



LE PROTECTEUR DU CITOYEN

Assemblée nationale
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Health and social services intervention procedure

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Preamble

Under section 7 of the Act respecting the Health and Social Services Ombudsman,¹ the Québec Ombudsman must, by any appropriate means, see to it that users are respected and that their rights, as defined in Title II of Part I of the Act respecting health services² and social services² and in any other Act, are enforced.

Among other things, the Québec Ombudsman has the power to intervene specifically with any authority in the health and social services network, in accordance with Chapter IV of the Act respecting the Health and Social Services Ombudsman, sections 20 to 26.

Under section 22 of the Act respecting the Health and Social Services Ombudsman, the Québec Ombudsman's intervention must be conducted in keeping with the duty to act fairly. Although not required to do so by law, it has drawn up this Intervention Procedure in the spirit of this section, to guide it in the analysis of the requests for intervention received and in the interventions carried out.

The Québec Ombudsman establishes the priority given to an intervention based on the probability that the prejudice will materialize during the intervention, on the severity of the impact the prejudice will have on the integrity and safety of the people concerned, on the financial impact of the prejudice, and on the waiting time for a service.

¹ R.S.Q., c. P-31.

² R.S.Q., c. S-4.2.

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1 Definitions

1.1 Definitions

In this Procedure, unless otherwise indicated by the context, the following expressions and terms have the meanings shown:

Body:

Any institution, or any organization, resource, partnership or person to whom or which an institution has recourse for the provision of certain services;

Any health and social services agency or any organization, resource, partnership or person whose services may be the subject of a complaint under section 60 of the Act respecting health services and social services;

Urgences-santé in the provision of pre-hospitalization emergency services;

Any person working or practising on behalf of a body.

Highest authority:

Depending on the authority that represents the body in question, the board of directors or its chair, the chief executive officer, the owner or director of a certified residence, of a residence for the elderly contemplated in section 346.0.1 of the Act respecting health services and social services, of a resource offering lodging contemplated in section 346.0.21 of that Act, or of an organization, resource, partnership or legal person, or the director general, secretary or any other authorized representative who liaises effectively with the body's senior management.

Intervention request:

Information sent (in a report) to the Québec Ombudsman by a person who files a report, presenting a fact, an event or a situation offering reasonable grounds for the Québec Ombudsman to believe that a natural person or a group of natural persons has been or may likely be wronged by a body through an infringement of the rights recognized in Title II of Part I of the Act respecting health services and social services, or in any other Act.

Person filing the report:

A natural person or a representative of a legal person who submits an intervention request to the Québec Ombudsman in the interests of a third party.

Québec Ombudsman:

Depending on the context, the person known as the Ombudsperson, a deputy ombudsperson or any member of the personnel to whom the Québec Ombudsman has delegated the exercise of certain powers to receive and examine complaints from users or to carry out an intervention of its own initiative.

Result of the intervention:

A summary of the observations and recommendations made in an intervention report.

User:

A natural person who has received, should have received, is receiving or requires health or social services from a body in the health and social services network, pursuant to the Act respecting health services and social services.

1.2 Interpretation

The expressions or terms used in this Procedure should be interpreted in accordance with the provisions set out in the applicable legislation, notably, the Act respecting the Health and Social Services Ombudsman and the Act respecting health services and social services.

The preamble forms an integral part of this Procedure.

2 Intervention request

2.1 Access to reception and referral services

The Québec Ombudsman takes steps to facilitate access to its reception and referral services through its call centre, which serves Québec as a whole and may be contacted by telephone at 1-800-463-5070, by fax at 1-866-902-7130 or by email at protecteur@protecteurducitoyen.qc.ca, and through its offices in Montreal and Québec City, at the following addresses:

800, place D'Youville
19^e étage
Québec (Québec) G1R 3P4

1080 côte du Beaver Hall
10^e étage, bureau 100
Montréal (Québec) H2Z 1S8

2.2 Verbal or written request

An intervention request may be made to the Québec Ombudsman at its offices in Montreal or Québec City verbally or in writing (by mail, e-mail, Internet or fax). The request is treated confidentially.

2.3 Content of the intervention request

The intervention request must contain the following elements:

- ▶ a description of the facts, events or situation leading to the intervention request;
- ▶ information identifying the user or group of users;
- ▶ the identity of the body or bodies concerned;
- ▶ the surname, given name, address and telephone number of the person requesting the intervention, where applicable (Note: The report may also be anonymous);
- ▶ the date on which the request is made.

2.4 Acknowledgement of receipt

The Québec Ombudsman verbally acknowledges receipt of every intervention request within two working days, unless the person filing the report has remained anonymous.

3 Evaluation of the intervention request or information

3.1 Assessment

Under section 20 of the Act respecting the Health and Social Services Ombudsman, the Québec Ombudsman collects the elements of information it considers necessary to decide whether or not to intervene. This includes information from the body concerned.

4 Decision to intervene

4.1 Decision to intervene

Based on the facts, events or other circumstances brought to its attention, the Québec Ombudsman decides to intervene if it has reasonable grounds to believe that a natural person or a group of natural persons has been or may likely be wronged by an act or omission of a body or of a person working or practising on behalf of a body.

4.2 Decision not to intervene

If the facts, events or other circumstances that have been brought to its attention do not give reasonable grounds to believe that a natural person or a group of natural persons has been or may likely be wronged, and the Québec Ombudsman decides not to intervene, it must, where possible, inform the person filing the report of its decision. It also informs that person if it does not have jurisdiction over the object of the intervention request.

5 Intervention

5.1 Responsibility for the intervention and record keeping

When the Québec Ombudsman decides to intervene in accordance with this Procedure, it entrusts the intervention to one or more members of its personnel to whom it has delegated the appropriate powers.

It may also entrust the task of carrying out the intervention to someone who is not a member of its personnel, and delegate the appropriate powers to that person.

The delegate or agent keeps the intervention file up-to-date with all documents and information relating to the intervention, including all documents produced by or sent to the Québec Ombudsman or its agent.

5.2 Intervention notice

When the Québec Ombudsman decides to intervene, it must notify the highest authority of the body concerned, in writing, and send a copy of the notice to the body's director general or other manager holding a similar position. In addition, it must inform the body of the act or omission that is the subject of the intervention, along with the facts or reasons warranting the intervention. Once notified, the body concerned is required to collaborate with the

intervention, pursuant to section 21 of the Act respecting the Health and Social Services Ombudsman.

5.3 Notice to the Public Curator

The Québec Ombudsman must notify the Public Curator immediately upon being informed that a person represented by the latter is present in a facility maintained by a body that is the subject of an intervention.

5.4 Observations of the parties

During the intervention, the Québec Ombudsman must invite the highest authority of the body concerned, or its representative, to present observations on behalf of the body.

If it considers it is necessary, the Québec Ombudsman may also allow the other people on whose behalf it is acting, and also, where applicable, the users' committee of the body concerned, to present observations.

5.5 Notice of meeting

During the intervention, the Québec Ombudsman contacts and, if necessary, meets with all the people whose testimony or expertise it considers is required to understand the facts relating to the intervention. It may also ask them to provide information and copies of documents that are needed for the investigation, including users' files.

The Québec Ombudsman may issue a written notice, in the form it considers appropriate, calling people to attend a meeting, and subject to the provisions of the law, it may also require people, within the timeframe and on conditions determined by it, to provide information and copies of documents that are needed for the intervention, including access to and communication of information or documents from users' files.

In the absence of a valid excuse, every person who is called to a meeting by the Québec Ombudsman is required to attend and answer questions. If a person refuses to attend, the Québec Ombudsman has the powers and immunity provided for in the Act respecting public inquiry commissions (chapter C-37), including the power to summon witnesses, but not the power to impose a term of imprisonment.

5.6 Collaboration

The body concerned must collaborate with the Québec Ombudsman's intervention. Among other things, it is required to provide all the information and documents requested, in accordance with section 14 of the Act respecting the Health and Social Services Ombudsman.

6 Intervention on the Québec Ombudsman's own initiative

6.1 Initiative

The Québec Ombudsman may also intervene of its own initiative, in light of facts, events or other circumstances observed during the performance of its duties, or brought to its knowledge by an information source.

7 Intervention report and follow-up

7.1 Communication of a draft report³

Before sending the intervention report in compliance with this Procedure, the Québec Ombudsman must contact the director general or other manager holding a similar position with the body concerned and present its observations, along with any recommendations it considers appropriate. The body then has five days to make comments, or longer if the period is extended due to special circumstances.

The Québec Ombudsman sends out the intervention report when the body's comments have been received, or when the time allowed for comments has expired.

7.2 Communication of the intervention report

At the end of the intervention, the Québec Ombudsman must send a written intervention report to the highest authority of the body concerned, together with any recommendations.

In emergency situations that require immediate action, The Québec Ombudsman may, before sending its intervention report, send the highest authority of the body concerned a preliminary report in writing, together with any preliminary recommendations.

The Québec Ombudsman must also send written notification to anybody concerned by a recommendation, notifying it of its obligation, under section 25 of the Act respecting the Health and Social Services Ombudsman, to inform the Ombudsman in writing, within thirty days of receiving the recommendation, of the actions it will take as a result or, if it has decided not to act on the recommendation, of the reasons for its decision.

7.3 Communication of the intervention result

As soon as possible after the intervention, the Québec Ombudsman must communicate the result of the intervention to the person or people on whose behalf it intervened, and to the Public Curator in cases where one of the people is represented by it.

In addition, the Québec Ombudsman may communicate the result of the intervention to the person filing the report and to any other interested person if it considers this would be appropriate.

7.4 Follow-up to the recommendations

If, after making a recommendation, the Québec Ombudsman considers that no satisfactory action has been taken by the body, or that the reasons given for not taking action are

³ The requirement to submit a draft report does not apply in the case of complaints and reports concerning local and regional complaint and service quality commissioners.

unsatisfactory, it may notify the Government in writing, and may also, if it sees fit, include the case in its annual report or make a special report to the National Assembly.

Procedure adopted on January 21, 2011.