

B.C.'s INDEPENDENT VOICE FOR FAIRNESS

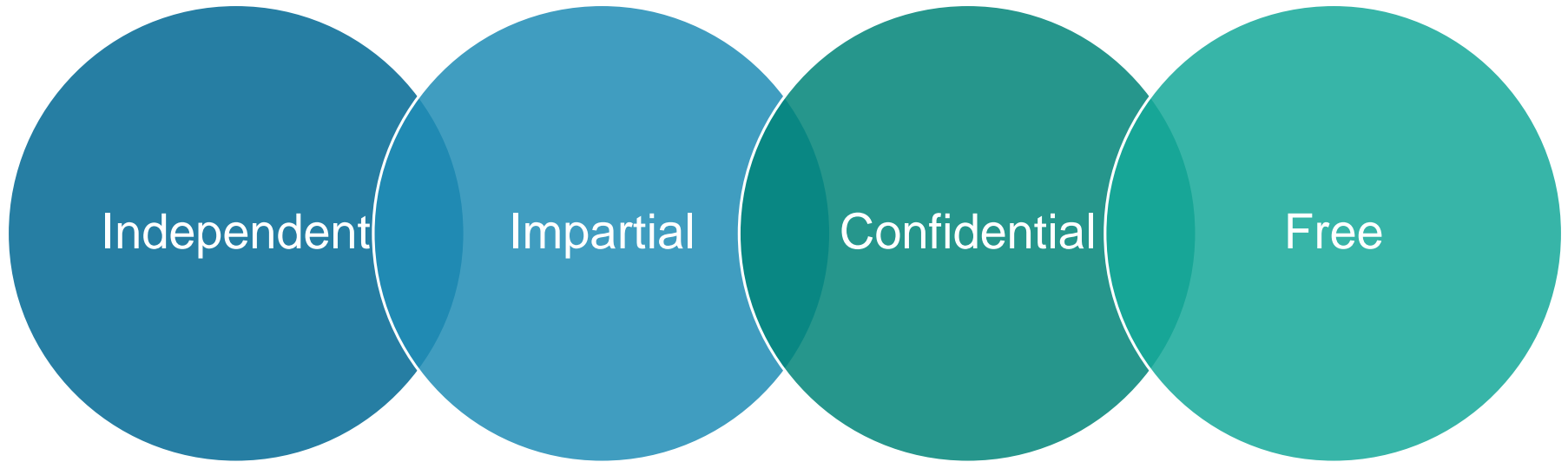
September 2018



Jay Chalke
Ombudsperson Province of British Columbia

WHAT IS AN OMBUDSPERSON?

Promotes and Fosters Fairness



ORIGINS IN BC

- First Ombuds office in Commonwealth was New Zealand
- First Canadian Ombuds was Simon Fraser University
- Then Parliamentary Ombuds offices established by statute across Canada

“...with the establishment of an Ombudsman in British Columbia we will have (an organization which) can...provide additional service for our citizens, move aside the bureaucratic roadblocks, wade through the red tape...and recommend improvements to administrative practice and administrative procedure.”

The Honourable Garde Gardom, B.C. Attorney General during second reading of B.C. Ombudsman Act in 1977

AN OFFICE OF THE LEGISLATURE

One of eight Officers of the Legislature

Chief Electoral Officer
Auditor General
Members' Conflict of Interest Commissioner
Information and Privacy Commissioner
Representative for Children and Youth
Merit Commissioner
Police Complaint Commissioner
Ombudsperson

B.C.'S INDEPENDENT VOICE FOR FAIRNESS



Independent

- Report to Legislature
- Neutral
- Statutory obligation
- Rigorous



Voice

- Persuasively focus scrutiny
- “Marshal public opinion”
- Evidence-based



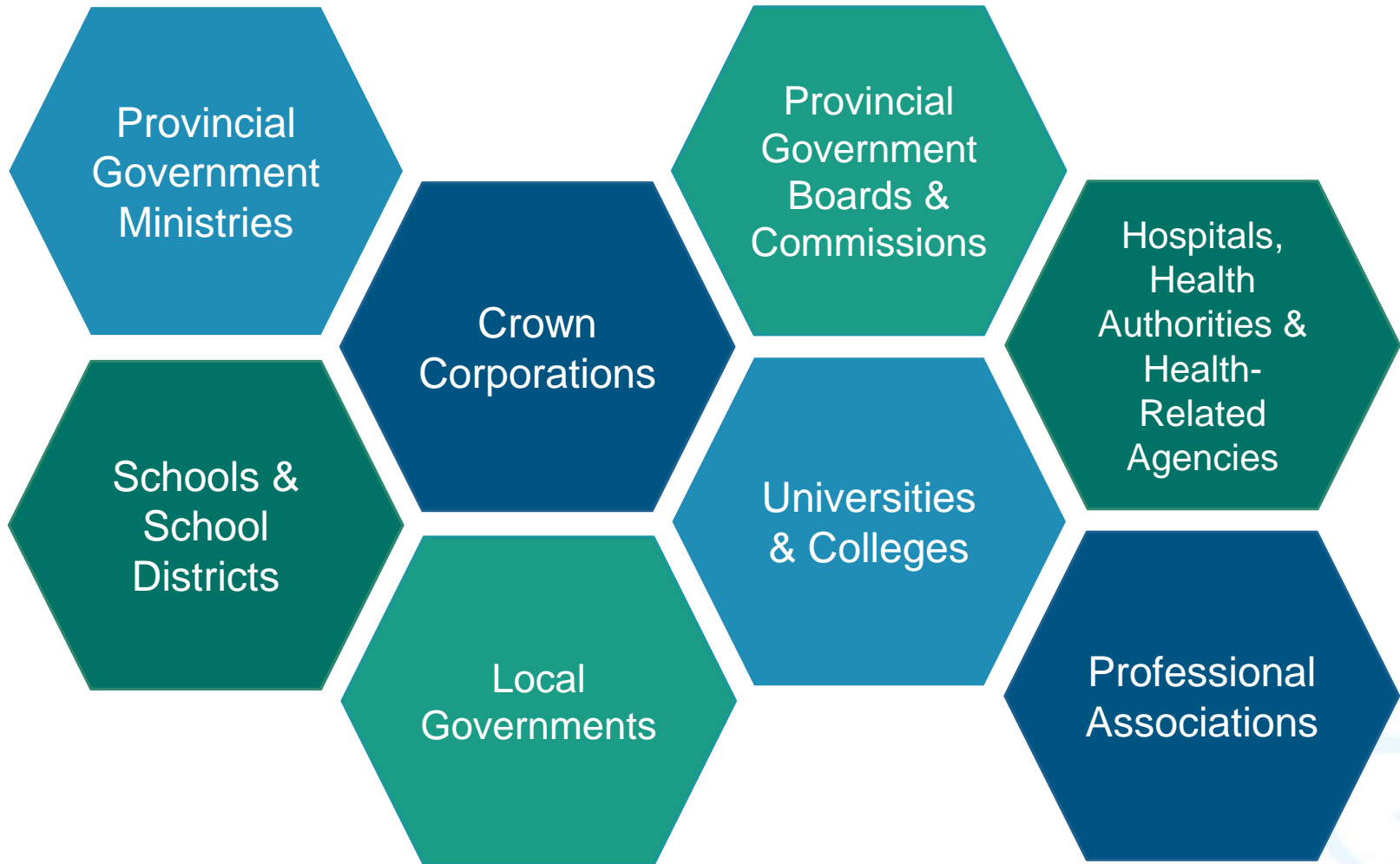
Fairness

- Ability to be heard
- Following rules
- Clear decisions

ROLE OF THE OMBUDSPERSON



JURISDICTION



TOP AUTHORITIES BY COMPLAINT VOLUME 2017/18

Complaints at a Glance



50% of complaints are about provincial government ministries



Top Non-Ministry Complaints



Health Authorities

376



ICBC

325



Workers' Compensation Board

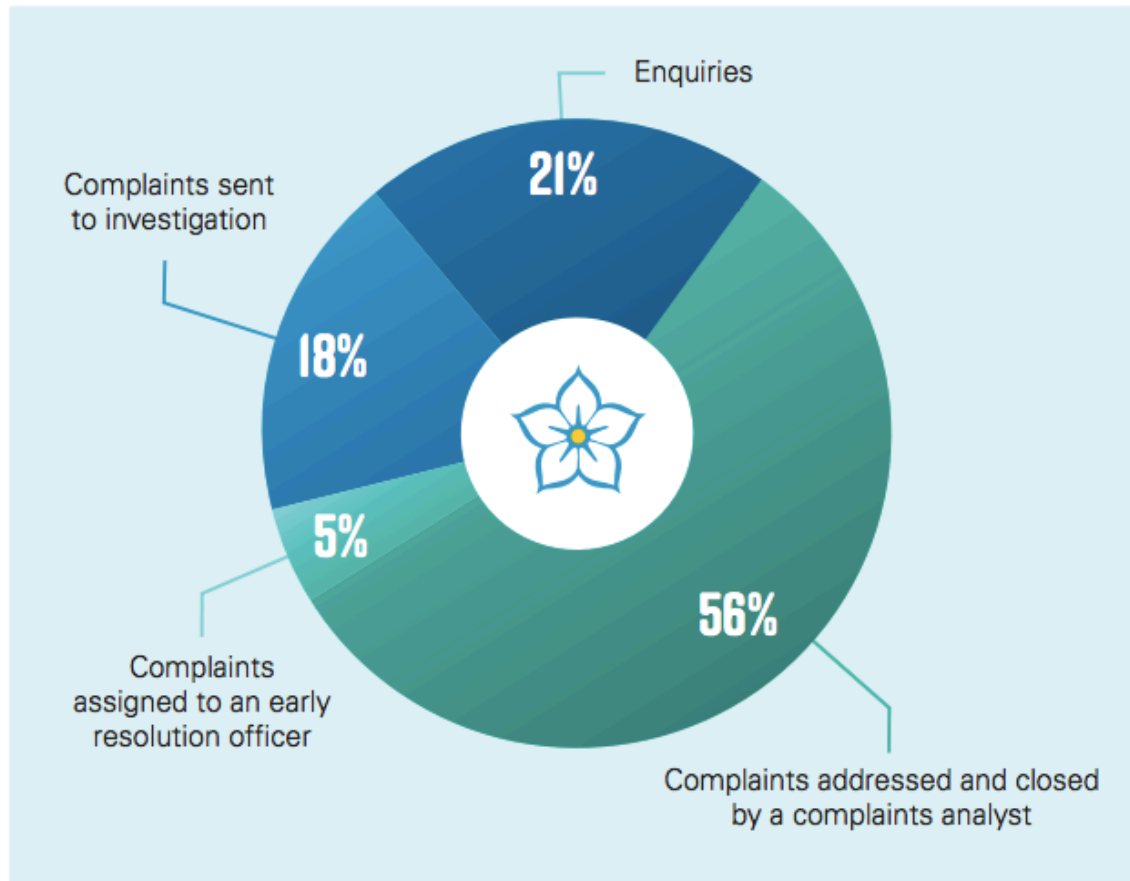
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BC Hydro and Power Authority

155

8400 ENQUIRIES AND COMPLAINTS RECEIVED (2017/18)



COMPLAINTS WE RECEIVE

“I can’t get access to benefits I’m entitled to.”

“Why are my children being removed from my care?”

“I’m disabled and need medical transportation.”

“I’m in custody and I need to file a complaint.”

“I won’t be able to make ends meet if I don’t get my cheque.”

“I just arrived in Canada and I’m confused.”

HOW WE DEAL WITH COMPLAINTS



ADMINISTRATIVE FAIRNESS IS...

The standard of conduct that people can expect from public authorities in a democratic society.

It includes:

- Consistent and transparent decision-making
- Even-handed and reasonable application of rules
- Properly authorised policies and practices, supportive of program goals
- Fair and respectful treatment of all people

HOW DOES THE *OMBUDSPERSON ACT* DESCRIBE ADMINISTRATIVE UNFAIRNESS?

- Contrary to law
- Unjust, oppressive or improperly discriminatory
- Statute or rule of law that is unjust, oppressive or improperly discriminatory
- Based on mistake or irrelevant consideration
- Procedures that are arbitrary, unreasonable or unfair
- Inadequate reasons
- Negligent or improper
- Unreasonable delay
- Otherwise wrong

POSSIBLE OUTCOMES

- Better explanation of decision
- New hearing or reassessment
- Access to a benefit
- Apology
- Reimbursement of expenses
- Improved policy or procedure

A single complaint from one person can often lead to changes that benefit many others.

CASE SUMMARY: FIXING A MISTAKE FOR A YOUTH IN TRANSITION

Ministry of Social Development and Social Innovation

Silva was upset with the length of time it was taking the ministry to process her son Carl's application for Persons with Disabilities (PWD) designation. Carl had a mental impairment that would qualify him for PWD designation when he turned 18. This designation would entitle him to disability assistance and health benefits.

Silva started the application process for Carl's PWD designation about six months prior to his 18th birthday. Having received no response for several months, she contacted the ministry and was told that Carl's application had been closed because it was incomplete. At Silva's request, the ministry reopened the application and, after receiving further documentation from her, it approved Carl's PWD designation. The process took almost a year to complete. Unhappy with the delay, Silva came to us.

We investigated what happened in the application process that led to the ministry not completing Carl's PWD application and instead closing his file. Our investigation determined that due to a series of mistakes, the proper policy was never followed. The ministry admitted its error and acknowledged that it should have provided better and timelier service to Silva and Carl. The ministry also agreed to backdate Carl's PWD status approval to his 18th birthday and issue retroactive disability assistance payments to him.

CASE SUMMARY: AN EDUCATION IN FAIRNESS

School District 36 (Surrey)

Serena, 16, was denied registration at her local high school. She had completed all the application documents but the principal would not register her without an authorization signature from her legal guardian. Serena had been living independently. Not willing to approach her mother due to safety concerns, she came to us.

We understood that the *School Act* did not provide the school with the legal authority to deny Serena an education because of a missing signature. A lack of schooling would only further isolate Serena, who was already in a highly vulnerable position.

When we contacted the superintendent, he stated that the school district's priority was to ensure that youths received educational programs and the school district was committed to having a registration policy that was inclusive. The superintendent reviewed the concerns raised by our investigation with the school district's senior management and principals.

The superintendent agreed to change the school board's website to ensure that its inclusive policy was made clear. The superintendent further committed to ensuring that Serena was contacted directly to acknowledge that her registration request should have been handled differently.

Serena was able to register for school and her complaint resulted in the school district taking positive steps to ensure that its communications were clear and that its staff knew that the priority was to ensure that all youths have the opportunity to receive an education.

CASE SUMMARY: BC HYDRO BILLING ERROR

BC Hydro

One person can make a difference

We investigated a complaint about a BC Hydro bill that the recipient believed was incorrect.

Our investigation resulted in BC Hydro agreeing to refund a total of more than \$114,000 to approximately 580 other people who had been affected by the same error.

SYSTEMIC INVESTIGATIONS

- Ombudsperson initiated
- Generally wider impact
- Allows for broad consideration of policy and procedure



EXAMPLES OF IMPACT OF OUR SYSTEMIC REPORTS

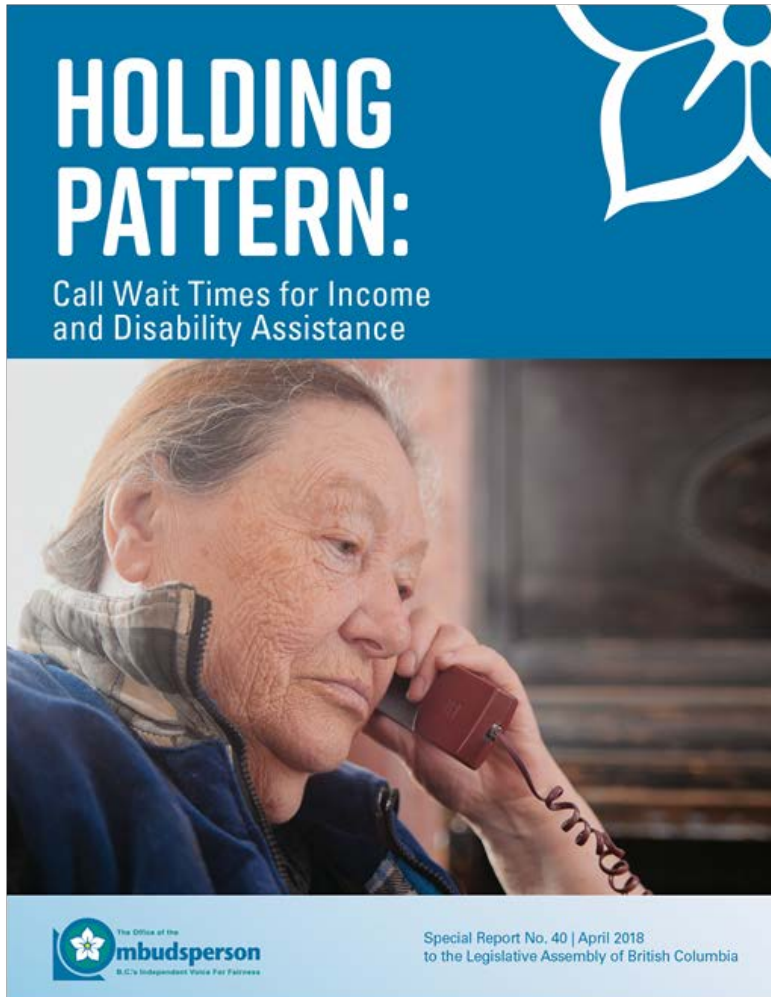
Increased staffing levels for seniors living in residential care

More oversight over private post-secondary institutions

Enhanced standards of conduct across the B.C. Public Service

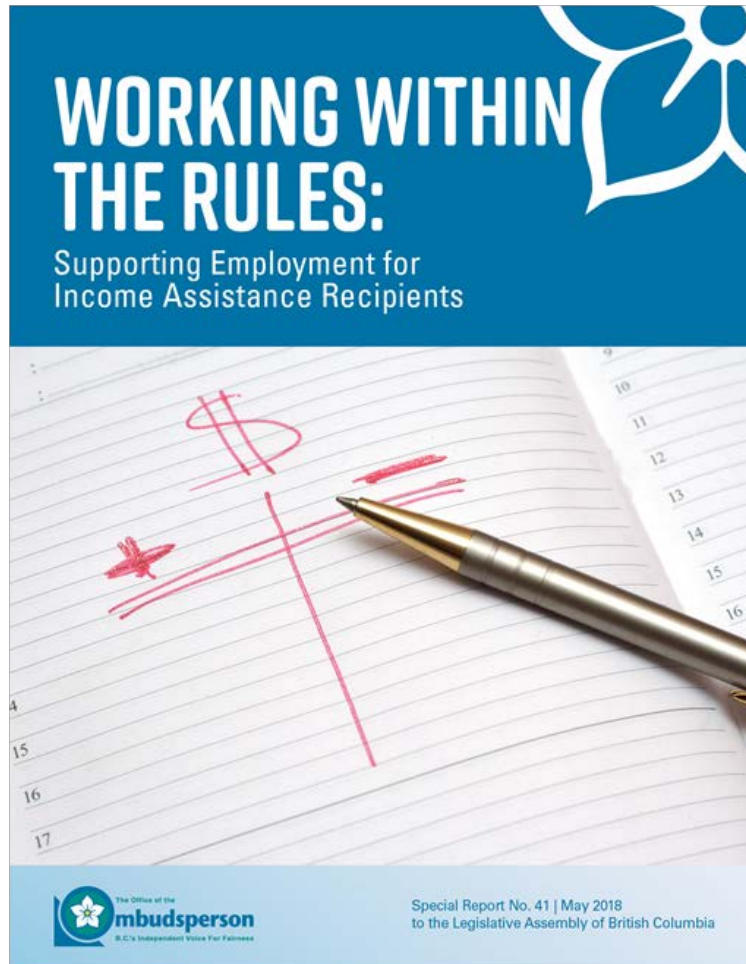
More rigorous inspection standards for B.C.'s correctional facilities

HOLDING PATTERN: APRIL 2018



- Examined telephone call wait times for income and disability assistance recipients
- 9 recommendations – 3 main areas:
 - Transparency of service level
 - Service quality
 - Timeliness
- The ministry fully accepted six recommendations and partially accepted the other three

WORKING WITHIN THE RULES: MAY 2018



- Examined application of Earnings Exemption policy at the Ministry of Social Development and Poverty Reduction
- Found that the policy was contrary to law and inconsistent with program goals
- All four recommendations accepted by the ministry

Outcomes to date:

- Policy has been changed – ministry has agreed to pay back **3,700** individuals totalling **\$1 million**.

AN OUNCE OF PREVENTION...

- 3 year pilot project
- Applying expertise developed from investigating complaints of unfairness to help public bodies prevent learn how to do their work more fairly
- Quarterly webinars
- Training workshops
- Consultations with authorities or sectors

For more information contact: consult@bcombudsperson.ca

Questions?

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