

# Review of Statutory Offices of the House of Assembly “What We Heard”

*This document is a collection of written comments submitted to the Review, comments from interviews/meetings conducted by the Review, and some relevant comments gathered from academic articles and other sources.*

*Please note that this document is not intended to reproduce the lengthy and detailed submissions the Review has received. While care has been taken to preserve the substance of comments as much as possible, these comments cannot be taken to be exact quotes, but rather to reflect the general themes, opinions, and ideas of the participants to the Review. Many of them are drawn from notes of oral conversations. Many have been paraphrased either for brevity or anonymity. All have been presented here outside their original context.*

*Some of these comments may appear to relate to events or persons. These comments have been included in a spirit of fairness and completeness; however, the Review is a forward-looking policy review and will not make any findings about persons or events.*

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## Acronyms

- IAC = Independent Appointments Commission
- LGIC = Lieutenant Governor in Council
- MHA = Member of the House of Assembly
- OCEO = Office of the Chief Electoral Officer
- OCR = Office of the Citizens' Representative
- OCYA = Office of the Child and Youth Advocate
- OIPC = Office of the Information and Privacy Commissioner
- OSA = Office of the Seniors' Advocate
- OAG = Office of the Auditor General
- PSC = Public Service Commission
- ATIPPA = Access to Information and Protection of Privacy Act
- PHIA = Personal Health Information Act

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## Suggested Competencies of Statutory Officers

- **Educational Background or Work Experience:**
  - Graduate-level degree
  - Law degree/Legal training
  - Professional designation (regulated by a professional regulator body)
  - Professional experience
  - Executive-level experience in government
  - Robust backgrounds in their areas of work
  - Social work or health science background
  - Experience leading social programs
  - Experience in advocacy
  - Experience in mediation
  - Previous involvement with the public system
  - Access to network of key persons/stakeholders
  - Project management experience
  
- **Skills and Expertise:**
  - Research and reporting
  - Presentation and communication skills
  - Public engagement and media relations
  - Investigation skills/knowledge
  - Subject matter experience/expertise (eg. child protection for CYA)
  - Leadership/Managerial skills (human resources/office administration)
  - Teamwork, teambuilding, and interpersonal skills
  - Problem solving ability
  - Adaptability and flexibility
  - Critical thinking skills
  - Time management skills
  - Negotiation skills
  - Analytical skills
  - Skills in community relations / ability to build and maintain effective relationships
  - Knowledge of policy development, program analysis, and data analysis
  - Knowledge and understanding of parliamentary law and common law
  - Knowledge of government and ability to navigate government systems
  - Experience in clinical work and/or front-line work
  - Knowledge of or acquired experience with legislation
  - Ability to acquire necessary skills
  - Planning skills (logistics and project management)
  
- **Character and Traits:**
  - Good character
  - Impartiality (for roles that are not Advocates)
  - Sound judgement
  - Enthusiasm
  - Competence
  - Empathy/Compassion for social issues

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### Comments on who should decide competencies

- The selection of statutory officers should remain at arm’s length from government, with the IAC left to determine the required competencies for each, using input from the offices themselves.
- Each office and each appointment is unique. There isn’t going to be a unique approach.
- The competencies of the statutory office principals should remain at the discretion of the House of Assembly and not be dictated by law or by the executive branch. It should be for the Members to exercise their own judgment based on the candidates available.
- No minimum requirements should be established for the Information and Privacy Commissioner but the required competencies should be the purview of the selection committee provided for by the ATIPPA.
- A standing committee should be responsible for recruitment from preparing the initial job ad to recommending a candidate to the House.
- There is no specific prerequisite training to become a CEO, nor does one have to come from a specific profession. While experience in election management is certainly an asset, the core staff at the Office of the Chief Electoral Officer (OCEO) are responsible for the operations of the office while the CEO is responsible for the overall direction of the office and ensuring that the office is ‘election-ready’ at all times. A common progression to the CEO role is through the experience gained as the Assistant Chief Electoral Officer (which is appointed through the Public Service Commission), however, there is no guarantee that the Assistant Chief Electoral Officer will always be the successor to the CEO role.

### Comments on whether statutory officer roles should be part-time, on an as-needed basis, or shared with another role

- All Statutory Officer roles should be full-time roles. All six have hefty workloads and significant obligations that require their early attention and dedication throughout the year and throughout their terms of office.
- Not all Statutory Officer roles need to be full-time roles. There is no need for the best model possible, the approach should be right-sized for the province of Newfoundland and Labrador.
- The Citizens’ Representative position requires, without question, a full time incumbent.
- Children and youth are a unique and vulnerable population with specialized needs who deserve a dedicated, full-time Child and Youth Advocate to be their voice, independent of any political interests. Anything less would not be in the best interests of the children of this

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province and would run counter to the spirit and intent of the United Nations Convention on the Rights of the Child and current trends.

- The Child and Youth Advocate should not be tasked with the additional responsibilities of another statutory office that would divert the attention of the office from the challenges of children and youth, a unique and sizeable demographic. Any move to erode the OCYA would be a giant step backward and would be met by fierce opposition from the public and Members of the House of Assembly.
- The Chief Electoral Officer should be more than merely an administrator. A narrow analysis of the role of Chief Electoral Officer as someone who merely runs elections might allow for a part-time position. A broader analysis allowing for a role that could lead to an improved electoral system would require the position to be full-time.
- Consider historic trends and projections for the future when anticipating demand for the work of Statutory Officers.
- The time has come for a review of the position of the Commissioner for Legislative Standards. There is so much more involved in it than merely checking the financial situation of MHAs for conflict of interest and making sure they get their annual financial status report in on time.
- Changing a statutory office to a part-time basis is a disservice to the people of this province. The staffing complement has been created based on the province’s population, and is not reflective of other provinces with larger populations, who therefore have larger staffing complements.
- It was never intended that the Commissioner for Legislative Standards be full-time. The role has ballooned largely because of the conduct of politicians in using the Code of Conduct as a political weapon. Furthermore, the majority of complaints over the past several years were the result of bullying and harassment which is now under the jurisdiction of the Citizens’ Representative.
- The Information and Privacy Commissioner is a full time position and cannot be performed on a part-time or an as-needed basis.
- To ensure that the right systemic services are available for this demographic of our population will require a dedicated, strong, and committed advocate to ensure aging is done well in our province. Under no circumstances, knowing what is known, should the Seniors’ Advocate position and office be diminished in any way. In fact, it most definitely should be reviewed for enhanced staffing, resources, and accommodations.
- All of the Seniors’ Advocate work could not be achieved if the position was part-time or shared with another statutory office. The Seniors’ Advocate must be a dedicated, full-time position.
- Statutory Officers are legislatively prevented from holding another public office or carrying on a trade, business or profession. This is deliberately limiting in order to maintain the independence and integrity of the office. Engaging in any other forms of work could potentially result in bias or conflict of interest.

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- The OCEO mandate is to be election-ready at all times to deliver an election event. While s.3.1 of the House of Assembly Act establishes fixed date elections in the Province, by operation of s.3.2, the Lieutenant-Governor may, by proclamation, prorogue or dissolve the House of Assembly when the Lieutenant-Governor sees fit. The OCEO notes that of the five preceding general elections since the enactment of fixed date legislation, only two have been held on the date as specified in s.3.1 of the Act. That general elections have been called at varying times throughout the election cycle underscores the significance of having a full-time statutory officer dedicated in the role of CEO, overseeing the planning and implementation of election processes.
- The Chief Electoral Officer’s role is a full-time job that requires a constant state of election readiness given the nature of our constitutional democracy. It should not be combined with the roles of any other statutory officer.

Comments on the current number of statutory offices, whether offices/statutory officers roles could or should be combined, and necessary changes to mandates if offices were combined.

- Statutory officers have heard rumors that there were plans to consolidate some offices in the recent past, but these did not proceed, probably because financial pressures eased.
- Diminishing the OSA would not be in the best interest of seniors in this province.
- The Seniors’ Advocate should remain an independent office representing seniors of our province and should not be combined with any other government offices.
- There appears to be no cost savings or benefit for having the children/youth and seniors come under one umbrella. In fact, given that NL has a higher population per capita of seniors, a combined OCYA and OSA model would be even more challenging in this province, given the need for the Advocate to share their time between two essential and busy offices with distinct needs and priorities.
- Similar work is being completed by the OCYA, OSA, and OCR. The main difference is the age of the population served. While there are differences in terms of policies and rights of adults, seniors, children, and youth, there is the question of why there are three separate offices dealing with complaints. An amalgamated model could reduce the amount of senior leadership positions within at least three of these offices through amalgamation. It could also reduce some of the administrative positions for a lower overall cost of running these offices.
- An amalgamation could allow for similar protocols regarding the public release of case information and legislation across the board for the OCR, OCYA, and OSA.
- The tendency to weld things on to statutory officer mandates is almost irresistible and I’m not sure it’s serving us well.

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- The consideration of combining advocacy and investigative roles should be taken cautiously, there is an inherent tension between advocacy and investigation.
- An advocate’s role should be to ensure that the legislature knows the policies of the government it supports and how they operate in practice. An advocate can legitimately identify options, advantages and disadvantages, but not lobby for particular policies or outcomes.
- The mandate of OIPC should be left unaltered at this time. The form of OIPC was carefully designed to meet its very unique function.
- Fewer, stronger offices would better serve elected representatives and strengthen accountability. Legislators should set a high bar for creating new offices. Consideration should be given to consolidating the work of offices with similar mandates.
- The work being done by all of the statutory offices is essential, not any one of them is unnecessary. While no statutory office could be irrelevant, some restructuring could be done for the sake of better efficiency.
- Statutory Officers shouldn’t be using their budget to ask for more money. Our population hasn’t grown 400%, but yet we have an increasing number of employees in the statutory offices.
- If we were to amalgamate offices, you could have the OCR and within that, you could have divisions for seniors, children and youth, ethics, whistleblowers, and information and privacy. You could staff professional investigators and have professional report-writers. Whether you’re 6, 26, or 76, if you have a complaint against a government body, there would be a single point of entry that triages complaints and applies consistent investigation and report-writing. If those offices had a more holistic view, it’d be within their mandate to raise more systemic issues. If there aren't enough resources, maybe we have to add more people - but we need a level of consistency and utility.
- There is concern for the state of our province if it loses the accountability methods provided by our statutory offices in a time when the general population appears to be more weary and apprehensive of our government as a whole. There is also concern about the expertise and quality of investigations if statutory offices were to be combined.
- MHAs may not need all these advocates. MHAs do a lot of advocacy work already and do not necessarily need officers to do essentially what MHAs should do.
- It’s arbitrary to have advocates for some underrepresented groups and not others, and impossible to have a separate advocate for every possible ground of disadvantage. There should be some principled basis for these institutional choices. For example, advocates could be created only for those groups who are entirely excluded from the democratic process: minors, the incapable, and permanent residents.
- MHAs deal with a lot of people who’ve already been to a statutory office. More often than not they get more satisfaction from an MHA’s office than any other. The core offices are OIPC, OCR, and the OCEO. They’re the no-brainers, but the advocates - where do you draw those lines?

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- The role of the Seniors' Advocate is pivotal in speaking for and on behalf of all seniors and especially seniors in care. The OSA must remain autonomous and independent of other legislated offices. In addition to its current mandate to address systemic issues impacting seniors, the mandate of the Seniors' Advocate should be expanded and strengthened to mirror that of the Child and Youth Advocate. The OSA should also have the legislative authority to investigate complaints or issues of concern and make recommendations as necessary. Undoubtedly, additional resources and supports will be necessary to carry out the expanded role.
- You may not save money by consolidating. But a one-stop-shop or common intake is more efficient.
- The Citizens' Representative is a crucial office which protects the weakest among us who have no voice. This Office of the Citizens' Representative ensures the equitable treatment of citizens and the examination of government policy or lack of government policy leading to systemic inequality or discrimination. It is an absolutely essential service which ensures our democracy is fair and equitable and that no category of individual is unseen and unheard. I am most grateful that this Office exists.
- If government is going to give priority to the work covered by the statutory offices, it has to be ready to put resources into maintaining them in a professional and adequate manner. That doesn't mean that restructuring can't happen. But there is the fear that if saving money is the goal, the risk is making decisions that will undermine the delivery of essential services.
- These are roles that need to be independent. There is pressure to recommend another office for persons with disabilities. Some of these are a political response; It's a nice thing to do. There is a lot of respect for the Seniors' Advocate, but government has a Minister for Seniors, an office within that office, an Advisory Committee - all looking at the same issues. There is support for the Seniors' Advocate, but what is the value of that office? If you're going to have a seniors or disability office, it should be like the OCYA, it should be able to do individual advocacy.
- I would support an Advocate for Persons with Disabilities, provided it is independent like the Seniors Advocate, and has the ability to deal with systemic inequalities, as for example, to be able to refer issues through the Office of the Citizens Representative.
- Statutory offices are not duplicating work, and each has an important role to play, as evidenced in their annual reports, as the numbers of complaints/investigations rise each year.
- The OCYA should not be combined with another office because of the nature of their work.
- In Ontario, they ended up firing all the advocates, removing the advocacy function.
- The role of an advocate versus an ombudsman is vastly different. An ombudsman does not advocate. Advocacy goes beyond the role of an ombudsman. The Seniors' Advocate is not an impartial role, as advocacy is not impartial.

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- The Seniors’ Advocate needs more teeth. That office ought to mirror the Child and Youth Advocate to some extent.
- In Manitoba, roles have been combined or are usually combined. This trend of combination is worrying when authority, resources, and staff do not match the expanded mandates. Conflicts of interest can also arise when the different mandates of a single officer clash.
- Everyone recognizes the offices fulfill important functions and duties. If there are inefficiencies, or if there is overlap, it is important to look at maximizing efficiencies rather than just increasing budgets. Are we setting up a system that makes it easy to bring concerns forward or not? It should be a citizen-centred approach.
- The statutory offices should remain separate. Any combination of them would run the grave risk of diluting their ability to scrutinize government or provide advice to members of the public seeking redress. For instance, the OCEO and the OCLS have previously been held by the same individual. Yet these offices conduct different work requiring unique skill sets and knowledge. By combining roles, the search for candidates would invariably become more difficult. This in turn would result in lengthier vacancies.
- All statutory offices should remain stand-alone statutory offices and should not be shouldered with the responsibilities of other statutory offices.
- There should be no consideration that the OSA could be combined with the OCR. Given the Citizens’ Representative’s wide variation of responsibilities, there can be no guarantee that the voice of seniors would not be lost if there was any consideration of combination with the OSA.
- The OSA is very vital and certainly needs to be heard from and kept viable.
- The need for the Seniors’ Advocate will only increase in the future.
- Seniors are anxious to see the Seniors’ Advocate succeed as it is an advocacy for seniors generally and programs that affect seniors. Seniors finally have a voice and they appreciate being heard.
- The mandate of the Child and Youth Advocate should not be changed unless such changes are in the best interest of children and pass a Child Rights Impact Assessment. Further, any changes ought to expand and modernize the mandate of the OCYA in line with newer legislation in other Canadian provinces. Administrative efficiencies should not come at the cost of impacting the rights of vulnerable children and youth.
- Combining the Office of the Child and Youth Advocate with another office will inevitably divert resources from vulnerable children and youth to adults. Children and youth always suffer when their interests are not an exclusive priority.
- Dealing with the OCR is a very positive experience, the investigators are always professional and well prepared.



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- An advocate is needed to be a voice to government for seniors’ concerns and not be lumped into another busy office where they are lost to pressing concerns. Do not make seniors feel unworthy of being heard and taken seriously. Leave the OSA as a separate entity.
- Please add my support to the submission from NLSPSA regarding the proposed review of the seniors advocate position.
- The OSA unequivocally requires a full-time Officer. Any suggestion of a combination here would ensure relegation of the senior population to a backseat position behind children and youth since general sympathy would rest with those underage and significantly vulnerable persons of our communities.
- There is a major concern that if the OSA is combined with the OCR, the voices of seniors will be significantly diminished given the growth of that office and its numerous mandates. The rights of seniors, and vulnerable children and youth, would be lost in such a model.
- The concept of combining the OCYA and the OSA is concerning as both of these populations deserve the attention and expertise of a full time Advocate, not half time. Further, given the difference in authority of both offices (the Child and Youth Advocate has investigatory powers whereas the Seniors’ Advocate does not) this would need to be addressed. Neither the voices of children nor seniors would benefit from an Advocate focused on two very different areas of expertise.
- The Seniors’ Advocate was intended to have investigatory powers. The 2015 Red Book committed to create a Senior’s Advocate to investigate individual complaints. It is our understanding that due to budget limitations, individual advocacy and investigatory powers were sacrificed as it was thought that the Citizens’ Representative could fulfill that role.
- The OCYA is top heavy when compared with other government offices. For every senior management position there is 3.3 staff, which for such a small office seems disproportionate and fiscally wasteful – particularly as there is no provision of emergency services.
- In New Brunswick, after the Seniors’ Advocate was combined with the Child and Youth Advocate, approximately a quarter of the Advocate’s time is spent on seniors. While the two offices (Seniors and Child Advocate) are combined they still operate separately and there were no real efficiencies to combining offices. The expertise and needs associated with the mandate of the Seniors’ Advocate and the Child and Youth Advocate are entirely different and our seniors are better served with its own independent Advocate solely focused on seniors issues.
- Some of the work completed by the OCYA is repetitive of internal CSSD and other departmental processes. Two different reports (internal and external) being completed with similar recommendations yet different language creates confusion and more work for those trying to implement changes.
- The Chief Electoral Officer is needed and needs to be a standalone office. This person needs to be nonpartisan, ready to go, professional, and have a specific skill-set.
- If there are concerns that the work of the Citizens’ Representative may overlap with the work of the Child and Youth Advocate and the Seniors’ Advocate, consider the argument that it is

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better to have more checks and balances on the operations of the government than too few. It is imperative that children and youth be the focus of the work of a dedicated Child and Youth Advocate and that seniors be the focus of the work of a dedicated Seniors' Advocate, but it is no less important that citizens generally, whistleblowers and subjects of alleged harassment, be afforded the services of a dedicated Citizens' Representative.

- The duties, powers and resources of the Seniors' Advocate should be significantly increased to enable the Advocate to address the individual concerns of seniors, and to be directly informed of and empowered to investigate any circumstances where seniors appear to have been abused.
- It is inconceivable that the far-reaching functions of ATIPPA could function without a dedicated, stand-alone OIPC with a dedicated, full-time Statutory Officer. As it is a natural extension of the work of the OIPC, the OIPC should be given an independent oversight role with respect to the 'duty to document' provisions of the Management of Information Act.
- In recent years, the Chief Electoral Officer has served simultaneously as the Commissioner for Legislative Standards. While it may be possible to hold both offices simultaneously, recent events show that forcing the principal to step down from one role pending an investigation inevitably causes a vacancy to occur in the other role as well. This may be a time when the dedicated services of a full-time Chief Electoral Officer will be needed for a considerable period of time of adjustment.
- Considering the scandal that precipitated the Green Report of 2006-07, it would be not just imprudent, but foolish and outrageous to erode the OCLS that was strengthened to prevent a recurrence of such a scandal. Such an erosion would be all the more imprudent now that the importance of properly handling harassment allegations has been acknowledged and the Commissioner's duties have been expanded accordingly.
- The role and mandate of the Commissioner should be expanded to parallel that of the federal Conflict of Interest and Ethics Commissioner, and the title of the Office and Officer should be changed accordingly. To the extent that this revised role duplicates the work of other offices overseeing conflicts of interest, changes should be made to ensure the responsibility rests with the new provincial Conflict of Interest and Ethics Commissioner.
- The House of Assembly created the Child and Youth Advocate as a watchdog. They wouldn't have visibility into departments except through appropriations, reports, question period – and they wanted someone to pay closer attention. You could argue that the Advocate's role is the Opposition's role or the role of parliamentary committees.
- If there is a significant investigation, such as the fitness of another Statutory Officer, that should not go to Citizens' Representative. That should go to a committee or elsewhere. For investigations of cabinet ministers, it depends on the nature of the complaint. If it's under the House of Assembly, the investigation should go to the Commissioner for Legislative Standards.
- In hindsight, extensive analysis of skills, competencies and legislative requirements should have been conducted before expanding the scope of the ombuds function to include whistleblower and harassment investigations.

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- The key component to consider is that the OCR, by the mere nature of acting in the role of a parliamentary ombudsman, cannot advocate. Whereas the key function of the OCYA and OSA, by virtue of their name and mandate, is advocacy. If the OCR were to absorb the OCYA and/or OSA, this role would simply not be possible, as it is outside of the scope and mandate of an ombuds. Concerns were voiced when Ontario eliminated their Child and Youth Advocate, and concerns remain regarding the efficacy of this office in advocating for children and youth, particularly for those that are marginalized.
- At this time, not only is the OCR responsible for the *Citizens’ Representative Act* (requiring a working knowledge of all provincial government departments, boards/authorities and agencies), but they are also responsible for the PHIA, and the Harassment-Free Workplace Policy applicable for complaints against Members of the House of Assembly. This policy is outside the scope of other provincial ombudsman. It would be unreasonable to expect any Ombuds to have the capacity and expertise to manage this portfolio, combined with the responsibilities of the other statutory offices.
- Consider recommending the addition of resources devoted to public engagement and education. The public is generally unaware of the services that these offices provide, if they even know of their existence at all. Consider even recommending a new statutory office solely devoted to this task.
- Consider the feasibility of creating a Statutory Office similar to the Parliamentary Budget Office (PBO) at the federal level. Such a body would elevate the level of political debate and improve deliberation and decision making by providing information that would likely be trusted and accepted by all parties.
- Given the full-time requirement to oversee the multi-year planning and implementation cycle of elections, it is recommended that the existing temporary removal of CLS duties from the CEO should become permanent, and the CLS should operate as a separate statutory role from the CEO. The need to always be “election ready” requires a full-time dedicated statutory officer that is not required to address non-election specific issues.
- Children and adults with complex needs and their family caregivers would remain unseen and unheard if not for the Office of the Citizens’ Representative. This office has the ability to do the research, they have the staff to organize focus groups with the parents of these children/adults with complex needs, and research what services are provided for them. They have the ability to see what resources are provided to these children/adults and to identify any gaps in services.
- Given the frequent and sometimes adverse interactions the CLS has with MHAs with respect to providing opinions regarding their obligations as members, the role of CEO and CLS should be split to maintain the requirement and appearance of impartiality.
- The scope of the Citizens’ Representative jurisdiction, which is limited to government policy being assessed as an Ombudsman, is an impediment to seniors as their issues go beyond government policy. The responsibilities of the Seniors’ Advocate go beyond the Citizens’ Representative mandate and include service providers and community agencies. The Citizens’ Representative, respectfully, is not an advocate, and in the current arrangement seniors, and/or their concerns, are sometimes referred by the Citizens’ Representative to the Seniors’ Advocate for systemic advocacy.

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- The current lack of investigatory powers of the Seniors’ Advocate is limiting the Office’s ability to fully address the needs of seniors in this province and leaves a gap in the oversight which the Office was intended to fulfill.

### Comments on initiating the appointment process and recruitment

- The institution of the IAC process changed the involvement of the House in the recruitment process for the statutory officers. Prior to the IAC process, the Executive Branch conducted the recruitment process for all statutory offices prior to bringing a resolution to the House to confirm the appointment. Now, the Clerk of the House of Assembly initiates the IAC process to start a recruitment; however, the selection still rests with the Executive Branch.
- Residents must have confidence in the process and the people selected to lead the agencies, boards, and commissions making decisions and delivering critical public services. The IAC website provides the public with information on membership terms and vacancies. Interested individuals can apply online for vacant positions. The Public Service Commission (PSC) supports the IAC and the government in delivering a merit-based appointment process for agencies, boards, and commissions.
- Initial recruitment of a Statutory Officer should follow the current advertisement format (ie) making the recruitment known to members of the public and public service who may be interested in offering their services and skills. The candidate should be screened by the senior House of Assembly HR personnel with the assistance of the PSC.
- Recruitment of Statutory Officers should be subject to the legislation governing the IAC, with recommendations made to the LGIC for a subsequent vote by the House of Assembly.
- Members of the IAC are highly-qualified and respected individuals. They are also subject to the merit-based process and appointed through a resolution in the House of Assembly, with MHAs having the opportunity to comment on their appointment. Having a merit-based appointment process brings greater confidence to the people of the province that appointments are based on finding the most suitable individual. Ultimately, using such a comprehensive process will lead to greater transparency, improved organizational processes and enhanced quality of public services.
- There was a view that the lengthy IAC appointment process was a direct impediment and discouragement to attracting new candidates to entities. Individuals who may have been interested in a given appointment at one time were no longer interested a year or two later when an offer was eventually made.
- The hiring process should be like the normal one for public servants, through the PSC.
- A merit-based assessment process need not be limited to the Independent Appointments Commission process. Any merit-based assessment process would work equally well. The recruitment of an individual statutory officer should be a normal executive recruitment, with tiers of interviews and formal questions.

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- The PSC leads a process to profile the skills and representation requirements for agencies, boards, and commissions. The IAC recommends individuals for chief executive officers or equivalent positions and members of the associated boards. Similarly, the commission recommends individuals for certain provincial statutory offices.
- You’ve got to bone up on the recruitment, because you don’t want buyer’s remorse.
- The balance between independence, from tenure, and the ability to handle bad hires, can be handled with an enhanced recruitment and hiring process.
- Building and sustaining public interest in specific opportunities can sometimes be challenging. Some positions generate significant public interest, while others require increased promotion and stakeholder outreach. Sometimes, the IAC and PSC may have to broaden their search beyond the initial list, which may include searching the PSC database and reaching out to qualified and suitable candidates. For statutory officer positions, the PSC will also partner with the Clerk of the House of Assembly for potential candidates who expressed an interest. These recruitment methods are not unusual in recruiting for key positions that are challenging to fill. These situations are more rare than commonplace but can lead to increased timelines in issuing recommendations.
- Once the applications are received, the IAC appoints a panel of three (a Chair and two others), assisted by the PSC. The PSC performs an initial screening of applicants. The PSC will conduct interviews and may issue an invitation to the Clerk of the House of Assembly to participate in the interview process. The applications of the candidates that best match the competencies required for the position are then passed to the panel along with the assessment matrix for all candidates. The panel reserves the right to review applications of candidates that were not selected in the initial screening. Next, the panel performs interviews and identifies the top candidates. IAC panels operate on consensus, but recommendations for statutory officers have historically been unanimous. The recommended candidates’ names are provided to the PSC. The PSC contacts the candidates for personal disclosure information. If potential conflicts of interest are flagged by the IAC and PSC, that information is provided to the appointing body when the candidate is recommended. The recommended candidates are reviewed by the whole Commission before they are sent to the appointing authority. The top three candidates’ names and applications are sent to the appointing authority, without ranking. In the situation that there are no suitable candidates, the IAC would write to the appointing authority to advise – however, this has not historically been the case for statutory officer positions.
- In Manitoba, decisions on the appointment and remuneration of officers of the Legislature is the responsibility of the Legislative Assembly Management Commission, an all-party body chaired by the elected Speaker of the Legislature. Previously, these appointments had been made by Order in Council with remuneration set by Executive Government.
- In Manitoba, a different body, the all-party Standing Committee on Legislative Affairs chaired by a government MLA, remains responsible for the recruitment and recommendation of nominees for these positions.
- The average time from when a request is received from an appointing authority to initiate recruitment to the IAC issuing a recommendation has averaged six months. However, the timelines have decreased to an average of five months over the past two years. The IAC

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process for the appointment of statutory officers has historically taken 5-6 months. The selection process as a whole requires timely identification of vacancies, adequate job descriptions, timely responses from prospective candidates, and timely executive decisions for appointments.

- There needs to be some way of allowing former officers to identify and maybe encourage suitable people to apply. Officers could keep lists of people they would recommend.
- Merit-based recruitment requires time and dedication; therefore, upfront, proactive planning is vital. Identifying vacancies early and giving the IAC adequate notice of upcoming expirations and/or resignations is an essential component in addressing the needs of these entities in a timely fashion.
- The IAC website was viewed as not being modern or intuitive...The application process was viewed as cumbersome and not user friendly. Individuals noted that they did not receive a copy of their application once it was submitted and, even if they remembered to renew their application two years later, an entirely new application had to be submitted. Furthermore, there were issues raised with the lack of details on the website about the steps in the appointment process and the timelines involved.
- Attention to the skills, competencies, and representation factors in profiles and recruitment requests is also important to consider. Appointing authorities could benefit from a thorough analysis of skills and demographic needs to clarify desirable and essential skills and ensure that potential appointees are representative of the population they serve. Highlighting these areas in all requests to the IAC are proactive measures that can help increase efficiencies in the process.
- Once a recommendation is issued, the government and appointing authorities implement an internal decision-making process to consider the information presented and make final appointment decisions. The timelines associated with these decisions are outside the purview of the IAC. However, as detailed in the "Rules of Procedure", if an appointment is not made within 60 days, the IAC has the discretion to state publicly that a recommendation has been submitted for which an appointment has yet to be made. No such release has been issued, but the IAC takes steps to ensure valid justification for any delays. A monthly report is sent to Cabinet Secretariat to identify outstanding appointments.
- Former officers have been consulted for the recruitment process of other statutory officers, and have sat in on the interviews.
- In smaller jurisdictions, very often someone from another jurisdiction has to be brought in.
- Any process involving statutory officers should be independent of civil service. There's nothing wrong with using the PSC or IAC for information, but only so long as the decision to appoint is and is seen to be nonpartisan and free from executive influence.

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### Comments on the appointment process

- Some might argue the OCYA is external or arm’s length, however at the end of the day the Premier appoints the Child and Youth Advocate and other statutory positions. The offices operate within the provincial government. Therefore, there is a false sense of independence.
- Retain the existing appointments process for the Information and Privacy Commissioner with respect to how a roster is provided to the Speaker. This was the subject of submissions to the 2020 Statutory Review of ATIPPA, 2015 and ultimately Chair Orsborn agreed with this recommendation. The Wells Committee expressly considered the appointments process and explicitly designed a process to put the discretion over appointments in the hands of the legislative branch of government rather than the executive branch, over which the Commissioner has oversight.
- Legislators must be responsible for the appointment of officers, with the aim of having all party support for the final selection. A special committee should consider the kinds of selection processes operating in provinces such as Alberta and Saskatchewan.
- It is recommended that the appointment process for the Information and Privacy Commissioner be modified such that, following consultation by the Speaker of the leaders of the registered parties represented in the House, that the Government House Leader will bring a resolution before the House.
- Appoint all Statutory Officers using the method outlined in section 85 of the ATIPPA.
- Apart from the independent OIPC appointment process, the appointments process for other Statutory Officers is controlled by Cabinet. The only problem with the IAC serving as a section panel for statutory officers is that the purpose of the IAC, per its legislation, is to inform the executive branch. The key is: where does the roster go and who can decide?
- The time between initiating an appointment and a resolution being brought to the House typically takes upward to a year.
- These appointments are each prescribed by statute. It follows that changing the appointment process would require individual or omnibus statutory amendment. Officers of the House of Assembly should still be approved by the House sitting as a collective.
- While the OSA has no issue with the current appointment process, given this is a statutory office of the House of Assembly, you might wish to consider if the recommendation from the IAC should proceed to the Management Commission of the House of Assembly, and then advanced to the legislature for concurrence, rather than being under the control of the executive branch of government.
- Statutory offices exist in a subordinate role, created by the executive branch. Cabinet has a prescribed role for the appointment, suspension, removal, and compensation of Statutory Officers, as well as the authority to set regulations. The executive branch does not deal with day-to-day administration, that’s the House of Assembly Management Commission.

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- The recruitment process for the Seniors’ Advocate role appears to have a considerable period of delay in filling a vacant position and the process does not appear to be as transparent as it could be.
- Recruitment processes are generally confidential processes. Under the current requirements, there are a lot of different entities involved in the recruitment of a statutory officer: the IAC, the PSC, the Clerk of the House, the Management Commission, the Clerk of the Executive Council and the Cabinet.

One legislative requirement is that a consultation occurs between the Executive Council and the Management Commission on the salary. This brings a lot of individuals into the recruitment process. However, it is only a consultation and if there was a disagreement, the decision of the Executive Branch would prevail. This begs the question: should a consultation be required?

- It’d be interesting to find out how many candidates the IAC actually put forward to Cabinet. For other positions, the IAC rarely gives enough qualified candidates to make a decision, or they won’t provide enough diverse candidates. The same is likely true for the statutory officers.
- Some good people might not think to apply for the Statutory Officer positions, but would accept the role if offered.
- Considering that there is a parallel review of the IAC, it is recommended that both Committees engage to determine any cross-sharing of gathered information that might be helpful to both review processes.
- The selection of Statutory Officers should remain at arm’s length from government, with IAC left to determine the required competencies for each, using input from the offices themselves. One change to consider in the selection process would involve the final stages, when the House votes on a candidate. The House should be presented with a final list of three individuals capable of filling the role, with a detailed evaluation of their competencies and experience, including all materials compiled by the IAC in its selection process.
- Appointment delays have resulted in repeated extensions of mandates for some officers and long periods where the office is held by an interim officer, a recipe for administrative paralysis.
- The selection committee process defined for the OIPC could be replicated for all statutory offices. This would be a reasonable way to present the House with a roster of qualified candidates without specifying requisite competencies. It would remove the possibility of the executive branch handpicking candidates who might go easy on them.
- The Management Commission could conduct the recruitment process for statutory officers. It is a mature and capable entity and the House of Assembly Service has developed the capacity to support the Commission appropriately.
- There is a need for the online application to be modernized. At times, the information received through the application process is very limited. Transparency around the process could enhance the applicant experience. There is also no opportunity for an applicant to



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update/remove their application profile, as result there have been multiple applications by the same applicant.

- For the most part, the IAC has executed its role well over the last several years to reduce the risk of nepotism, cronyism, bias, etc. However, there is a concern with the hiring of an Assistant Deputy Minister directly from government. A key tenet of these positions is impartiality, and there is a concern with how neutral upcoming investigations may be if this individual was involved in making decisions as an Assistant Deputy Minister on files that are now being investigated by the statutory office.
- The IAC is an improvement in principle, but the paperwork associated with the merit-based process does discourage some good candidates.
- Shortlisted candidates for Statutory Officers can face up to 3 interviews (PSC level, IAC level, Cabinet level). Given the tenure of these appointments and the elongated process for investigation, suspension and eventual removal of an incumbent, there's no need to add or subtract from the number of vetting interviews.
- In the past, very qualified people not within government, have applied for the position, but don't make it on the list. There is no means to assess whether those people were appropriately screened out.
- MHAs are expected to vote on a nomination of someone to a position without having been part of the process leading to that nomination. If there were any objections they could have been raised on the floor of the House in debate when the nomination was presented to MHAs. An individual MHA would have to stand and ask questions of the government's choice publicly with the nominee sitting in the Speaker's Gallery. In a majority government the opposition really has no way to question appointments. At least if the Management Commission were engaged, questions could be raised in-camera early in the process regarding the nominee being recommended by government. It would be more in keeping with the spirit of the Green Report and the Act. Something must be done about the appointment of officers, signifying that they are truly independent of the executive branch of government or direction by Cabinet or Ministers, as stated in the House of Assembly document defining Statutory Officers.
- Individuals stated that the merit-based IAC appointment process could be bypassed entirely based upon “urgent or extenuating circumstances”, as per Section 9(2)(b) of the Act. Individuals were of the view that there is insufficient transparency at the point in time when this bypass provision is used for the public to know that it is being used. Individuals also noted the lack of any rationale at the time that this bypass provision is used to explain what the “urgent or extenuating circumstances” are exactly.
- The issue that arises in the OIPC appointment process is how the name of ‘one of the individuals named on the roster’ is chosen to be put forward in the resolution, in particular where no unanimity exists among the individuals with whom the Speaker must consult. The selection committee is required to provide a roster of candidates to the Speaker, but the ATIPPA is silent as to whether the candidates must be ranked. Further, it does not indicate whether the Speaker is bound to put forward the name of a first ranked candidate, if any, in a subsequent resolution. The decision to appoint a statutory officer is a decision of the House, not a decision of the Speaker. If, after consultation, a preferred candidate is not

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agreed by those with whom the Speaker consults, there is no clear direction in section 85 of ATIPPA as to how the Speaker may proceed. With respect to process, the Speaker of the House has no ability to put forward a resolution for the consideration of the House, yet the Speaker is required by the Act to ‘cause a resolution to be placed before the House’. Therefore, the matter of moving the resolution must necessarily fall to the Government House Leader, who is responsible for the business of the House. One further consideration for a Speaker may be whether the House sits in a majority or a minority configuration, which can result in added complexity if confidence is at issue.

- ATIPPA requires that the Speaker consult with the Premier, the Leader of the Official Opposition and the Leader of the Third Party on the selection of the Information and Privacy Commission. However, the legislation is not clear on how a decision is made, particularly if there is disagreement.

Further, the legislation stipulates that the Speaker causes a resolution to be brought to the House to appoint one of the individuals. However, this is not a valid construct in our system. The Speaker has no authority or procedural avenue to place a resolution before the House. It is only the Government that can do this.

- In the OIPC appointment process, if there is no consensus, the roster should not go on the floor of the House. If the Government House Leader can’t get consensus, the government should bring a name forward.
- It is appropriate for there to be public debate on the floor of the House about the selected candidate. If you’re the name who comes forward, you signed up for that and have no reasonable expectation of privacy. But that wouldn’t be appropriate for a second, non-recommended candidate.
- A confidential 360 degree vetting process for shortlisted candidates should take place which should include interviews with provided references, former subordinates, and former supervisors in order to gauge whether a candidate displays any risk of ethical or Code of Conduct violations based on past history or reputation.
- An officer needs all-party support from the start of their mandate to legitimize their work and avoid the partisan debates that have broken out over officers’ findings and decisions.
- Even if partisanship can be overcome, do elected officials have the expertise to make hiring decisions involving professionals with specialized qualifications? It is suggested that legislators seek the assistance of the appropriate Public Service Commission or an outside recruitment firm to set the hiring criteria, place advertisements and conduct the initial stages of the search. Former officers or outside professional experts could also be brought into the decision-making.
- Who would wish to submit their name to fill an officer’s position, only to find the process delayed by months and the ultimate selection immediately subject to public scrutiny and criticism? This is of concern if one is interested in attracting candidates from outside government to fill these positions.

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- There was a consistent view that the overall amount of time required to make IAC appointments takes too long. It was noted that, from start to finish, it could take up to six months or a year to fill vacancies. This has apparently caused other issues.
- There was a general lack of understanding and frustration as to why appointments take so long. There was a view that little to no information is available about what exact step in the appointment process a given vacancy is at. There was also a view that the lack of any timelines in the appointment process made the process “open ended” and that it was difficult to understand who, if anyone, was responsible for keeping the process moving.
- There appeared to be no one person or position that was ultimately responsible for the appointment process or the timeliness of appointments. Although various groups were involved in appointments (PSC, IAC, Department, Cabinet etc.), nobody seemed to “own” or be responsible for the process itself on an overall basis.
- The impartiality of the CEO is paramount and an agreement by all members of the Independent Appointments Commission should be required for a successful CEO applicant. This ensures the principles of impartiality and independence that are necessary for the successful delivery of electoral events.
- Given that the CEO must function within a political sphere, without the consensus of the IAC, a CEO could be accused of being biased, associated with, or partial to a political party or candidate. This undermines the role and credibility of the CEO in delivering fair, impartial electoral events. Additionally, it undermines trust in the integrity of OCEO as a democratic institution.

### Comments on the HOA appointment voting threshold

- Appointment should be by majority or supermajority (ie. 2/3). Dean Gottehrer and Michael Hostina, who worked together to establish the essential characteristics of an Ombudsman, suggest a super majority is preferable because it “ensures that the candidate is one who has wide respect among different political parties and even parties that oppose one another or the government.”
- Rather than requiring the vote of a simple majority, there should be a higher threshold for confirmation of Statutory Officers, possibly 2/3 of the House. As our first-past-the-post electoral system usually delivers a majority of seats to one party, the end result is that the candidate favoured by government is automatically approved without consultation from the opposition, effectively rendering this step a “rubber stamp.” While elections have occasionally delivered majorities of more than 2/3 of the seats, there would nonetheless be many more instances, such as in the current House, where higher voting thresholds would require government to reach out and consult meaningfully on the approval of candidates with the opposition.
- The legislation requires for a majority vote from both sides of the House to reappoint the Information and Privacy Commissioner. What happens should a vote fail? It would be humiliating for the incumbent.

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- The appointment should be unanimous and a reappointment should be nearly unanimous. That requires the leader and the parties to come together and agree.

### Comments on length of term(s)

- The term should be four to five years - five years max. Over time, complacency will set in and your views might be too set. There's nothing better than a fresh look at something. A person could reapply, but only once. After a few years it's useful to have a new leader. The organization takes on the personality of the leader.
- Statutory office holders should hold their offices for a period that is longer than the longest General Assembly (i.e. more than five years), so they have the security of tenure required for them to engage in the challenging work of holding the government to account without being unduly vulnerable to the aggressive overreach of a vindictive administration.
- The term limits should be a term of five years with the possibility of reappointment for a further term. Most of our systems are evolving quickly so it's not a bad idea to replace officers more often. For any seasoned executive, contract lengths are around five years now anyway.
- Limiting the number of years a Statutory Officer can remain in that position is a good idea and should continue. This limit ensures a renewing of the office's direction, vision and strategic planning as it works to meet the changing needs of the people it serves. Term limits allow for change and growth for the statutory office by ensuring the vision and plans remains relevant and innovative and also safeguards against not having enough time to achieve the longer-term goals.
- Statutory officers' performance should be thoroughly reviewed near the end of their first term. After that review, they should get a second term unless a supermajority of the House votes to remove them.
- Staff members of a statutory office want to attract the best people to be the Statutory Officer. If there was a ten-year appointment and the staff didn't have confidence in the person appointed, staff might leave.
- Ten years might provide real stability and would reduce the possibility of personal interests in reappointment interfering with any case that comes in.
- Ten years with no reappointment would be a good term. It would make it easier for younger officers to be more vocal.
- Officers should serve a single mandate and reappointments of no more than one year should occur only when elections are imminent or other extraordinary circumstances prevail. Terms should be a minimum of 5 years and a maximum of 10 years. An automatic trigger should be introduced that would launch a selection process for new officers at a predetermined period before the existing officeholder's term ends.

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- The role of a statutory office is to hold government to account. This often means levelling criticism at Government. Consequently, it may be difficult for a statutory officer at the end of their term to secure employment with Government. This could be a consideration for mid-career public servants in seeking these positions even though these people would have the type of qualifications and experience suited to these positions.
- Who do you want in these jobs? You want people with life experience who aren't going back to government afterwards. Statutory Officers who plan to go back to government afterwards would bring everything into disrepute. The longer the term, the better ability to capture younger potential candidates.
- These jobs are seen as retirement jobs for Deputy Ministers.
- Term length for the OIPC was contemplated in the Wells Review. In the oral hearings, several models were considered. The existing two years for the OIPC at the time was considered too short, the Auditor General's ten was too long; that's why it is six. The renewable part was to attract candidates.
- All statutory officers should be ten-year appointments. Shorter terms with the possibility of reappointment may impact the appearance of independence and impartiality. A one-time ten-year appointment, like the Auditor General, preserves the integrity and independence of statutory officers who would have no concerns about reappointment when performing their role.
- In the Yukon, the term is three years and it's too little. Six or seven years could be appropriate. It needs to be longer than the life of an assembly.
- A two-term limit is appropriate. Officers are like fish, you don't want them around too long.
- The existing framework for the term of a CEO does not match with the long term planning and cyclical nature of the OCEO. Currently the term limit of a CEO is six years (with a possible six year extension). Depending on the timing of the appointment, a CEO may potentially only see one general election, or could either enter or leave the role immediately preceding an event. To gain a full appreciation of the role, retain the operational knowledge of elections, and provide a continuity of election expertise, the CEO term should be increased to ensure that the CEO is present for at least two general elections. A 10 year term would ensure the CEO is present for multiple election events to provide continuity as well as facilitate long-term modernization projects that could span over multiple election cycles.
- Consideration should be given to one-term of 10 years in keeping with the independent nature of the role of the Child and Youth Advocate. Similar to the Auditor General.
- A ten-year term should be considered given the nature of the independent and impartial role of the office, with a discretion to extend that role depending on the timing of an election cycle.
- A longer term would permit the Chief Electoral Officer to engage in long term strategic planning.

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### Comments on the re-appointment process

- The re-appointment process can be hell. The statutory officer has no idea what is happening. In one case, the re-appointment was announced only two days before the expiry of the term, even though the Officer expressed interest in the re-appointment six months before the expiry date. This is not rare. It's not the best practice, but it also happens in other jurisdictions.
- Re-appointment for Statutory Officers should follow a transparent fixed timeline for two reasons. First, it would provide some certainty for Statutory Officers near the end of their term, permitting them to make future career and personal plans. Re-appointment should be discussed, confirmed, or denied at least six months prior to the term expiry. Second, a fixed timeline for reappointment would help ensure the perceived impartiality of the Statutory Officer. Otherwise citizens may perceive the Statutory Officer currying favor with the government just prior to his or her appointment.
- Re-appointments should be established in relevant legislation, with the statutory review of relevant legislation undertaken every five years.
- Six years plus a re-appointment poses a challenge for the Chief Electoral Officer, it doesn't provide enough continuity or enough time for long-term planning and implementation. In a six year term a CEO may only experience one general election in a typical four year general election cycle.
- A flaw in the re-appointments process is that Cabinet, if displeased with decisions of the Commissioner, may decide simply (and silently) not to bring such a resolution before the House in the first place and let the Commissioner's term naturally expire. Thus, the executive branch has a veto over a decision that rightfully should be with the legislative branch. If the government does not want to appoint a Commissioner who is interested in serving a second term, it should be the subject of open debate in the House. If its desires are legitimate – e.g. poor performance rather than political displeasure – then it should be prepared to explain and defend this position. There should be an automatic trigger towards the end of the Commissioner's first term so that a motion to re-appoint the Commissioner would be the subject of debate in the House.
- Near the end of an Officer's second term, there was a disclosure against a government official. The disclosure was career limiting. Since it happened at the end of the Officer's second term, there was no issue. But a Statutory Officer with investigatory powers may not want to take that on in their first term.
- One former agent said he knew of a colleague who was anticipating a second term and wondered about whether to “go easy” on the government to ensure reappointment.
- Re-appoint all Statutory Officers using the method outlined in section 87 of the ATTIPA. Alternatively, the Speaker can consult with the three party leaders to decide to re-appoint.
- The House should have the discretion to re-appoint a Statutory Officer who Members believe is doing a good job in that role. The requirement established for the reappointment of

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the Information and Privacy Commission – that there must be majority votes of both the government side and the Opposition side of the House – should be replicated for all Statutory Officers.

- Each law pertaining to each statutory office should be amended to state: “The LGIC may, with the approval of a majority of the members on the government side of the House of Assembly and separate approval of a majority of the members on the opposition side of the House of Assembly, re-appoint the Statutory Officer for one further term of six years.”
- In the Northwest Territories, they’ve committed to a public process for re-appointment, with no exceptions. The public application process is helpful.
- If it’s the government’s intention not to re-appoint an officer, the officer may need to find another job, so the officer should have a lot of notice. Their pension and health benefits may be all tied up with their career. A year in advance would be helpful. However, governments tend to leave this to the last minute.
- Re-application for officers looking to be re-appointed would chill the pool of future applicants. At one time the government interpreted the IAC process to mean that you needed to be appointed under the IAC process for re-appointments. A number of people had to re-compete for their own positions and some simply refused, and some of them were re-appointed anyway, and some weren’t.
- If there is going to be a re-appointment process, it should be clearly defined so the Child and Youth Advocate, the Office of the Child and Youth Advocate, and the public are aware of the process. A transparent approach adds credibility to the process and the role of the Child and Youth Advocate.

### Comments on acting appointments

- One option in the sudden absence or incapacity of a statutory officer would be for the statutory officer to appoint an interim officer, from within the statutory office in an ad-hoc position, to fill the gaps.
- Continuity can be protected when acting statutory officers are delegated by the statutory officer or at least not appointed by Cabinet.
- A standing committee should maintain a list of alternates who can assume an acting position quickly. Usually the officer’s deputy would be appropriate; current civil servants should be avoided.
- There are times when statutory officers have resigned and weeks have passed before an acting officer was appointed. All authority flows from the officer, so there was no authority for staff of the office to act.
- A statutory amendment should be made allowing for the automatic appointment of an Acting Statutory Officer by the House of Assembly Management Commission in the event of the

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illness, suspension, or termination of a statutory officer. This provides continuity and certainty for the offices' continued operations.

- It's bad to have someone in an acting capacity for too long. There should be a mandatory timeline.
- When there were two year appointments with multiple terms, things got done towards the end of the two years. The day after the appointment expired, no one in the office could sign reports. Everybody just kept working and when the House sat again and an appointment was made, the officer signed the reports then.
- ATIPPA should be amended to allow the commissioner to designate a person who will assume their powers and duties in the event of their absence or a vacancy in the office of commissioner.
- In one instance, when an officer was removed, the staff just waited until someone spoke to the Speaker. Eventually a person was sent over as acting officer, but that person couldn't be involved in meetings, they couldn't be sworn in, they couldn't have confidential information. It would be better to take a former incumbent from a pool of former statutory officers, if they're willing.
- Appointing an “Acting” Statutory Officer requires fewer steps and less scrutiny than filling a position permanently. Most are appointed on the recommendation of the House Management Commission. While this is a formal process, it remains under the control of the sitting government who have a majority of members on the House of Management Commission. This has the potential for undue influence and advantage. Individuals in “Acting” roles cannot be recruited, apply for, or otherwise be considered for the permanent position.
- There is a worry that acting officers are simply caretakers without the authority to make significant changes.
- Consideration should also be given to a second shorter ‘bridge-term’ re-appointment of 1-3 years to allow for proper transition between an incoming and outgoing CEO. This bridge term could cover the recruitment period for a new CEO, or depending on the timing of the election cycle, allow a CEO to remain in place if an election is scheduled shortly after the expiry of their original term.
- For the OCYA, the process for acting appointment of the deputy within the office has been seamless in the past. There's always been someone acting. There is no provision for a deputy, but having an acting advocate until a permanent appointment is named has not been an issue for OCYA.

### Comments on compensation

- Compensation is usually in line with the rate paid in previous employment, consistent with skills, knowledge and experience one is bringing to the position. This compensation process is still effective.



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- Revisit the Wells Committee recommendation that the Commissioner’s salary be set at 75 percent of a provincial court judge.
- As deputy minister equivalents, statutory officers tend to make less than most deputy ministers and in my case less than some associate and assistant deputy ministers. To the best of my knowledge and belief the Newfoundland and Labrador Ombudsman has historically made less than all of his provincial and territorial colleagues.
- It seems that the positions of statutory officers were all classified and all classified the same, which doesn’t make sense, because the offices are substantially different. There’s no need for statutory officers to be paid the same, as they do different work and the labour market for them is different.
- There should be some kind of base standard to keep it standard. The statutory officers are referred to as deputy minister equivalents, but they weren’t equivalent in bonuses.
- The Wells Report thought the status of the OIPC should be comparable to those that it regulates, e.g. the senior deputy ministers. Those salaries are actually lower now than Memorial or federal or municipal salaries.
- The processes should remain as they currently are, although the legislation pertaining to the Seniors’ Advocate should be updated to refer to *the Public Service Pensions Act, 2019*.
- Deputy Ministers preserve their salaries on transfer to another department. While Deputy Ministers have applied and been appointed as statutory officers, the Executive Branch has recommended that they keep salaries as if a transfer had occurred. As the salaries for the statutory officers are generally less than the Deputy positions, appointing these individuals at the approved salary would result in a voluntary demotion.
- It should also be noted that despite this large responsibility, the Ombuds is one of the lowest (if not the lowest) paid statutory office in this province. Because the OCR opts not to publish reports publically, the general public most likely do not truly understand the significant work that is undertaken by this office.
- No one will take the job if they have to take a pay cut and reduced status. If the position is aligned with a junior deputy minister, you’re not perceived to have that amount of weight within the system.
- Statutory officers are different from deputy ministers. They are public personas. At times there’s an appeal to that—having their own voice, it has an attraction but also a responsibility.
- Statutory officers should not be getting deputy minister level compensation. That doesn’t match the standard of work we’ve seen from them and, in some cases, their experience. Government directors have much more responsibility and accountability than statutory officers.
- In Manitoba, compensation of statutory officers is decided by the Legislative Assembly Management Commission, who meet in-camera.

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- The ideal model would be one person on top who is more senior, truly impartial, and has much more experience. We could compensate that person at a Clerk level. Then maybe the next person is a Director level.
- Not all offices are created equal. Some are fundamental to our democracy. Some are more administrative, some are more advocacy.
- The somewhat quasi-judicial role of some of the statutory officers does not justify a salary equivalent to that of a judge, as has been suggested.
- The legislation specifies that the statutory officers are Deputy Minister equivalents however, the approved salary level for these positions is less than that of a typical deputy minister position.
- The government is married to this pay scale that pins the size of the office to the salary. Colleagues in other jurisdictions are pinned to superior court judges. The Parliamentary Commissioner was tied to the Provincial Court Chief. They have the same status as deputy ministers, but they make less than many assistant deputy ministers.
- The salary of a statutory office has to be reflective of what the officer brings. That usually comes with advanced education and senior roles, it has to be reflective of the person’s skill set.
- From experience, there has been quite a bit of variance in officer compensation. Some were paid similar to deputy ministers, some were not. An officer should not be paid less than the equivalent deputy minister. If the office holder is seen to be at a lower pay scale, they lose some respect and, along with that, their independence is affected. In New Brunswick, statutory offices used to be paid the salary of a provincial court judge, though it may have been adjusted now.
- A common recommendation is fixing the compensation of statutory officers to some standard, but it will depend on what you’re using as the anchor. Sometimes they want Atlantic parity, sometimes judges’ salaries. Those anchors don’t consider the province’s circumstances, e.g. financial wherewithal. It is not appropriate to compare the circumstances or responsibilities of a short-term statutory officer with a judge, so their compensation should not be linked. An appropriate anchor is the executive pay plan.
- Some jurisdictions have established salaries in legislation and benchmarks them to deputy minister or provincial court judge positions.
- Salaries of statutory officers should be consistent and reflect their independence and the important role they play in promoting accountability and transparency.

### Comments on the removal and suspension process

- The LGIC should retain the ability to suspend but not beyond the next sitting. In the alternative, an all-part committee of the House, dedicated to the activities of the statutory

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officers, could be assigned this responsibility and remove this power from the Cabinet if it is the will of the House.

- Disciplinary action may be considered by the House of Assembly Management Commission or appropriate committee of the legislature.
- The Management Commission should (through the Speaker) also oversee necessary disciplinary actions related to a statutory officer. The procedure followed could be similar to what already exists for the disciplining of government deputy ministers.
- A 2/3 super majority of voting members should be required to remove a statutory officer.
- Removal should result from progressive warnings (for example: verbal warning, written warning, and then dismissal), to give at least six months of being aware of shortcomings. Assistance should also be provided to address these shortcomings.
- Consideration should be given to the creation of a Complaints Authorization Committee, as a sub-committee of the Management Commission, who would be tasked with accepting and screening complaints made against Statutory Officers. To preserve the independence of the Committee, no members of the House of Assembly should be on the Committee, but membership could include the Clerk of the House of Assembly, a retired lawyer/judge, an individual from the Public Service Commission with expertise in human resource issues and workplace behaviors. If a complaint is approved, a one-person tribunal before a retired justice would adjudicate the complaint.
- In the event that a statutory officer is removed supports should be in place for staff to ensure their needs are met and the office continues to run smoothly.
- A Committee should be created, chaired by the Clerk of the House of Assembly, to hold a monthly or bi-monthly meeting with all statutory officers to discuss ongoing issues common to all offices. When necessary, issues can be forwarded from the Clerk of the House of Assembly to the Management Commission for consideration.
- The processes for suspending or removing statutory offices are essentially the same for all six statutory officers under the current review. There are no provisions for “disciplining” a statutory officer other than “suspending” a statutory officer, nor should there be. The appropriate responses to neglect of duty or misconduct should be suspension or removal. Opportunities for the government to use the threat of removal from office as a means of exerting influence over any statutory officer must be minimized if not eliminated. It may be in the government’s interest to silence its critics, but it is in the people’s best interest that the security of tenure of these critics of the government – these statutory officers of the people’s House – should be made as secure as possible.
- Any decision by the House to remove or suspend a statutory officer should have a double majority – a majority of the members on the government side and a separate majority of the members on the opposition side.
- If you had a special committee on statutory officers, maybe with the Speaker as chair, that could decide suspension/removal. That would help get it away from political considerations.

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- It's trite to say, but statutory officers used to be called “servants of Parliament.” If you look at the history, that's what we're there for. A servant needs a master. A statutory committee has benefits in that regard.
- The House of Assembly Management Commission should be the body making the decision on the suspension of a statutory officer. This would place the decision in the hands of the rightful branch of government and serve to protect the independence of our statutory officers.
- Terms such as poor management, mismanagement and gross mismanagement should be well defined and the process for establishing them should be rigorous.
- All processes for performance, including discipline and removal from office, should be contained within the legislation and regulations for the position of the Seniors' Advocate and its office. It is understood that the current House of Assembly oversight model is working satisfactorily for this office and no changes are recommended.
- Security of tenure means that, if you want to remove someone, you need to build a case. But politicians don't want to do that on the floor of the House.
- Section 5.3 of the Elections Act, 1991 describes the authority of the House and Lieutenant-Governor-in-Council to remove or suspend the CEO for incapacity to act, or for misconduct, cause or neglect of duty. OCEO has no concerns with this provision and no recommendations to make.

### Comments on conflicts between Offices

- An arbitrator (perhaps the courts) or the House of Assembly Management Commission could provide solutions for conflicts between statutory offices. There's nothing wrong for two well-meaning organizations to disagree and use a third-party.
- The OSA has not experienced any conflict with any other statutory office that would necessitate a change of or any combination of functions with another office. It is understood that there may be some misunderstanding of the role of the OCR just the same as there is misunderstanding of the role of the Seniors' Advocate to deal with systemic issues only and not personal situations. However, in fairness, there is a high level of cooperation between the two offices, there is sharing and referral of information and personal cases, as appropriate.
- It is recommended that no special provision be developed for conflict resolution between or among statutory offices but that the provisions of their legislation prevail.
- There was the one episode of apparent conflict involving the OCR and the OCEO, but that seems to be the only one. The mandates of statutory offices don't usually rub against each other's, and when they do, it's generally productive.
- The role of the Management Commission could be expanded to allow the Commission (through the Speaker) to play a mediation role should disputes arise between statutory

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offices. That being said, given the fact that the statutory offices are independent entities working under separate legislations with separate mandates, disputes between them during the normal course of business would seem unlikely and certainly very rare occurrences.

- Consider a framework that encourages formal and informal collaboration of statutory offices. Work with Statutory Officers to establish a system to address matters of overlapping responsibility to reduce the possibility of conflicts.
- If there's a conflict between the offices, you should pick up the phone and resolve it.
- The same House of Assembly standards/procedures which currently exist to investigate alleged misconduct of House of Assembly personnel in supervisory or high-ranking positions could be applied to the statutory officers. The Management Commission, as an impartial entity, could also play a role should bias or conflict of interest - perceived or real - exist within the House of Assembly.
- If there are complaints about statutory officers, go to the MHAs. The process has to start with something with the legislature. It's a coat that has to belong to the House of Assembly. The Management Commission seems to be the best hanger for the coat.
- For some time, the officers would informally meet three or four times a year, that should happen again.
- Alternative dispute resolution, as successful as it may be, will not invalidate the investigating officers statutory authority. Jurisdictional conflicts should be the sole domain of the courts.
- There should be a standard process across the board to deal with complaints – that would have more of an impact. A common, normalized tool. People are calling with complaints to all statutory offices, and other government bodies. People need to know how they can legitimately complain. Right now they don't know who would be the right person to call.
- In carrying out the statutory offices' independent function, independence should be understood as the ability to be truthful and accurate and recommend appropriate remedies, not so that they can say whatever they want, regardless of accuracy, or whether the topic is not within the scope of their statutory obligations.
- I am not aware of any gathering that brings the statutory officers together to talk about the common good they are all working towards. Perhaps the Management Commission could be responsible for making that kind of thing happen. Perhaps the current review of the offices could be the instigator for such a discussion.
- There used to be informal meetings among statutory officers but there were never any meetings with an agenda. Usually, the Citizens' Representative would call someone up and say 'Let's meet at Boston Pizza at 12.' The meetings were a great help with the administrative and financial issues.
- There used to be no conflicts between offices. Sometimes the same person submitted a similar request to the OIPC and the OCR, but these were fundamentally different cases. If there is a conflict, you'd need some kind of arbitrator or, subject to confidentiality, the Management Commission to manage the conflict.

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- Statutory officers who conduct investigations should have the resources and obligation to hire lawyers well versed in such matters, so their investigative reports are as reliable as possible and procedural fairness is assured. Whistleblowers and witnesses should be protected from reprisals, but their testimony must be substantially disclosed, tested and open to challenge, as procedural fairness demands. Allegations of harassment should be isolated and dealt with under the Harassment Free Workplace Policy. The Codes of Conduct should be defined more directly and thoroughly, with less aspirational language that is wide open to interpretation.
- Historically, each statutory office was created with a specific purpose, with all four existing harmoniously together since 2004-2005, until the OSA was added in 2018-2019. Why did questions or concerns not arise during these 12+ years?
- Statutory officers have few annual direct personal interactions that would give rise to conflict. However, from time to time an officer will fall under scrutiny by one of their colleagues. The statutory officers exercise varying degrees of statutory jurisdiction over one another. Given the low level of informal personal interactions, the probability of interpersonal struggle is highest when an officer is placed under statute-enabled examination by another officer.
- There have not been any conflicts with other statutory offices, in fact, statutory officers frequently contact each other to discuss ongoing common issues.

### Comments on quality assurance and performance issues, oversight mechanisms, and who should administer quality assurance or oversight

- Some statutory officers have mixed up policy making and advocacy. They should identify systemic issues so government can make the policy. They should be able to identify areas where the system is not working. They should tell government to reconsider XYZ, but not tell government what to do. It all goes back to role definition. Right now, it's almost a free-for-all. For example, the Auditor General cannot question government policy and will only look at whether government is complying with its policies. That's why it may be good for someone to review whether officers are complying with their role. We need more quality control.
- Another means of improving public confidence in statutory offices would be to allow the OAG to conduct regular reviews of their work and activities. As the OAG already audits the financial statements of the House and statutory offices, it should also examine their performance periodically, to ensure that they continue to fulfill their mandates.
- The objectives and performance measures presented in the annual reports are self-determined and self-evaluated. There is no formal process for evaluating the appropriateness, effectiveness, accuracy, or comprehensiveness of these annual reports. The existing annual reporting process can be modified to provide a robust and comprehensive quality assurance and performance measurement framework.
- The OCEO completes the business plan / 3 year activity plan templates in accordance with the Transparency and Accountability Act. In addition to the requirements of the Act, the OCEO would benefit from an externally generated strategic plan that matches the

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longer-term objectives of the OCEO. This long-term strategic plan would guide the longer term goals of the organization, while the activity plans guide the more immediate activities of the OCEO.

- The OAG should conduct a mandatory review of the OCEO after every general election. These reviews should be issued in a timely manner after the vote, contain recommendations on how to improve OCEO performance, and be released publicly. Such measures would do much to restore public confidence in the integrity of our electoral system.
- If an officer lacks the required competencies for the position, there is very little recourse. One option is to wait out the term but that could have detrimental effects on the office. Another option is to remove the individual using the provisions of the Act; however, that too is a problematic process.
- The performance and quality of the work of each statutory officer is measured by the work of its office; each statutory officer represents the statutory office and, therefore, any measure of accountability for the office is also for the officer. The OSA maintains a work plan and tracks outcomes and timelines regularly.
- Officers have certain statute-based obligations to meet throughout the year to demonstrate performance to the legislature they serve. In my case, I am obliged to report on the exercise and performance of my functions and duties under s. 43 of the Act, s. 20 of the *Public Interest Disclosure and Whistleblower Protection Act* and, from a strategic planning and organizational improvement perspective, s. 9 of the *Transparency and Accountability Act*. Some of my national colleagues do meet with a select committee of the legislature to discuss their reports and answer any questions parliamentarians may have.
- From a democratic perspective, the statutory officers are creatures of the House and the House has a role. There is currently no legislative oversight of any of these offices with the exception of the Office of the Auditor General.

The Public Accounts Committee works in partnership with the Auditor General. It examines the reports of the AG, determines if it wishes to conduct further research and, if necessary, will make recommendations to the House.

A similar oversight function could be beneficial for the other statutory offices.

If the House was to create such a committee, the current composition of the House is a challenge as it is Private Members that generally serve on these committees.

- The performance of statutory officers as leaders and managers should be appraised, along with the efficiency and effectiveness of the offices they lead. These reviews should be conducted by a committee of the Legislature, not by a part of the government executive. At least once every four years, statutory officers should go before a committee of the Legislature for the purpose of such a review. There's no need for empty rituals, all stakeholders should be involved.
- After each general election the Chief Electoral Officer travels and meets with Returning Officers to debrief all aspects of the election event. These are opportunities to collaborate with election officials, learn what worked, what didn't, and identify solutions and best-practices going forward. The OCEO regularly updates Returning Officers throughout

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the planning and implementations cycle of the election. If the CEO is not addressing the issues identified in the debriefings the Returning Officers will let the CEO know.

- Committee work requires a significant time commitment on the part of Members and takes away from a Member's time for constituency work. It is noted that compensation for committee work was eliminated by a recommendation of the Members' Compensation Review Committee in 2016. Consequently, Members are required to put in a significant time commitment without compensation.
- There is no justification to impose external mechanisms to ensure the quality of the work and performance of statutory officers. The House of Assembly and the Management Commission have the capacity to order work reviews on a case-by-case basis. This is a necessary and sufficient mechanism to provide oversight for the work of the statutory offices. It is for the legislative branch to provide oversight for the legislative branch, and no other branch of government should have that role.
- Without due cause, the use of 'quality assurance' by an improper body can become arbitrary and may be used as a source of power or threat. Performance is already addressed in the form of annual reports and strategic planning, but who is reading them and what is being done when they are submitted? Who is monitoring when they are not submitted?
- There is no validation or quality control. Who oversees or checks? Time and again, there is inaccurate information in reports. Statutory officers are putting out opinions and politicized commentaries to the public and there's no way to know if it is accurate. The public interest must be kept in view at all times.
- Consider using a consensus-based meeting with the three party leaders to determine how matters relating to miscarriages of duties are investigated.
- Statutory officers should report to an entity that's not the executive branch. The entity needs to be part of the House; maybe a committee or another officer, referring to a judge or a panel could work. With the Auditor General, there is a professional standard, longstanding procedure and protocol, long tradition of putting out reports, and the OAGs across Canada take turns auditing each other. They clearly write reports in a remedial fashion - the kind of information the executive can use to better serve the public.
- OIPC views that its current Annual Reporting requirements as set out in the noted statutes are sufficient performance measurements. OIPC would be pleased to have the opportunity to present its Annual Report to a Committee of the House or the Management Commission and answer questions about it should it be invited to do so.
- The vast majority of what the Citizens' Representative does is addressing complaints that are transactional in nature, like an inmate needs a TV, someone needs healthcare, someone needs wall painted – the Citizens' Rep is good at that. However, for other things, like investigating another officer, the suitability and efficacy of that office is questionable.
- When you go through a report of a statutory officer, it's full of spelling mistakes. It speaks to the need for quality assurance.



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- As an oversight body, the Management Commission would be ineffective because it doesn't have the capacity. People don't necessarily have the skillset. They're set up to manage budgets.
- The Speaker is supposed to be neutral, but he's a member of the governing party, and you can't erase that. The Management Commission is structured so government always wins. The Speaker will always vote with the government side. Members are supposed to park their politics, but that'll always come back at the end of the day. A lot of the time, there are decisions being made by the government members of Committees, and the Opposition has no power apart from bantering and criticizing. They walk in and they have their hands cuffed before they walk in the door.
- Naively, one would have thought that committees make decisions on the merits, but it's all partisan. Not that there's anything wrong with that, necessarily.
- The partisan nature of legislative committees affects their ability to review an officer's work.
- Members' disinterest and lack of expertise is a shortcoming of legislative committee oversight. The situation is exacerbated by a lack of research capacity within the committee system.
- The Management Commission makes a lot of recommendations, but Cabinet has to do the recommended actions. The Management Commission is sometimes the cover for government on some things, and that takes away what the Management Commission is really meant for. It's supposed to be the Cabinet of the legislature.
- In a federal all-party legislative committee example, one former statutory officer noted that it was successful when the government was in a minority position but once the government won a majority, the idea that a parliamentary committee could act independently from the party in power “went out the door” and the panel died. According to another former statutory officer, the advantage of the Panel was that it forced accountability on all sides. But the problem with the panel was a lack of capacity and the fact there was “nothing in it” politically for the MPs who participated in it, so interest waned.
- Perhaps there isn't a formal way to provide feedback or gauge performance, apart from annual reports. Whatever the oversight mechanism is, it should hold officers to account for objectives, and there should be a performance contract identifying their objectives.
- Legislators sometimes show scant interest in the activities and performance of statutory officers, in some cases, not even bothering to hold hearings on their annual reports. Too often, the result is confusion about statutory officers' roles and whether they are accountable for their actions and, if so, to whom? Without that clarity, officers occasionally act as if they are free agents, responsible only to their own conscience.
- Statutory officers are required to submit annual reports on their activities and occasionally produce special reports to the legislature, depending on their mandate. Yet with some notable exceptions, there is no guarantee these reports will be the subject of specific parliamentary review or hearing. This lack of scrutiny can lead to officer frustration and a lack of accountability on their performance to MPs or legislative members.

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- Establish a committee, supported by expertise in performance measurement, indicator development and planning, which can include the statutory officers, Members of the House of Assembly and other vested parties to develop a robust and comprehensive accountability framework for the statutory offices.
- Statutory officers certainly spend a lot of money preparing annual reports and producing them. Somebody should pay attention to them.
- No one ever provides feedback on annual reports. There is no quality assurance in that way; no one's really checking.
- There are forty individuals (MHAs) who are responsible for oversight. They have a role. We have statutory officers who are going in the media and becoming public figures and members of the public are going to statutory officers, rather than MHAs. The public should be reminded of the roles of MHAs and statutory officers.
- Statutory offices aren't particularly useful to MHAs. Some MHAs never use statutory offices to help constituents. Opposition MHAs do use them to investigate things, because statutory offices have way more power than MHAs do.
- Sometimes a politician will say they read the annual report. The reports are not even physically tabled, they're deemed tabled and put on the website.
- It's regrettable that there aren't standing committees that allow for an analysis of statutory recommendations/reports. If it was routine that statutory officers appear and talk and even get queried, that'd be the right forum in which to explain and ask questions.
- The only one who's ever asked about the OIPC Annual Reports was the 2020 ATIPPA Review. Otherwise no one has provided feedback on OIPC Annual Reports. The OIPC Annual Report is tabled in late September, at a time when the House is closed, at the same time as hundreds of other annual reports from government departments, agencies boards and commissions, as required by the *Transparency and Accountability Act*. None of these reports receive very much attention.
- The Auditor General provides the best example of oversight working well. In both federal and provincial jurisdictions, a Public Accounts Committee meets frequently and reviews Auditor General reports. Chaired by an Opposition member, these committees work diligently. In Ontario, the legislature's Public Accounts Committee meets weekly and conducts its first hour of deliberations in-camera. This encourages openness among committee members and reduces partisanship. Yet a former Ontario Auditor General notes it would be impossible for MPPs to dedicate as much time and effort to the work of each of the nine Ontario Statutory Officers as they do to the work of the Auditor General.
- The proposition that members of the legislature do not have a level of expertise to oversee statutory offices is unacceptable. They're not necessarily experts in hydropower or child protection but there is legislation in all of those areas. Elected members can learn. Certainly those who are appointed to standing committees develop some level of expertise or are, hopefully, supported in their work by the legislature. Officers should table their annual reports and high profile reports with a Committee. Members would be interested and be able to question the Officer on the issues of the day.

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- Some deputy ministers either don't understand the officers' role completely, particularly new deputies, or they just consider the officers a nuisance. There's a need for respect between the deputy ministers and the statutory officers which could be helped by a one day meeting over number of issues (eg. time it takes a department to respond to requests might drag it on for months, which is extremely frustrating for the officer looking for a solution). There's a need for a really strong understanding of each person's role and how the relationship foster faster resolution of issues. If an officer has to complain about not receiving responses, it doesn't foster public trust in any of the institutions of government. A meeting with officers and deputy ministers around issues might be extremely useful in that regard.
- Perhaps MHAs shouldn't be reaching out individually to statutory officers for commentary. Should the statutory officers be having individual conversations with members? Their role is to serve the entire House, not individual members.
- Some MHAs would not feel that their interests would be protected if they were to be investigated by statutory offices. These MHAs have no faith and question the processes of the office's investigations. The capacity of some of the statutory officers is limited.
- Elected members don't read all of the annual reports. If they read annual reports, that's time not spent helping a constituent. The hope is that the Management Commission reads them more thoroughly.
- The executive branch of government has no business measuring and overseeing the performance and quality of the work of the statutory officers and their offices. If the House of Assembly Management Commission has reason to believe a statutory office is not performing at a level that is appropriate, it can address these issues with the statutory officers. There is no justification in the Green review to impose external mechanisms to ensure the quality of the work and performance of statutory officers. It is for the legislative branch to provide oversight for the legislative branch, and no other branch of government should have that role.
- If there's a real problem with the performance of a Statutory Officer, that's what removal is for. If it's a matter of opinion, that's what the telephone is for. There would be real concern about a formal procedure.
- Any mechanism for quality assurance will be inherently political. Either they have independence, or they don't.
- Any review must be within the legislative branch. The executive might dislike a statutory officer's decisions, but they can't have the final say.
- You can't apply cookie cutter approaches to quality assurance. You can't set up an Excel spreadsheet to measure all the statutory officers. Statutory officers could talk with people for three hours and eventually do nothing, but take the time to explain what's happening. How do you measure that?
- The legislature has a duty to monitor the performance of its officers. Statutory officers report to the legislature via the Speaker and are accountable only to the legislature, not the executive, it would be a contravention of international standards for the independence of an

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Ombudsman to become subject to arbitrary “quality assurance and performance” reviews and be overseen by anyone outside of the Members of the House to which we report.

- If the Management Commission saw issues, they could report through their chain of command.
- As it stands now, it is difficult to deal with serious complaints about Statutory Officers, short of removing an officer for incompetence or misbehaviour. A rigorous process involving the legislature should be considered for dealing with serious complaints.

### Comments on administrative oversight

- The current House of Assembly model works well for the purposes of the Seniors’ Advocate and no changes are needed.
- There are no issues with the way the statutory offices are currently overseen from an administrative perspective. There are also no issues with the Speaker’s Office, the Clerk, House services and the six (or seven, or fewer) statutory offices collaboratively developing an administrative oversight model for the statutory offices, inclusive of financial management, human resources management, information management, procurement, and any other “back office” functions and structure.
- The executive branch of government must not have a role in the oversight of statutory offices, as this would compromise the independence of the legislative branch and threaten the proper work of the statutory offices to provide scrutiny of the executive branch.
- It is recommended that the administrative oversight model involving the Management Commission and the House of Assembly Service be maintained. OIPC is of the view that it has sufficient financial and administrative independence to discharge its mandate with sufficient independence. In general, the more policies and services the Management Commission/House of Assembly Services develops on its own rather than relying on the default of Treasury Board policies, the better as this will help with the recognition of the legislative branch as an identifiably independent branch of the government.
- The House of Assembly Accountability, Integrity and Administration Act designates the Clerk of the House of Assembly with administrative oversight of the statutory offices. The Corporate and Members Services Division of the House provides financial management, accounts processing, general operations and human resources services to all of the offices with the exception of the AG. Further, the Clerk is legislatively subject to management certification which requires that the Clerk ensures that the internal control processes are established and are functioning properly. The provision of these services has not caused any problems and have functioned well with clean audits since their inception. If there was any thought to administrative services to the statutory offices being provided differently, consideration would need to be given to how the management certification requirement would apply and preserving the accountability framework.

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- The *House of Assembly Accountability, Integrity and Administration Act* covers everything required for transparent accountability of statutory officers through the role of the Management Commission.
- Statutory offices have benefited immensely from the non-partisan professional assistance that the House of Assembly Service provides in ensuring the government-standard compliance the public expects in these areas. Assuming responsibility for these areas as a stand alone proposition would more than double the office budget and would require expansion or relocation.
- The number of staff as well as the budgets of statutory offices have increased notably since they started. These offices report to the House of Assembly, but one wonders whether these offices provide appropriate value for residents in the fulfilment of their mandates.
- The OCEO reports to and uses Corporate Members Services (CMS) to conduct administrative oversight on processes and procedures. The CEO regularly consults with payroll, procurement, Human Resources, and Accounts Payable with respect to the delivery of election events. During high volume activities, the OCEO will temporarily host on-site CMS staff (purchasing, AP, etc.) to assist with administrative functions and ensure appropriate procedures and policies are followed. The OCEO also hires additional administrative support for these functions in high volume periods and CMS members train these support staff.

### Comments on whether physical space and administrative functions can or should be shared

- Oversight agencies should not be co-located with entities they investigate. Physical separation assists the perception of independence. Shared administration is not currently an option as there is no space to absorb additional staff or share functions with another office. Further, there may be document or information security issues with sharing a space with another statutory office or Officer that may be under investigation.
- The concept of independence is an invisible shield and it is not tied to a physical space. There are efficiencies that could be achieved by having an administrative pool that could assist anyone.
- The OSA's current physical space would be unable to accommodate inclusion/sharing with another statutory office as the space is too small. There is little to be gained from sharing administrative functions, particularly if it means adding more duties.
- Statutory offices should not be contained in core government buildings. This impacts the appearance of independence from government.
- There are some concerns regarding sharing space and staff when it comes to investigations, as well as accessing servers and documents. Offices need multiple physical controls. Although you can find a workaround for those concerns. They would not be able to share legal services.

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- There are concerns regarding the use of external legal counsel and the expenses incurred as a result that fall to the taxpayer. There is value in reviewing how other jurisdictions enable legal services for their Statutory Officers. Also consider expenses incurred by statutory offices on external legal advice, and as a result, whether it would be appropriate to have shared legal support. Some of the Statutory Officers engage with external legal counsel for a range of issues, including interpretation of existing legislation. There is concern that this becomes a significant expense for taxpayers.
- Physical space and administrative functions should be shared among statutory offices. Hiring practices, role classification should be consistent between statutory offices and administrative resources should be shared. These should also be alignment with core government roles and compensation. Physical space should be shared to reduce taxpayer expenses on rent and costs on supplies such as copiers, printers and cleaning services.
- It wouldn't be a problem to share a building, but the OIPC would require a secure office suite within such a building to maintain confidentiality and security. The prospect for officers to investigate each other would not preclude having adjacent office spaces. In any case, some unpleasantness is unavoidable, statutory officers live in a political environment. They could not share analysts/investigators or administrative staff. The type of investigations statutory offices do are quite specific, so it's a very specific skillset. Analysts are also expected to be experts in privacy in a legal and societal context as well as, broadly speaking, in access to information.
- Should there be any consideration to add a mandate to deal with personal cases to the OSA, an additional stream of service provision would be needed, a new mandate developed, new accommodations, and a significant increase in the staff pool, with very high additional costs to government.
- Separate offices are understandable, but five Bell contracts, five snow-clearing contracts, five buildings - for a relatively small number of people - seems unnecessary.
- There is no objection to co-location of the statutory offices in a single building with separate, secure office suites for each statutory office.
- There's no reason why the various statutory offices could not share a pool of employees conducting certain functions common to them all, such as receptionists, clerks, and human resources staff. These could even potentially be shared with the Office of the Speaker. If such a consolidation were to occur, there would need to be measures put in place to ensure that these employees did not share details of an investigation in one statutory office with those working in another. Any resources saved in the process could then be devoted to the main work of the offices, allowing the core staff to concentrate further on their mandates.
- Currently, none of the statutory offices employs a communications officer. A shared communications person or team would help these offices engage with the public to let citizens and the media know more about the important work they conduct.
- It would not be ethical for the offices to share a lawyer due to potential conflicts of interest. It is also important to note that even if the statutory officers were solicitors themselves, it would not exempt the offices from requiring external legal consultation. You cannot expect a

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statutory officer, who could be responsible for a broader portfolio, to complete the legal work necessary for each investigation and inquiry.

- The consideration of sharing physical space and administrative functions should be taken cautiously, it could compromise the privacy and confidentiality of a statutory office vis-à-vis other statutory offices, unless the shared physical space includes robust physical subdivisions and security barriers, enforced by effective (and no doubt costly) internal security measures and personnel. This could create needlessly uncomfortable working environments.
- This would not be realistic if it remains an expectation that statutory offices investigate each other. Many of the offices have also been in their respective locations for a long time, and as such, may have cheaper rent than if a new office space were to be ascertained.
- There wouldn't be any problems with co-location in neighbouring units within a building or sharing resources. All the back office functions are already shared through the HoA: HR, budgeting, ordering, etc.
- Any decision to share physical space and administration functions among statutory offices must be made independently of the executive branch, and must be driven collaboratively by the offices of the legislative branch, with a full view and understanding of the implications in terms of security, privacy, confidentiality and workability.
- Sharing office space should never be. It won't work. It's too small a fishpond.
- The Office of the Chief Information Officer provides IT support and IT infrastructure for all statutory offices at no additional cost to the statutory offices. This practice should continue as it offers value for taxpayers and is in alignment with providing IT support to outside organizations such as Legal Aid, the RNC and the Courts.
- Complete confidentiality and freedom from reprisal must be assured, both for complainants and for the employees who share information with the Ombudsman Office. Access to files and physical space must be safeguarded and secure from unauthorized access.
- The OCEO is distinct from other Statutory Offices given the unique role we have in our democracy to ensure fair and transparent elections. The OCEO has both client service and election operation requirements. The office has both a dedicated client service area, as well as an operations area with dedicated resources, space, and a warehouse for storage, processing, and assembly activities. Our workforce does fluctuate significantly, and we must have readily available capacity in our space to accommodate significant increases in temporary staff for an election or byelection. The amount of space required by the OCEO is significantly different to the space required by other statutory offices. The necessity to have both client service and operations spaces readily available is a “must” in order for the OCEO to be prepared for the calling and administration of an election at any time.
- Maintaining the current office space not only supports independence but allows members of the public to easily identify with the role and functions of our office. A dedicated office for the public to access leads to less confusion. A combination of offices may have a chilling effect on people coming forward about personal issues if they are required to navigate a complex setting.

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- Maintaining a separate office space sends a clear message that the voices and views of children and youth are priorities which will not be silenced or diluted by being combined with other offices that have separate and distinct mandates.
- The Chief Electoral Office, unlike other statutory offices, requires a significant amount of physical warehouse space for election materials, permanent and temporary staff, and the conduct of its operations.

### Comments on where and how should reports be directed

- There's a real benefit to that kind of a system that includes a House Committee, a committee that could have access to the annual report, and compare it to past years and ask why things didn't happen. The knowledge from that works its way back into the work ethic of a statutory officer, because you know you have to actually answer to the people you account to in theory.
- There is concern about elected members' ability to process reports of statutory offices. It's unclear what the best practice is, but the ability to process this fairly and competently is a big question mark. Elected members are competent, but not in this and certainly not with HR issues, and there are political calculations where there shouldn't be. There needs to be one clear specific protocol. When the Auditor General reports are issued, there's a clear process and the reports are released. Reports should be tabled immediately and the officer should have the authority to release them straight to the public. The Management Commission is not a body that's set up to deal with that.
- The most logical referral of any report involving the conduct of a statutory officer would be to the Management Commission which could then determine next steps.
- The ability to work autonomously and unaffiliated with any government department, government agency, private business or political party is absolutely imperative to protect the validity and veracity of all work produced by a statutory office.
- Creating a House of Assembly Committee with the power to amend/adapt reports would negatively impact the statutory office's ability to make robust, unprejudiced recommendations, particularly if a report or recommendations may not look favourably on a government department or entity at the centre of a review. The public's perception – real or perceived – of the power of a statutory office to work for the people with no fear of censorship, would be severely negatively impacted by a prior review process with the potential to change or influence the text. Statutory offices must be – and be perceived to be – free from improper influences that could appear to affect our independent decision-making and recommendations.
- If statutory officers serve Parliament, their work should be tabled publicly.
- You can't vet reports before tabling. The Committee would be controlled by government by definition.



## Review of Statutory Offices of the House of Assembly “What We Heard”

- Senior public servants said the work of Statutory Officers complicates their lives and muddles their traditional responsibilities to their minister under the Westminster system. In particular, they expressed frustration that another authority could hold them to account, and they can feel “ambushed” when a negative report from an Officer is issued without prior notice. A critical report can do serious damage to the reputation of senior public servants, who find it difficult to counter the initial negative publicity from such reports. As anonymous public servants, they cannot defend themselves publicly and depend on their ministers to do so. They prefer the process followed by Auditors General, who traditionally provide draft reports to affected departments and allow these departments to meet and discuss or craft responses before a final report is published.
- Every report produced by a statutory office should be made available to the public as soon as it is finalized, in addition to being tabled in the House, so that they reach as wide a public as possible without delay. The withholding of a Citizens’ Representative report by the Speaker last year potentially creates a worrying precedent. Such reports are the means by which statutory officers hold government to account when there are allegations of wrongdoing. Citizens deserve to be informed of the report and its contents, so they may make up their own minds about the evidence in the case and pass judgment on their elected officials accordingly at the ballot box.
- The ability of the Child and Youth Advocate to release a report and make recommendations for improvement of programs, procedures, policies, and legislation without interference from outside sources, including members of the House of Assembly, is critical to preserve its independence and ensure that its actions are not susceptible to legislative pressure.
- There is concern with each instance of investigation becoming its own report and being tabled in the House of Assembly for debate, even when there is no wrongdoing found. Considering there are no appeal mechanisms, it does introduce uncertainty and the potential for politically motivated accusations. This process may discourage elected members from asking for clarifications. There should be an appeal mechanism, and reports should be reviewed by a committee of the House of Assembly prior to being referred to the House of Assembly.
- Perhaps such reports should be directed to the House of Assembly Management Commission, which may then be empowered to direct the report for a review by a standing or select committee or by an external reviewer, as was eventually done in the circumstances in question. The Management Commission and the House itself ought to be free to decide where a report will be directed on a case-by-case basis if something about the report requires special consideration. Such decisions are made following debates of Members, where the options are weighed for the particular cases at hand. This approach may be preferable to a formulaic approach that orders reviews of reports when they may not be warranted.
- Reports that could be handled differently are ones that require further decisions and actions by the House of a disciplinary nature – reports on alleged wrongdoing. Some of these may be submitted to the House of Assembly Management Commission.
- New Brunswick is just an example of a jurisdiction with legislative oversight committee (Standing Committee on Procedure, Privileges and Legislative Officers) for statutory offices.

## Review of Statutory Offices of the House of Assembly “What We Heard”

- There are some difficulties with the power of the statutory officers who have deputy minister status, given their backgrounds. Some of them are very qualified, but others are not. These officers have the power to issue reports, which are then often used as powerful leverage in the House of Assembly. Even if totally exonerated, a report can be damaging. It's hard to explain how damaging these reports are..
- Statutory officers can table a report saying whatever they want, but an MHA can't.
- The statutory offices would welcome feedback on their annual reports.
- In New Brunswick, reports of the Child and Youth Advocate were presented to the legislature twice in seven years, despite some very high profile, disturbing cases. There was little process to present reports. The legislature, for whatever reason, didn't feel that they needed to question the Officer on those reports - and that's regrettable.
- All officers are obliged to table annual reports to the House of Assembly via the Speaker. This is in keeping with Commonwealth and Canadian best practice. For public interest disclosure reports, any reform of that program should divert reporting obligations away from the Speaker and Clerk to the House of Assembly Management Commission, or a select committee of the House. In the alternative, parliamentarians should consider whether to impose a defined period for referral to which the Speaker must adhere.
- Reports issued by the Commissioner for Legislative Standards under Conflict of Interest or Code of Conduct are submitted to the Speaker for tabling in the House. Once tabled, it is incumbent on the Government House Leader to give notice of a resolution to concur in the report. The resolution will appear on the next day's Order Paper as a Government motion and must be called by the Government House Leader for debate within the timeframe specified in the legislation, i.e. within six months of being tabled. The resolution is debatable and amendable.

This always puts the onus on Government to initiate a disciplinary proceeding, even if it is against a member of another caucus or an unaffiliated member.

- The onus to review and analyze annual reports is already on elected officials. That process can be formalized by including firm timelines and a more rigorous framework for discussion and analysis, which can be done during debate in the House of Assembly or in a Committee of the Whole. In exceptional circumstances, expediency and impartiality could be maintained using a committee of the three party leaders to review, analyze and make a recommendation on a report.
- A statutory office is supposed to hold government accountable. The reporting of activities of government by an independent third party provides an important accountability and transparency function. Recommendations from reports are regularly monitored and when government policy is effective it is acknowledged.
- Transparency and accountability are closely associated with timeliness. A recent example of a Citizens' Representative report being held in the Speaker's office for a prolonged period of time indicates the need for tight timelines in the reporting process.

## Review of Statutory Offices of the House of Assembly “What We Heard”

- For reports of the Commissioner for Legislative Standards, there should be a mechanism to ensure that only substantiated reports are tabled. It's unclear what entity would be appropriate. All the committees are politically controlled, it's just a question of which party controls them. It couldn't be a committee of members; it would have to be independent.
- Politicians talk about the chaos of reports going back and forth. That's not chaos, that's the system working as it should.
- The Elections Act requires reports on election and election finance to be sent to the Speaker for delivery to the House of Assembly. The Elections Act also forms a Political Advisory Committee, however there are no actionable items from that committee, nor does it have any reporting structure. There is room for improvement in the operation of the Political Advisory Committee, however that is beyond the Terms of Reference of the Statutory Review Committee.

### Comments on the mandate/Terms of Reference of the Review

- Contextually, this review arose out of a conflict between two statutory offices that was largely related to the last provincial pandemic election. It appears that the Statutory Officers involved in that matter were placed in a very difficult position and fulfilled their duties in what became a highly publicized and unnecessary political situation. To my knowledge, there was never any dispute between any statutory officers prior to this situation.
- The Chief Electoral Officer was also the Commissioner for Legislative Standards. The backup for that person was the Citizens' Representative and the backup for the Citizens' Representative was the Commissioner for Legislative Standards. There were these problems that created a great deal of chaos over something that should be humming along invisibly. They became very visible and probably reflected poorly on the House of Assembly and the statutory offices. The fact that they have no dispute resolution and no oversight mechanism is problematic. There should always be an order of operations.
- Your terms of reference have been provided to you by government and the results of your work will be reported to government such that Cabinet, rather than the legislature, will be enabled to make decisions regarding the structure and administration of these independent statutory offices. This extraordinary approach of government reviewing the operation of statutory offices, rather than the usual legislative review, or a review guided by the legislative branch, places these offices in a position of vulnerability as we continue our roles of important public interest oversight of government throughout this review.
- While this isn't a fault-finding exercise, the political context is relevant. The immediate trigger was the review of the Chief Electoral Officer by the Citizens' Representative. At the same time, there's friction between the Information and Privacy Commissioner and the government, e.g. the Information and Privacy Commissioner refusal to “scrub” the C report. Another part of context is Bill 20, the consolidation of health authorities, which was introduced without consulting the OIPC as required under s. 112 of the Act.

## Review of Statutory Offices of the House of Assembly “What We Heard”

- In launching this review of statutory offices, the provincial government excluded the Auditor General because the *Auditor General Act* had recently been reviewed. However, both ATIPPA, 2015 and PHIA have also been subject to recent review, as required by statute. ATIPPA, 2015 was comprehensively reviewed by the Honourable David Orsborn starting in 2020 and his report was provided to the Minister responsible for Access to Information and Protection of Privacy in June 2021.
- Careful consideration should be given to how and whether a recommendation can be operationalized before finalizing a recommendation and including it in a report.
- This office’s form and function are so intertwined that they can’t be separated. Consider that. The fact of the review creates a feeling of vulnerability.
- Obviously something isn’t functioning, and that’s why this review is needed.
- It is interesting that a number of the terms of reference for the Review seem to take for granted restructuring of the statutory offices is needed. One would suspect there are underlying assumptions or biases behind such a position.
- There has not been enough longevity with the position of the Seniors’ Advocate for there to be any review of its purpose, usefulness, impact, structure, and administration.
- Given the first Seniors’ Advocate was appointed in November 2017, and the intervening pandemic and associated restrictions, it is premature to do a structural review of the OSA at this time, there is little objective evidence to demonstrate structure review is necessary or in the public interest for seniors.
- This review arose largely out of a one-time dispute between two Statutory Officers who were performing their statutory duties. The dispute between these Officers did not concern the OCYA. While any statutory office may benefit from review and criticism, the rights of children and youth should not be diminished, or their voices silenced, as a result of disagreement between other entities not involving children.
- It ought to be the legislative branch, not the executive branch, commissioning reviews and recommending appropriate revisions of statutory offices of the legislative branch.
- The first impetus for the current review is the situation that occurred in 2021-22 when the Citizens’ Representative reviewed and reported on allegations regarding the Chief Electoral Officer and, subsequently, when that report became the subject of further review, discussion and public controversy. Arguably, as many of us stated at the time, some change is required in the way things are done to prevent a recurrence of this chaos.
- The Terms of Reference are not limited to managing conflicts among Statutory Officers. They wander into other areas that, for the Opposition, raise significant concerns. If any aspect of the current review is a veiled attempt by the executive branch to erode statutory offices whose work has proven to be politically troublesome and embarrassing for the government, all such aggressive overreach by the government must be exposed and resisted.

## Review of Statutory Offices of the House of Assembly “What We Heard”

- There is a question of whether the Officers are competent and whether they have the appropriate resources. If the elected members had the choice, some statutory officers would have been fired. That really speaks to the problem. Reputations and institutional credibility have been damaged.
- One person everyone respects is the Auditor General. The Auditor General can't question the policy merits of the government. What you're seeing in some offices is that statutory officers are questioning policy. Some elected members believe some of these offices have crossed that line by complaining about their legislative limit saying legislation doesn't go far enough. This damages relationships and creates a direct challenge. These offices shouldn't be at loggerheads.
- This review should have been called for by the Speaker, as expressed by constituents. Mandatory reviews of statutory offices are needed after, say, ten years.

### Comments on the independence and accountability of statutory offices

- The primary challenge of independence is not OIPC's independence from the House of Assembly but rather its perceived independence from the executive branch of government. It is very common for us to find that members of the public do not differentiate this office from government bodies or departments. This failure to appreciate the differences between the executive and the legislative branch occasionally occurs with people within the government as well, with consequences for the exercise of our mandate.
- Independence is a day-to-day struggle. Complainants who request help are often inherently untrusting. To convince them to participate, they need to trust the impartiality and independence of a statutory office.
- Accountability of statutory offices requires clear role definitions and professionalism. The staff must have clear role descriptions, responsibilities, understand when and how to perform investigation and write reports. People who understand how the system works.
- Some offices lack specific oversight by legislatures, which undermines accountability. If legislators lack the inclination to assign responsibility for an officer to a specific committee, they should consider whether the office merits being an agent of legislature. Officers work for elected representatives. They are not free agents. As such, all officers should report to home committees.
- The office must have the power to recommend and convince, but not to decide. Ombudsman processes are in effect alternative dispute resolutions that typically take place after the management under investigation has had the opportunity to respond and resolve the complaint, but before citizens are required to exhaust their legal remedies.
- There must be total independence of action. The Ombudsman's Office cannot be in a relationship of subordination to administrative or elected officials. They must have investigative powers and freedom and autonomy to draw independent conclusions and the resources to do this effectively.

## Review of Statutory Offices of the House of Assembly “What We Heard”

- The government tried and failed to influence the office. The statutory officer wasn't afraid to say no, even to the Premier's Office.
- The Ombudsman's Office typically holds the discretion to comment publicly, if deemed in the public interest.
- Statutory offices are more damaging to government than the Opposition. They all embarrass the government from time to time.
- Part of the challenge is employing people who are smart and have judgment. Some statutory officers act as zealots and exceed their role; not knowing when to push something and not to push something. In theory, the legislature can amend the legislation and the officer's jurisdiction, but in practice, that's very hard.
- Having the ability to independently make recommendations based on concerns or issues is important to seniors because they know their voices are being heard, and action is being taken. It would be difficult to objectively analyze, criticize and advocate for change to government policy and programs/services if the office was part of government. A statutory office must retain the respect and confidence of the House of Assembly, government and the public. All work completed by the office, and recommendations, is well grounded in fact, research, independence, and fairness.
- The House of Assembly is the ultimate oversight body of the executive branch. Some of the Statutory Officers think they are the ultimate oversight body, but their job is to inform the House of Assembly. They are not elected and they are not the oversight body.
- Statutory Officers are directly responsible to the House and not to the government. As such, they often play the crucial role of whistleblower and are called upon to speak truth to power. Any proposals for changing their offices should in no way weaken that capacity. If anything, these powers should be strengthened as a result of this process.
- It is the rightful duty of the House of Assembly and its statutory offices to hold the executive branch to account. The executive branch must not undermine that role, whether directly or through indirect means dressed up in a cloak of legitimacy.
- The Ombudsman institution plays a vital role in not only providing an impartial and independent mechanism for citizens to pursue their rights regarding wrongful government action, but also acts as a vital means of prompt and protecting integrity in public institutions, good governance, the rule of law and human rights.
- The lack of trust between officers and the public service contributes to a culture of “us” and “them”.
- Statutory officers have forty bosses. Statutory officers are their eyes and ears. MHAs don't have the time to get into the weeds of the bureaucracy.
- Not all officers are independent. Some seem to side with the Opposition. The Opposition sometimes seems to have information earlier than other MHAs.

## Review of Statutory Offices of the House of Assembly “What We Heard”

- Statutory officers cannot become allies of an Opposition shadow cabinet minister. Their independence is mostly from the party in power and the civil service, but it's also from individual MHAs. Officers should have a term appointment of at least five years, with the opportunity for only one renewal. They should hold office on the basis of good behaviour, not at the pleasure of the government. Appointment should be done through a resolution passed by the Legislature. Removal should only be done by a vote in the Legislature, perhaps based on an extraordinary majority of 60% of the MLAs to make it likely that the governing party alone could not remove an officer.
- It is valuable for each officer to have a designated “home” committee of the Legislature to which its annual reports are referred. At least once in the normal four year cycle of sessions of the Legislature, there should be at least one review of the performance of each of the officers.
- It is important to consider the factors of leadership integrity and the leadership philosophy/style of individual officers and the foundational values which they embody in their own behaviour and seek to embed within the cultures of the institutions they lead.
- You've got to un-politicize the statutory officers' roles. They can't be a matter of political controversy or weaponry.
- Officers should work for some kind of reasonable accommodation with government over disagreements. Their purpose is to serve Parliament and make the system better. I'm not sure it's better to turn it into thermonuclear war.
- A longstanding dispute erodes public confidence.
- A more constructive approach is needed. That can be as simple as organizing regular meetings between Statutory Officers and senior officials, a practice that has long been common with the federal auditor general and deputy ministers. Other Officers could adopt this approach to build trust with senior public servants. Otherwise, it is easy for the public service to quickly “close down” and render the work of a Statutory Officer difficult. Statutory Officers must be prepared to build trust with public servants as part of the transition process when they take office.
- Statutory Officers' accountability should be to the House. If there is an issue with a statutory officer it should be brought to the attention of the Clerk of the House who can then bring it to the Management Commission if necessary.