



Yukon
Ombudsman

Procedures for Managing Complaints under the *Ombudsman Act*

I. AUTHORITY

Complaints

The *Ombudsman Act* authorizes the Ombudsman to investigate any complaint made by a person who believes an authority aggrieved them in their personal capacity as a result of a decision, recommendation, act done or omitted, or procedure used by the authority.

The Ombudsman has broad investigation powers to investigate complaints made under the *Ombudsman Act* but does not have any adjudicative powers. There is no right of appeal if an authority decides not to follow the Ombudsman's recommendations. However, the Ombudsman has authority to submit a report to the Commissioner in Executive Council and then to the Legislative Assembly if no action has been taken within a reasonable period of time after making a recommendation and to inform complainants of the recommendation(s) not acted upon.

Authority to Settle

The *Ombudsman Act* authorizes the Ombudsman to try and settle a complaint.

PROCEDURES

The Office of the Ombudsman has developed the following procedures to more effectively manage complaints.

Informal Case Resolution

All written complaints received under the *Ombudsman Act* will be managed through informal case resolution (ICR) unless a decision is made to investigate (see Investigation below).

The procedure for managing a complaint through ICR follows.

1. **Contact** – An Investigator from the ICR Team contacts the pre-designated contact for the authority.
2. **ICR** - The Investigator and the contact (or designate) enter into discussions about the complaint in an attempt to reach a settlement.
3. **Settlement** - If settlement is reached, the Investigator sets out the terms in a letter and provides it to the parties with a request to confirm agreement. If agreed to, the Investigator sends a letter to the authority and the complainant confirming agreement.
 - a. **Follow-up** - The Investigator follows up as necessary to ensure settlement terms are met.
4. **Non-settlement** - If settlement does not occur, the Investigator forwards the file to the Director of Intake and Informal Case Resolution to decide if investigation is necessary.
5. **Publication** - Statistics about ICRs will be published in the Annual Report of the Ombudsman and examples may be cited.

Our goal is to resolve all ICRs within 90 days from receipt of a complaint.

Investigation

A written complaint received under the *Ombudsman Act* may proceed directly to investigation where it is determined that investigation of the complaint is necessary in order to properly address the complaint. Factors that may be considered in making this determination follow.

- **Serious or complex** - A complaint does not lend itself to early resolution due to the seriousness of the complaint or the complexity, such as a systemic complaint involving multiple complainants.
- **Resolution unsuccessful** - The complaint could not be resolved through ECR in a timely manner or at all.

The procedure for managing an investigation of a complaint follows.

1. **Contact** – Opening correspondence is sent to the authority to notify them about the investigation and request a contact for the investigation.

2. **Investigation** – An Investigator from the Investigation and Compliance Review Team gathers relevant evidence, analyzes the evidence, and draws conclusions about whether there is unfairness under the *Ombudsman Act*.
3. **Report** – A preliminary investigation report is prepared.
 - a. **Consultation** - The authority is provided with the preliminary investigation report to verify facts, consider the recommendations, and provide comments in relation to the preliminary report for consideration by the Ombudsman.
 - b. **Finalization** – After reviewing the response received from the authority, the Ombudsman finalizes the report and recommendations and sends the report to the authority. The Ombudsman requests the authority provide its decision by a specified date about whether it will accept the recommendations.
4. **Recommendations Acceptance** – If the authority accepts the recommendations, the Ombudsman follows up to ensure the authority has given effect to the recommendations.
5. **Recommendations Non-Acceptance** – If the authority does not take adequate or appropriate action within a reasonable time after receipt of the report in respect of a recommendation, the Ombudsman may submit a report to the Commissioner in Executive Council and then to the Legislative Assembly.
6. **Complainant informed** - The complainant is sent a letter setting out the result of the investigation and informed if no action is taken in respect of a recommendation.
7. **Publication** –A summary of an *Ombudsman Act* complaint investigation may be published in the Ombudsman’s Annual Report. Statistics associated with recommendations made in investigation reports will be published in the Ombudsman’s Annual Report.

Our goal is to complete an investigation within 12 months from receipt of a complaint.

This document was prepared to assist the public and authorities subject to the *Ombudsman Act* understand how the Office of the Ombudsman will manage complaints. The document is for administrative purposes only and is not intended, nor is it a substitute for legal advice. For the exact wording and interpretation of the *Ombudsman Act*, please read the Act in its entirety. This document is not binding on the Ombudsman.