

WHAT TO EXPECT FROM AN OMBUDSPERSON INVESTIGATION

Role and mandate of the Ombudsperson

The Office of the Ombudsperson receives complaints from members of the public about the administrative fairness of the decisions and actions of public bodies. As an independent office of the BC legislature, we impartially assess these complaints and work to find fair resolutions to administrative fairness issues.



Complaint assessment

Step 1. We **impartially** and **confidentially** listen to and assess each complaint. Complaints to our office are confidential and a public body will only be notified of a complaint if we decide to investigate it. We do not investigate all complaints we receive.

Step 2. If the person has not raised their concerns with a public body, we generally **refer** the person back and ask them to raise their concerns through the public body's complaint or appeal process. The person is invited to contact us again if they are not able to resolve their concerns with a public body.

Step 3. If our assessment of the complaint raises an **administrative fairness question**, then we may begin an investigation. When we decide to investigate, we have not made any conclusions about the merits of the complaint. Rather, we are seeking to obtain information to help us determine if there are administrative fairness issues that need to be addressed.

Investigative process

What happens during an investigation?

- **Notice of investigation.** We notify the public body of the investigation and provide details of the complaint.
- **Opportunity to be heard.** We will provide the public body an opportunity to be heard and share information and evidence relevant to the complaint. This will help us understand the complaint and any actions taken to respond to it.
- **Impartial review and investigation.** We impartially review all information gathered during the investigation to determine if there is an administrative fairness concern to be addressed.
- **Resolution of fairness concerns:** If during the investigation we identify an administrative fairness concern, we will seek to resolve this concern with the public body. We can be contacted at any time during an investigation with questions or to consult about resolving the complaint.

How to respond to an investigation

We want to hear from you and understand your perspective. Steps to respond to an investigation will likely include:

- **Gather and share relevant information and records.** We will ask for information about what happened from your organization's perspective. We will generally ask you to gather information and records to help us understand what happened. We also may wish to speak directly with the staff members involved in the situation as part of our information gathering process.
- **Share your expertise with us.** We want to understand how your organization works and its typical processes. This can include providing us relevant policy and procedures and explaining how they were applied in the circumstances.
- **Explain any steps that have or could be taken.** We may ask what steps have been taken, if any, to address the person's concerns, including any reviews, decisions or responses already provided. As part of your organization's review of steps taken to date, you may wish to review whether there is a current opportunity to address the complaint or make improvements to a situation or process.

Timeliness matters

- Receiving timely records helps to ensure a better experience for individuals who bring forward complaints
- It helps to resolve issues of unfairness efficiently
- It helps avoid escalation of matters

What happens at the end of an investigation?

■ Address any administrative fairness issues:

If we identify an administrative fairness issue, we will seek to consult with your public body to resolve this issue. Some possible resolutions may include:

- An apology
- An error or mistake being fixed
- A better explanation or clearer reasons for a decision
- Changes to policy, procedures or legislation
- A review of the decision
- Staff education or training
- A refund or reimbursement of expenses

■ Investigative closing letter and summary:

We notify both the public body and the person making the complaint that we are ending our investigation. We explain the outcome of the investigation and the reasons why the investigation is ending. We will provide a written summary of:

- the complaint
- the relevant information gathered through the investigation
- whether or not we identified a fairness issue and if we determined the public body acted reasonably
- if a fairness issue was identified, we will explain how it was resolved

Common questions about our investigations

1. Is the Ombudsperson an advocate?

No, the office is not an advocate. We do not advocate for the person with a complaint or the public body we are investigating. We impartially investigate to determine if the public body has acted in an administratively fair manner.

2. Will the investigation be made public?

We conclude most of our investigations privately and without a public report. We issue an annual public report that features anonymized summaries of some investigations and resolutions. If we include an investigation in an annual report or a public report, we take steps to change details to protect the privacy and confidentiality of the person making the complaint and the public body staff involved.

3. Why are you asking questions and requesting records?

We are seeking to gather the information necessary to understand what happened in the situation complained about and to determine if there are administrative fairness concerns that need to be addressed. Our requests are not intended to be burdensome. If there are challenges in providing the requested information or you require more time to respond, please contact us.

Ombudsperson powers and responsibilities

Power to obtain information: Section 15 of the *Ombudsperson Act* provides Ombudsperson staff with authority to speak to any person who may have information relevant to an investigation and to request and receive any information and records required to complete the investigation.

Investigations are confidential: Section 9 of the *Ombudsperson Act* requires that Ombudsperson investigations be conducted in private. Ombudsperson staff are only authorized to share information that is required to further the investigation. If the information provided to our office is particularly sensitive or private, please inform us.

Confidentiality of records relating to an Ombudsperson Investigation: Section 3(3)(f) of the *Freedom of Information and Protection of Privacy Act* (FIPPA) provides that FIPPA does not apply to records obtained by the Ombudsperson during an investigation. This means that records created by or for our office in relation to an investigation must not be disclosed by a public organization or our office in response to a request for information made under FIPPA.

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