

# PROVINCIAL ADVOCATES TRAINING CONFERENCE 2020

## The Ombudsperson's Perspective

Presented by:

Jay Chalke, Zoë Macmillan & Rachel Warren



**OMBUDSPERSON**  
BRITISH COLUMBIA

## REACHING OUT TO YOU

### 1 of Ombudsperson's 5 Strategic Priorities

“People who need us are aware of our services and can access them”



# OMBUDSPERSON – UNUSUAL NAME

October 8, 2020

**OMBUDS  
DAY**

Ombuds:  
Unusual name.  
Important service.

**ABA** AMERICAN BAR ASSOCIATION  
Dispute Resolution Section  
Ombuds Committee

**“B.C.’s INDEPENDENT VOICE FOR FAIRNESS”**



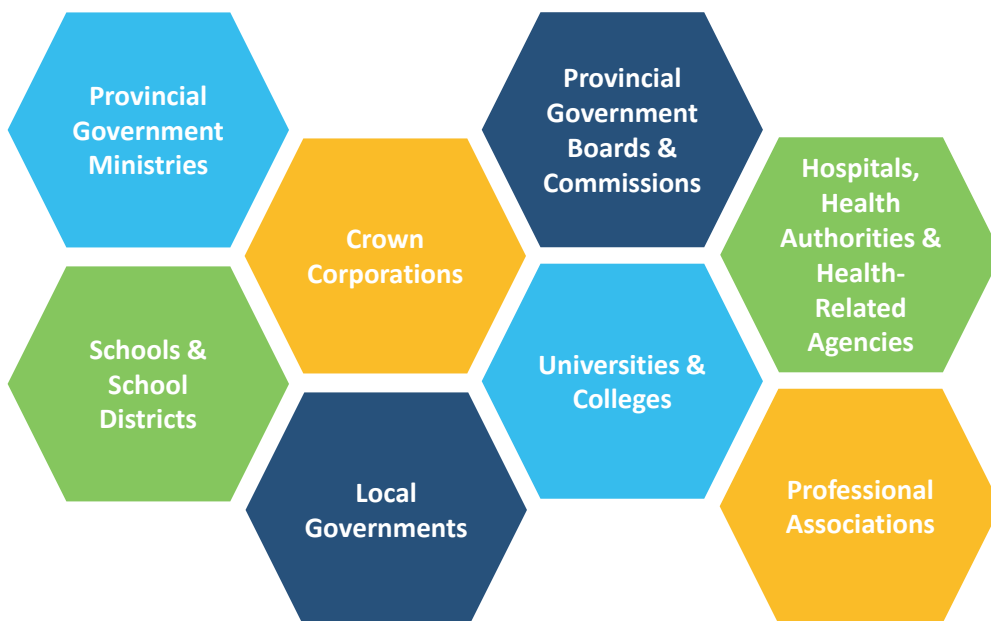
- “Advocates for Fairness”
- Listen to people
- Persuasive in our problem solving
- Solution-oriented
- Knowledgeable about many program areas

## HOW WE'RE DIFFERENT

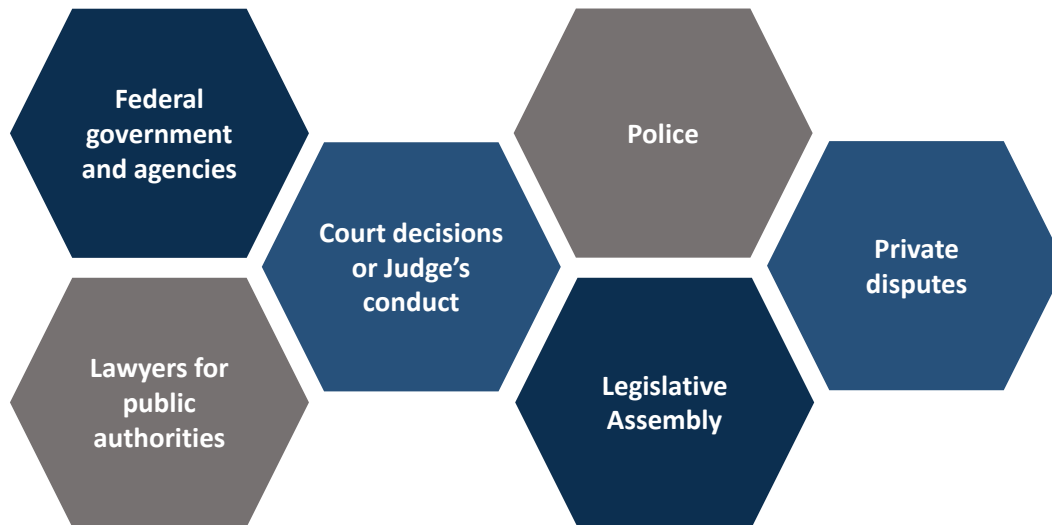


- “We’re the ref on the field”
- Independent, impartial & neutral
- We conduct our work in private
- Broad powers to obtain information

## WHO CAN YOU COMPLAIN TO US ABOUT?



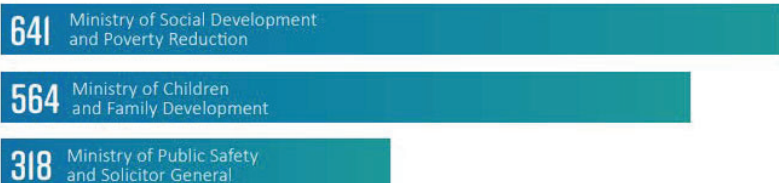
# WHAT WE DON'T INVESTIGATE



# AUTHORITIES BY COMPLAINT VOLUME 2018/19

## Top Complaints and Enquiries by Public Body

### Top Ministry Complaints and Enquiries



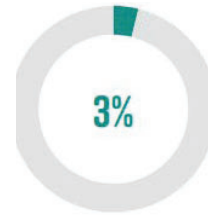
# HOW WE HANDLE COMPLAINTS

2018/2019

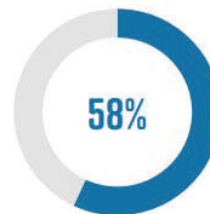
Enquiries	1,425
Complaints	5,672
<hr/>	
Total	7,097



Enquiries



Complaints assigned  
to an early resolution  
officer



Complaints addressed  
and closed by intake

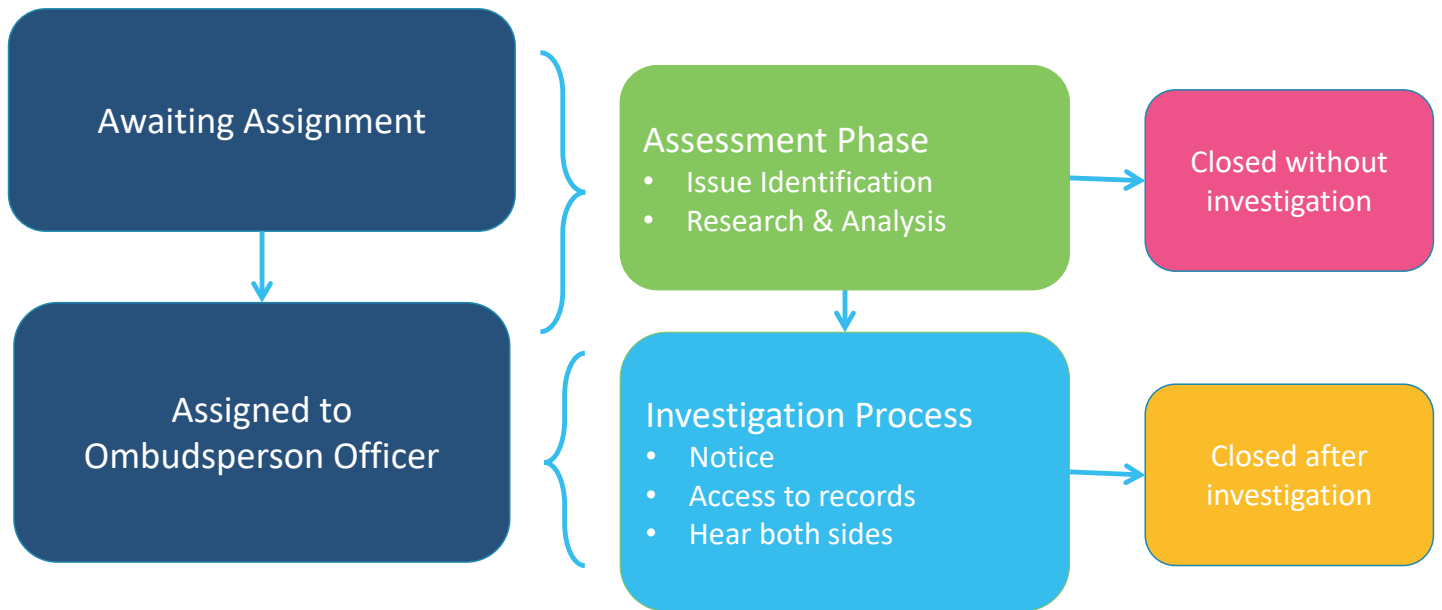


Complaints assigned  
to investigation

# INTAKE AND EARLY RESOLUTION PROCESS



# INVESTIGATION PROCESS



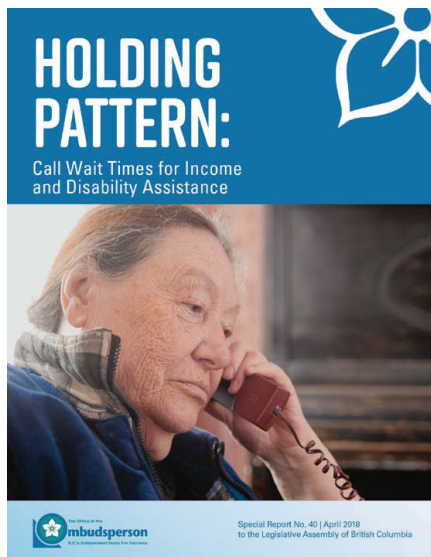
# POSSIBLE OUTCOMES



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



# HOW OUR WORK MAKES BIG IMPACTS



## Parenthood redefined

Ministry of Social Development and Poverty Reduction  
A policy that was narrower than the law caused an unfair result.

When Jeremy contacted our office, he and his wife were not sure what to do after the Ministry of Social Development and Poverty Reduction (MSDPR) would not add their grandson to their file as a dependent, even though they were now responsible for his care.

Jeremy told us he and his wife had agreed to become their grandson's caregivers, after learning the Ministry of Children and Family Development (MCFD) was concerned about his safety. Although Jeremy and his wife did not have legal custody, they did have a letter from the mother explaining the care agreement, which they provided to MSDPR with their request to add their grandson to their existing assistance file. However, MSDPR told Jeremy that without a legal order, they were not eligible for any additional supports. This was because according to MSDPR's policy, Jeremy and his wife did not meet the definition of a "parent".

When Jeremy called our office he felt out of options and was deeply concerned about how his grandson's well-being would be affected if he was not added to the file.

Although according to the policy a client could only be considered a parent if they were a child biological or adoptive parent or legal guardian, the wording of the legislation did not appear to limit eligibility to only these specific relationships. Telling Jeremy he needed proof of legal custody before they could add his grandson, MSDPR was applying an eligibility criteria that was more restrictive than the legislation. Fairness means ensuring policies do not make it impossible for a person to receive a benefit they may be eligible for according to the legislation. Fair policies are flexible enough to reflect the full scope of decision-making power the ministry has under the legislation.

In response to our investigation, MSDPR agreed that the policy should be changed and shared their proposed revisions with us for our input. We ensure that both the policy and the process of staff reviewing and assessing requests to add dependent met best practices for administrative fairness.

At the time the decision was made, Jeremy...

## HOLDING PATTERN (2018)



- Examined complaints of long call wait times on the ministry's 1-800 contact centre line
- How advocates played a part in telling the story of why problematic service delivery is a fairness issue
- What we found:
  - Chronically & consistently unreasonably long waits
  - Insufficient staff & problematic mitigation strategies
  - Unknown impacts on in-person service

# HOLDING PATTERN (2018)

9 recommendations made in 3 main areas:



# HOLDING PATTERN UPDATE (Feb 2020)

4 of 9 recommendations implemented

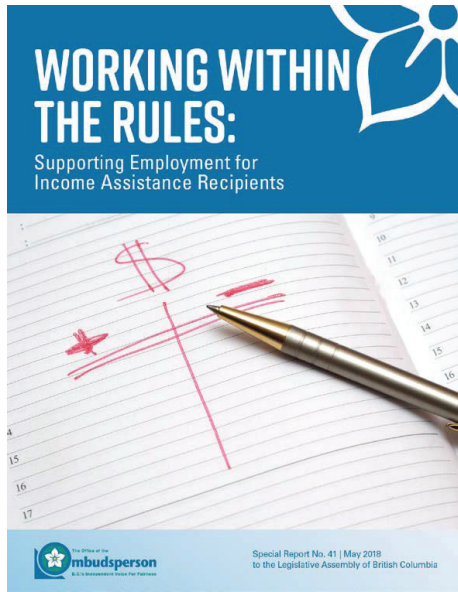
Ministry meeting timeliness target only one-third of the time

Still no timeliness standard for in-person service

Insufficient increase in staff dedicated to answering calls



# WORKING WITHIN THE RULES (2018)



- Individual complaint about the application of the ministry's Earnings Exemption policy
- The circumstances – advocates helping individuals can equal broader outcomes
- What we found:
  - Policy contrary to law
  - Improper and in breach of its duty to its clients
  - Unjust and oppressive

## WORKING WITHIN THE RULES

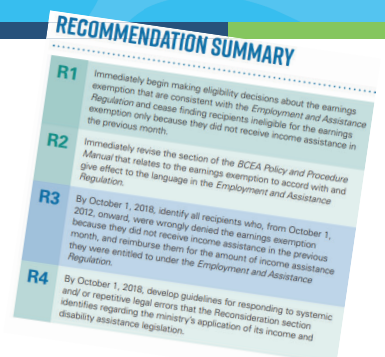
4 recommendations made:

IMMEDIATELY  
CEASE ACTIONS

IMMEDIATELY  
REVISE POLICY

REIMBURSE RECIPIENTS

FIX GAPS IN SYSTEM



# WORKING WITHIN THE RULES UPDATE (Jan 2019)

3 out of 4 recommendations implemented

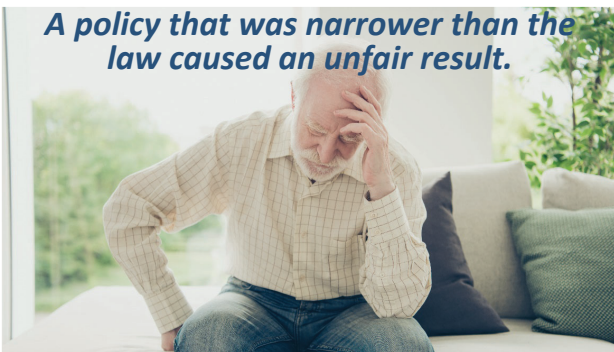
Policy changed –  
decision in accordance  
with the law

Guidelines for  
reconsideration referral  
to executive

Reimbursements made,  
but 988 still waiting!

## PARENTHOOD REDEFINED

*A policy that was narrower than the law caused an unfair result.*



### Adding Dependent Children to a Case

Effective: July 23, 2018

#### Policy/Program Implementation Manager

- Determine if a client can be considered a parent for the purpose of adding a dependent child to the case where a child temporarily resides with a client who does not have custody or guardianship.

## Definitions Dependent Child

A client temporarily caring for a child without legal custody or guardianship may be considered a parent (see Procedures for Adding Dependent Child to a Case). Caring for a child may include one or more of the following, but is not limited to:

- making day-to-day decisions affecting the child;
- having day-to-day care, control and supervision of the child;
- making decisions respecting where the child will reside;
- making decisions respecting the child's education and participation in extracurricular activities;
- making decisions respecting the child's cultural, linguistic, religious and spiritual upbringing and heritage;
- applying for a passport, licence, permit, benefit, privilege or other thing for the child;
- exercising any other responsibilities reasonably necessary to nurture the child's development.

# OTHER POSITIVE OUTCOMES

Improved language accessibility for those seeking legal aid in a language other than English

Apology for a CLBC client living in a group home when decisions were made without their input and for their negative experience

Improvements to protect the personal health information of inmates

Removing all child support payments from BC Housing's Rental Calculation Guide

Public Authority Consultation & Training Team (PACT)



**OMBUDSPERSON**  
BRITISH COLUMBIA

# PUBLIC AUTHORITY CONSULTATION AND TRAINING TEAM (PACT)

## 3-year pilot program (2017-2020):

- Engage proactively with public authorities
- Educate public sector on administrative fairness standards
- Share complaint trends and issues
- Contribute to program and policy design
- Improve internal complaints processes

*“An ounce of prevention is worth a pound of cure”*

## KEY INITIATIVES



EDUCATION



VOLUNTARY  
CONSULTATION

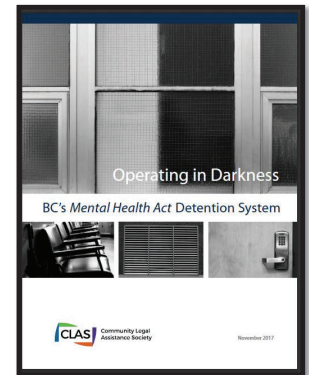


PUBLICATIONS

# OUR WORK

## Mental Health Review Board Rules and Practice Directives

- Flaws in Board's process identified in CLAS report led MHRB Chair to improve procedures
- Concerns about adequate notice and disclosure affecting patients' right to fair hearing
- Procedures lacking for facilities to facilitate access to review
- Mandatory review process for patients on extended leave



# OUR WORK

## Court Services Complaints Policy

- No avenue for people to raise concerns
- Sheriff Services complaints
- Developed a complaints process governed by principles of accountability, consistency and timeliness
- Focus on informal resolution of complaints
- Formal investigations process established



# OUR WORK

## Forensic Psychiatric Services Complaints Process

- Patient Concerns Committee not adequate
- High duty of fairness owed
- Importance of accessible, responsive process
- Adequate investigation of complaints
- Opportunity for patient to be heard in process
- Ensuring privacy and confidentiality in complaints process

 Provincial Health Services Authority Providence-wide solutions. Better health.		 BC MENTAL HEALTH & SUBSTANCE USE SERVICES Mental Health Services Authority	
Procedure Number & Name	CCR-105 P.h	Patient Complaint Management: Resolution within FPH & PHSA Patient Care Quality Office Involvement	
Policy Links	CCR-105 Legal Services, Complaints & Access to the Ombudsperson		
Policy Section	Clinical Care: Right and Responsibilities	Date Approved	March 5, 2019

# COVID-19

## PSSG enforcement of PHO orders

- Compliance and enforcement activities re: mass gatherings/events and border entry requirements
- Training, advice and support
- Focus on voluntary compliance and progressive enforcement

**PROVINCE OF BRITISH COLUMBIA**

**ORDER OF THE MINISTER OF PUBLIC SAFETY AND  
SOLICITOR GENERAL**

*Emergency Program Act*

**Ministerial Order No. M093**



# OVERSIGHT IN A TIME OF CHANGE

TIMES COLONIST MENU

## Comment: Oversight in a pandemic: finding the sweet spot

Jay Chalkie /  
MAY 9, 2020 06:00 AM

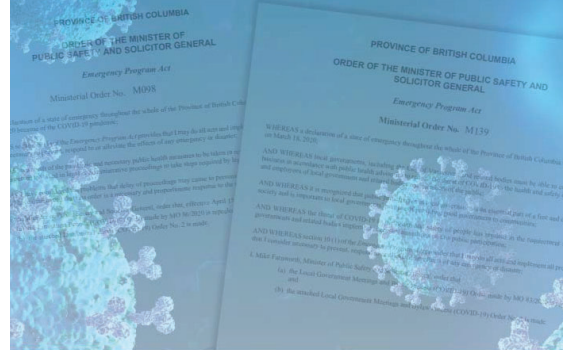


The domes of the B.C. legislature in downtown Victoria.  
Photograph By ADRIAN LAM, TIMES COLONIST

*A commentary by the ombudsperson of British Columbia.*

## EXTRAORDINARY TIMES, EXTRAORDINARY MEASURES:

Two ministerial orders made under the  
*Emergency Program Act* in response  
to the COVID-19 pandemic



## Questions?

CONTACT US:  
**1-800-567-FAIR (3247)**

[bcombudsperson.ca](http://bcombudsperson.ca)

 Follow us on Twitter and Facebook [@bcombudsperson](https://www.facebook.com/bcombudsperson)

Subscribe to e-news at [bcombudsperson.ca](http://bcombudsperson.ca)



**OMBUDSPERSON**  
BRITISH COLUMBIA

947 Fort St  
PO BOX 9039 Stn Prov Gov  
Victoria, B.C. V8W 9A5