeal; and

confirm, vary or set aside the decision under appeal.

(2) The adjudicator shall give written reasons for his or her decision and shall give the Registrar and the appellant a copy of the decision.

(3) The decision of the adjudicator is final.

Workplace and Income Earning

Employment Standards Officer and Adjudicator

The *Employment Standards Act* provides that:

(1) An employee may make a written complaint to the Employment Standards Officer on the grounds that

the employee was not paid an amount to which he or she is entitled;

the employer, without the written consent of the employee, changed a condition of employment or terminated the employment of an employee contrary to section 37; or

the employment of the employee was suspended or terminated or the employee was laid off because the employee

was subject to garnishment proceedings,

gave evidence or may give evidence at any inquiry or in any proceeding or prosecution under this Act,

requested or demanded anything to which the employee is entitled under this Act, or

made or is about to make any statement or disclosure that may be required of the employee under this Act.

71.(1) A person affected by a decision or order of the Employment Standards Officer may appeal it to an Adjudicator within 30 days after the date of service on the person of a copy of the decision or order.

Appeal Panel of the Apprenticeship, Trade and Occupations Certification Board and Panel

The *Apprenticeship, Trade and Occupations Certification Act* provides that:

7.(1) The Minister may, on the recommendation of the Board, establish an appeal panel to hear one or more appeals, as considered necessary by the Board.

14.(3) Where the Supervisor refuses to certify a contract or termination, cancellation, transfer or completion of a contract, either of the parties to the contract may appeal to the Board.

15.(1) Subject to the approval of the Supervisor, a contract may be terminated with the consent of all the parties to the contract, and a contract may be cancelled by the Supervisor on good cause being shown to the satisfaction of the Supervisor by the employer or by the apprentice.

(2) Either party to a contract may appeal a decision of the Supervisor under subsection (1) to the Board.

Social Assistance Appeal Board

The *Social Assistance Act* provides that:

7.(1) A board called the Social Assistance Appeal Board is established.

8.(1) An applicant or recipient of assistance under this Act may appeal any decision made by a Social Welfare Officer or the Director with respect to his or her eligibility to receive that assistance or the amount of assistance paid to him or her.

(2) An appeal made under subsection (1) shall be made in the first instance to the appeal committee for the place in which the person resides.

An applicant for or recipient of assistance or the Director may appeal any finding of an appeal committee to the Appeal Board.

Student Financial Assistance Appeal Board

The *Student Financial Assistance Act* provides that:

8.2.(1) The Student Financial Assistance Appeal Board is established composed of five members appointed by the Minister.

8.3.(1) An applicant who has been advised that a decision has been affirmed, reversed or varied under subsection 8.1(3), may, in accordance with the regulations, appeal the decision as affirmed, reversed or varied to the Student Financial Assistance Appeal Board.

Northwest Territories Agricultural Products Marketing Council

The *Agricultural Products Marketing Act* provides that:

8.(1) A person affected by a decision of a producer board may appeal the decision to the Council by filing with the Council a written notice of appeal describing the grounds of the appeal.

11.(1) The Northwest Territories Agricultural Products Marketing Council is established as a corporation under this Act.

Medical Benefits Appeal Committee

The *Medical Care Act* provides that:

6.(1) Where a medical practitioner disagrees with an assessment under paragraph 5(a) or (b), the medical practitioner may request the Director to review the assessment.

10.(2) Where a medical practitioner wishes to appeal a reassessment under subsection 8(1), the medical practitioner shall, within 30 days after receiving notice under subsection (1), notify the Minister, in writing, of his or her intention to appeal the reassessment to the Benefits Appeal Committee established under section 17.

17.(1) The Minister may establish a Benefits Appeal Committee where the Minister considers it in the public interest to do so; and shall establish a Benefits Appeal Committee where the Minister receives notice of an intention to appeal under subsection 10(2).

(3) The Benefits Appeal Committee shall consider any appeal or matter referred to it by the Minister and the decision of the Committee is final.

Minister's Designate

The *Child Day Care Act* provides that:

20.(1) A person who has been refused a license or an operator whose license has been suspended or revoked may appeal the decision of the Director to a person or persons designated by the Minister under section 21.

On receipt of a notice of appeal, the Minister shall, without delay, designate a person or persons who do not work in the department of the Government of the Northwest Territories that administers this Act to hear the appeal.

24.(1) An appellant or the Director may appeal the decision of a designated person to the Minister.

Superintendent of Wildlife

The *Wildlife Act* provides that:

4.(1) Subject to this Act and the regulations, a vendor shall issue a license or permit to an applicant who has proved to the satisfaction of the vendor that he or she is entitled to hold the license or permit.

(2) An applicant whose application is refused by a vendor, other than the Superintendent, may appeal in the prescribed manner against the refusal to the Superintendent whose decision shall be final.

Legal Services Board

The *Legal Services Regulations* under the *Legal Services Act* provide that:

39.(4) Where a lawyer is dissatisfied with the review of the Executive Director, he or she may appeal to the Board.

Workplace and Safety

Chief Inspectors and Chief Safety Officers

The *Gas Protection Act* provides that:

8. A person or municipal corporation aggrieved by an order or decision of an inspector may appeal the order or decision in the prescribed manner.

The *Mine Health and Safety Act* provides that:

21.(1) An inspector may enter a mine at any time for the purposes of an investigation or inspection.

32.(1) A person who is adversely affected by a decision or order issued by an inspector may appeal the decision or order, in writing, to the chief inspector within 30 days after its issue.

The *Electrical Protection Act* provides that:

19.(1) Where an inspector

- disapproves in whole or in part plans and specifications submitted to the inspector,
- requires the alteration of electrical equipment,
- requires that the supply of electric energy to electrical equipment be cut off,
- refuses to issue a permit under section 11, 12 or 13, or
- refuses to give permission to a supply authority under section 16, the person aggrieved by the order or decision of the inspector may appeal to the Chief Inspector.

The *Safety Act* provides that:

13.(9) The worker or the employer may appeal a decision of the Committee to the Chief Safety Officer who shall, as soon as is practicable, investigate and decide on the matter.

(10) Notwithstanding section 17, the decision of the Chief Safety Officer under subsection (9) is final.

16.(1) Any person who is aggrieved by a direction or decision of a safety officer may, within 30 days after the date the direction or decision is made, appeal to the Chief Safety Officer.

The Chief Safety Officer shall, within 30 days after receiving an appeal under subsection (1), make investigations and hear evidence that the Chief Safety Officer considers necessary to review and consider the matter;

vary, revoke or confirm the direction or decision appealed against; and cause a copy of his or her decision to be served on the appellant.

Fire Marshal

The *Fire Prevention Act* provides that:

14.(1) A person aggrieved by an order or a decision made under this Act or the regulations by a Deputy Fire Marshal, an Assistant Fire Marshal, a local assistant or a municipal corporation referred to in subsection 3.1(1), may appeal to the Fire Marshal within 10 days after the order or decision is made.

(3) Where the Fire Marshal receives an appeal under subsection (1), the Fire Marshal shall, without delay,

- hear the representations of the appellant and any other representations that the Fire Marshal considers necessary;
- affirm, modify or revoke the order or decision; and
- cause a copy of his or her decision to be served on the appellant.

Review Committee and Appeals Tribunal of WSCC

The *Workers' Compensation Act* provides that:

113. A claimant or employer who is dissatisfied with a decision of the Commission respecting a claim for compensation may, in writing, request that the decision be reviewed by the Review Committee.

119.(1) The Appeals Tribunal shall hear appeals from the Review Committee and applications under section 63 on whether a person is immune from action pursuant to this Act.

Chief Inspectors

The *Gas Protection Regulations* under the *Gas Protection Act* provide that:

26.2.(1) A person aggrieved by a decision or order of an inspector may appeal to the Chief Inspector by serving a written notice of appeal on the Chief Inspector within 30 days of receiving notice of the decision or order or within such further period of time as the Chief Inspector may allow.

26.3.(1) The Chief Inspector shall, within 30 days of being served with a notice of appeal under subsection 26.2(1),

- (a) make investigations and hear evidence that the Chief Inspector considers necessary to review and consider the appeal;
- (b) vary, revoke or confirm the decision or order under appeal; and
- (c) cause a copy of his or her decision to be served on the appellant.

The *Mine Health and Safety Regulations* under the *Mine Health and Safety Act* provide that:

With respect to a supervisor's certificate:

7.28.(2) The holder of the certificate that has been suspended may appeal the decision of the inspector to the chief inspector within 14 days of receiving written notice of the suspension.

(3) On receipt of a notice of appeal, the chief inspector may investigate the circumstances of the suspension;

shall give full opportunity to all interested parties to present evidence and make representations; and shall confirm, vary or terminate the suspension or cancel the certificate.

7.42 provides the same powers in respect of a blasting certificate suspension

7.48 provides the same powers in respect of a hoist operators certificate suspension.

Chief Public Health Officer

The *Food Establishment Safety Regulations* under the *Public Health Act* provide that:

16.(1) A person may, by notice in writing, appeal to the Chief Public Health Officer a cancellation of an approval of food establishment specifications by a public health officer pursuant to an authorization referred to in section 6 of the Act;

(b) a failure or refusal to issue a food establishment permit or a renewed food establishment permit by a public health officer pursuant to an authorization referred to in section 6 of the Act; or

(c) a suspension or cancellation of a food establishment permit by a public health officer pursuant to an authorization referred to in section 6 of the Act.

Chief Electrical Inspector

The *Electrical Protection Regulations* under the *Electrical Protection Act* provide that:

43.(1) A person who is aggrieved by a decision or order of an inspector under these regulations, may appeal to the Chief Inspector.

(2) Subsections 19(2) to (4) of the Act apply to an appeal under subsection (1).

Land and Property Rights

Development Appeal Board

The *Planning Act* provides that:

21.(1) A zoning by-law must provide for the establishment of a development appeal board by the council composed of a chairperson and at least two other members appointed concurrently for a three-year term of office by resolution and who shall not be dismissed except for cause.

23.(1) A person claiming to be affected by a decision of a development officer or a council made under a zoning by-law may appeal to the appeal board by serving written notice of appeal to the appeal board within

14 days after notice of the decision has been mailed to the applicant or posted pursuant to paragraph 16(1)(c); or

a further time, not exceeding an additional 46 days, that the chairperson of the appeal board, for just cause, may allow.

Assessment Appeals Tribunal

The *Property Assessment and Taxation Act* provides that:

41. A board of revision shall hear and consider each complaint that is made to it in accordance with this Part.

64.(1) Subject to subsections (2) and (3), the council of a municipal corporation, a complainant to a board of revision, the Director, or any other person affected by a decision of a board of revision, may appeal a decision of a board of revision, or the refusal or neglect of a board to make a decision, to the Tribunal.

Minister's Designate

The *Planning Act* provides that:

40.(1) Where an application for approval of a proposed subdivision of land is refused for any reason other than a failure to comply with paragraph 38(b), or is approved conditionally, the applicant may appeal to the Minister by serving on the Minister written notice of appeal within 14 days after notice of the decision is mailed to the applicant.

(7) For the purposes of this section, the Minister may designate a senior member of the Government of the Northwest Territories, other than the Director or an employee in the department of the Government in which the Director is employed, to hear an appeal on behalf of the Minister.

Council of a Charter Community

The *Charter Communities Act* provides that:

149.(1) A person who receives a written order under section 148 may request that council review the order

150.(1) A person affected by the decision of council under section 149 may appeal to the Supreme Court

Expropriating Authority

The *Expropriation Act* provides that:

Any person who objects to the intended expropriation of an interest in land to which a notice of intention relates may, within 30 days after the day on which the notice of intention is given, serve on the expropriating authority a written objection stating the name and address of the person; the nature of the objection; the grounds on which the objection is based; and the nature of his or her interest in the intended expropriation.

Director of Planning

The *Norman Wells Development Regulations* under the *Area Development Act* provide that

13.(1) A person claiming to be affected and who is not satisfied with a decision of the officer to issue, refuse, revoke, suspend, or modify a development permit may, within 20 days of the

permit holder or applicant for the permit being notified of such a decision, appeal in writing to the director stating the reasons for the appeal.

The Commissioner

The *Enterprise Corridor Development Area Regulations* under the *Area Development Act* provide that:

18.(1) Subject to section 19, the permit holder, the applicant for a development permit and any person claiming to be affected by the proposed development may appeal to the Commissioner a decision of an officer to issue, refuse to issue, attach conditions to, revoke or suspend a development permit.

Director of Lands Administration

The *Commissioner's Land Regulations* under the *Commissioner's Land Act* provide that:

34.(1) A person aggrieved by a decision made under these regulations by an authorized agent may appeal to the Director within 30 days after the decision is made.

Investigatory and Review Powers in Acts

The *Legislative Assembly and Executive Council Act* provides that:

101. The Conflict of Interest Commissioner shall, after giving reasonable notice to the member or former member complained of and the complainant, conduct an investigation into the complaint.

The *Corrections Act* provides that:

49.(1) The Minister may appoint persons to investigate and inquire into any matter connected with or affecting the administration and operation of the Corrections Service or a correctional centre.