

The Curateur public du Québec has a mission to protect incapacitated citizens through measures tailored to their specific circumstances and condition. It must ensure that all decisions regarding these persons or their property take their interests into consideration, respect their rights, and focus on helping them remain independent. It is mandated to inform and increase the awareness of the population and those involved of the special needs of those who are unfit.

MAJOR CHANGES WITHIN THE ORGANIZATION

A new Public Curator was named on April 8, 2006. In January 2007, a few months after her nomination, changes were made to the existing organizational chart to improve the degree of supervision, and thereby hasten follow-up of orientations and improve quality control mechanisms.

One of the most noteworthy changes implemented over the last year involves the transfer of the temporary administration of unclaimed property to Revenu Québec. This transfer took effect on April 1, 2006. Some sections of the *Public Curator Act* were subsequently amended.

EVOLUTION OF THE CLIENTELE

On March 31, 2006, 37,461 persons in Québec were under public protective supervision or private protective supervision, an increase of 3.9% over the previous fiscal year. The number of citizens protected through a curatorship increased by 5.9%, while the number of adult tutorships decreased by 3.5%. These statistics are the result of the 2004-2005 introduction of a new procedure for reassessing protection requirements of the persons supervised. Hence, the number of recommendations for program reviews increased from 183 in 2004-2005 to 681 in 2005-2006. These generally concerned the transformation of tutorships into curatorships. In fact, the number of new private protective supervision programs grew by 22%.

Complaints Reviewed by the Québec Ombudsman

Curateur public	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	98	126	99	27

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

The Québec Ombudsman has received varied complaints regarding the Curateur public du Québec. They mostly concerned wealth management for persons under public supervision and the overseeing of private protective supervision programs. Numerous problems raised by citizens involved the protection and representation of persons, as well as the reassessment of private protective programs.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS: WHAT PROGRESS HAS BEEN MADE?

This year the Québec Ombudsman continued overseeing the implementation of the recommendations it submitted in past special reports and other venues. Many of these files are closed or nearly so. In addition to reviewing specific files, the Public Curator and the Ombudsperson, along with their respective management teams, held two work sessions over the course of the last year, with certain files subject to particular follow-up.

The monitoring of private programs is particularly of concern. There have been delays in resolving files, particularly as regards the replacement of faulty private representatives. The Curateur public grants top priority to settling such issues, and by April 2010, it plans to have progressively strengthened its supervision methods so as to take protective measures in a greater number of cases and to manage risks in a more timely fashion.

AUTHORITY AS AN INVESTIGATION COMMISSIONER

The Québec Ombudsman recommended that the Curateur public adopt rules governing the scope of its power to investigate reports of physical or psychological abuse likely to endanger the health, security, dignity, or integrity of wards. The Curateur public has recognized the need for speedier action in cases of abuse or risk of abuse, and has created a task force for reviewing how it could increase its authority in this regard. Investigations are now the responsibility of the Direction générale des affaires juridiques et des enquêtes. The Curateur public also reached an agreement with the Commission des droits de la personne et des droits de la jeunesse, which also acts in defence of persons who are mistreated.

UNDERSTANDING ITS CLIENTELE

The Québec Ombudsman asked the Curateur public to regularly visit—at least once a year—all those it represents. In the case of accommodated persons, these visits would allow for ensuring that they are monitored through individual plans prepared by the health and social services network.

This initiative is progressing at a steady clip. In 2005-2006, slightly over half of the persons represented (52%) were visited. This was 14% more than the previous year. Around 66% of supervised persons living in their homes were visited by a Curateur public representative, and the agency estimates that it made over 6,000 visits in 2006-2007. Numerous activities, moreover, enabled it to exchange with over a thousand other people.

The Québec Ombudsman recommends that the Curateur public increase the number of visits to its clientele and conscientiously log these.

CONSENT FOR CARE

In the Québec Ombudsman's opinion, the Curateur public needed to increase its efforts to ensure health professionals sought out its consent prior to treating the persons it represented.

The Curateur public published a newsletter concerning consent for care of persons under the protective supervision program. This tool was distributed throughout the health and social services network, and posted on the Curateur public's Web site. Follow-up with regard to this consent was done during visits to establishments, and discussed during the information sessions provided for health and social services network staff. Each year, around 6,000 requests for consent are submitted. Medical files must include a note that the person is represented by the Curateur public whenever applicable.

REPLACEMENT OF THE EVALUATION PROGRAM OF THE SERVICES PROVIDED AND THE QUALITY OF LIFE OF WARDS

The Québec Ombudsman recommended that the Curateur public take the necessary measures to adequately assess the quality of life and services delivered to wards living in establishments. In light of this program's abandonment, in January 2004, the Québec Ombudsman sought to ensure that the Curateur public would continue to gather critical information.

Since September 2005, appointed curators, acting in the capacity of personal representatives, conduct visits to monitor the quality of services delivered by actors from the Ministère de la Santé et des Services sociaux and family resources. The Curateur public receives all evaluation reports, which are analyzed by the Direction médicale; then, specific recommendations are made and submitted to territorial directorates. The Curateur public, moreover, is apprised of the establishment action plans submitted to local health and social services agencies, particularly with regard to any necessary corrections. Implementation of these corrections is monitored by the appointed curator.

Since November 2006, the Direction territoriale Nord has been participating in a pilot project for visits to clients staying in establishments or accommodated by other regional resources. This initiative has become an ongoing activity, applicable to all territorial directorates.

These regional directorates also visit various establishments to deal with specific problems that occur. A health professional is also responsible for touring the province and investigating cases selected at random.

PRODUCTION OF A SIMPLIFIED MONTHLY REPORT

The Québec Ombudsman suggested to the Curateur public that it provide its personnel with a “simplified monthly report” its clientele would find easier to understand.

While the existing computer system cannot generate such reports for all of the persons represented, the Curateur public can manually produce reports to meet specific needs. This represents a significant amount of work, with the best solution involving a redesign of the computer system. This initiative, begun in 2004, has been significantly delayed, negatively affecting the conscientious supervision of wards. The Québec Ombudsman discussed this issue with the new Public Curator, who agreed to make the resolution of this matter a priority.

MANAGEMENT OF ALLOWANCES FOR PERSONAL EXPENSES

In the fall of 2004, the Auditor General questioned the Curateur public as to the verification of management of personal expense allowances. Subsequent to this intervention, the Curateur public introduced a program for summary audits of allowances which included a targeted inspection process. In June 2005, the Auditor General decreed that the Curateur public had met its expectations in this regard.

The auditing program was implemented on an ongoing basis beginning in September 2006. The Curateur public created a sampling of 225 persons. It then proceeded to analyze monthly accounting files from the previous year by means of a questionnaire, after which it examined receipts for expenses from one of the twelve months in the year. Lastly, it conducted a control visit. The program includes a follow-up plan for establishments and resources that do not comply with the management guide's orientations, and is the object of an annual management report.

THE ANNUAL MANAGEMENT REPORT

The Québec Ombudsman believes that the annual management report should be sent to all persons under private tutorship or curatorship in accordance with the obligations of legal representatives under the Civil Code of Québec. The Curateur public has notified us that it is amending its directives in this regard and has promised to keep the Québec Ombudsman informed of its progress.

THE REASSESSMENT AND REVISION OF PROTECTIVE PROGRAMS

The Québec Ombudsman asked that changes be made to the typical letter sent by the Curateur public to wards to inform them of their rights and options of recourse when contesting existing programs.

Since April 1, 2006, the Curateur public sends persons who are under protective supervision a letter entitled "Agreement to maintain protective supervision". Signed by the assigned curator representing the person under protective supervision, it informs the latter of its right to be reassessed at any time.

Recommendations regarding the reassessment and revision of supervision programs will be included in the Curateur public's 2006-2007 operating plan. The Québec Ombudsman suggests that the Curateur public record the wishes of persons under protective supervision when programs are maintained. It also asks that the guide for professionals include information on the rights of incapacitated adults to receive a copy of the evaluation report. The Curateur public has committed to making changes to this guide over the next year.

APPOINTING A TUTOR OR CURATOR

When a minor person or incapacitated person of full age is entitled to benefits, the Société de l'assurance automobile du Québec (SAAQ) or the Commission de la santé et de la sécurité du travail (CSST) will pay this compensation to his or her tutor or curator. If there is no tutor or curator, the SAAQ or CSST will appoint a representative who will have the authority and duties inherent to the function. The administrator in such cases may never come to the attention of the Curateur public.

The Québec Ombudsman disclosed this disturbing situation to the Curateur public, emphasizing the related risks of dissipation or poor administration.

The Curateur public agreed to produce a general document on the topic destined to all agencies likely to find themselves remitting amounts to minor or incapacitated persons. The Québec Ombudsman is keeping a close eye on this issue, both from the perspective of the Curateur public and with regard to other agencies or bodies.

OVERSEEING INSTANCES OF PRIVATE SUPERVISION

Monitoring cases of private protective supervision is one of the primary mandates of the Curateur public. Its 2006-2010 strategic plan and the action plan currently in force both foresee the agency offering additional support and information. These documents notably comprise commitments aiming to improve the degree to which tutorships and curatorships are supervised. There is also a focus on faster action with regard to incapacitated persons who are being or are at risk of being abused. The Curateur public considers these actions priorities. The Québec Ombudsman will closely monitor the implementation of this strategic plan.

DELAYS IN ACCOUNTING AND IN PAYING HEIRS

In April 2006, the Curateur public developed an approach for administering the wealth of persons under supervision after their death. Based on this approach, heirs must receive their inheritance within a legal time frame of 183 days after the death of a ward. This objective should be reached by 2007. According to the Curateur public, this time frame does not have any undue impacts on heirs or assigns. Accounting is completed in 90 days or less.

ADMISSIBILITY THRESHOLD FOR FEES

The Québec Ombudsman asked the Curateur public to retroactively cancel fees charged persons whose monthly income is less than or equal to old age security benefits plus the guaranteed income supplement.

The Curateur public opted to widen the criteria of its mandate and to not charge fees in such cases. This decision was made retroactive to April 1, 2005.

PROTECTION AND SUPERVISION OF PERSONS

A debt increases the anxiety level of a person under protective supervision

A citizen suffering from paranoid schizophrenia had been a ward of the Curateur public since 1989. He contested the Curateur public's failure to help him settle a dispute with social assistance authorities. The Ministère de l'Emploi et de la Solidarité sociale was calling for him to pay \$22,000, on the grounds that he had not declared his actual circumstances in 1994 and again in 1996. He had, according to the department, failed to inform it that he was living with a spouse, as a result of which he received benefits to which he was not entitled.

According to a recent medical report, the debt was making the citizen extremely anxious and represented a risk to his health condition. He could not grasp why the Curateur public, aware of his marital situation at the time, had not declared it to authorities, which would have avoided this claim. Furthermore, he felt that the Curateur public should have disputed the claims on the grounds of incapacity.

The Québec Ombudsman concurred with the citizen's opinion regarding the Curateur public's failure to act. In an attempt to resolve the matter, the latter concurred that the Ministère de l'Emploi et de la Solidarité sociale should be contacted with regard to the case. This approach proved useful in explaining the citizen's particular circumstances to the department, and at the Québec Ombudsman's request, the Department took his exceptional situation into account and cancelled the \$22,000 debt.

A futilely stressful move

On December 20, 2006, a young woman represented by the Curateur public moved into a supervised apartment.¹ It was agreed that the Curateur public would pay her \$250 for her moving expenses and food. The citizen never received her cheque, and her attempts to reach the Curateur public employee in charge of her file were unsuccessful. With Christmas fast approaching, she became increasingly nervous at the thought of having nothing to eat. The Québec Ombudsman intervened with the Curateur public, asking it to reassure the young woman and make sure she had all that she needed. The Curateur public issued a new cheque just a few days later.

1/ Supervised apartment: a lodging where a person can live alone and become increasingly independent, while remaining entitled to services meeting her needs and a social follow-up.

An extremely distressing mistake for a citizen

A citizen under the supervision of the Curateur public since only a few weeks lived alone in an apartment but was taken care of by her cousin, whom she trusted and who even shopped for her groceries every week. The cousin withdrew the money necessary to buy food from her bank account, until it was frozen by the Curateur public and he could no longer access it. The citizen was at her wits' end, thinking she would no longer have anything to eat. The Québec Ombudsman's action with the Curateur public resulted in the cousin being able to withdraw pre-authorized amounts of money to meet the citizen's needs. The person responsible for the file mistakenly thought that her bank account could still be accessed, despite the funds being frozen by the Curateur public.

Paltry purchases by an incarcerated person

An incarcerated citizen represented by the Curateur public for the past six years asked the agency to provide him with money to buy toiletries. His request was denied, on the grounds that the products involved were provided by the detention centre free of charge. In fact, this was not the case. Prisoners who have money must personally pay for the cost of basic toiletry items. The Québec Ombudsman's involvement led to a quick resolution of the problem, and the incarcerated citizen was rapidly sent a sum of money.

WEALTH MANAGEMENT

Delayed accounting and payment subsequent to a death

In November 2005, a citizen who had been represented by the Curateur public for the previous eight months passed away. His spouse asked the Curateur public for help in speeding up the accounting and payment of her inheritance, seeing as she was in dire financial straits. She was receiving social assistance benefits of \$570 a month and would have to leave her lodgings because her rent was too high. The person in charge of the file replied that such cases generally took around a year to be settled. Knowing she could not hang on that long, the citizen contacted the Québec Ombudsman for assistance.

In addition to unacceptable delays, the Québec Ombudsman noted several other deficiencies. The Curateur public was notably refusing to send the citizen the information she was being asked for by the Ministère de l'Emploi et de la Solidarité sociale. Moreover, the Curateur public had entered an erroneous debt of \$18,000 in her file. In fact, the Curateur public had neglected to take the steps required with respect to the Régie de l'assurance maladie du Québec to correct an error that inflated the amount of the debt. The Québec Ombudsman felt it was necessary to advise the notary, a legal aid representative, of these facts, so the inheritance could be properly shared and settled. The final accounting was completed in August 2006, and the spouse received a cheque for \$12,000.

Two delayed old age security pension applications

The Curateur public is at times late in requesting old age security pension benefits for the persons it represents who have reached 65 years of age. Pension applications must be submitted a few months prior to a citizen's 65th birthday, so the file can be opened and monthly benefits remitted in a timely fashion.

In investigating a complaint, the Québec Ombudsman noted that the Curateur public had charged interest to an incapacitated person to whom it had advanced funds until old age benefits began to kick in. Yet, the delay in receiving benefits was due to the Curateur public having submitted the necessary application past the stipulated deadline. The Québec Ombudsman shared its findings with the Curateur public, which agreed to waive the interest charged.

Another citizen represented by the Curateur public submitted her own request for old age pension benefits, fearing that she would otherwise not receive them. She was certain that delays would have prevented her from exercising her right to these benefits. The Québec Ombudsman made sure she did not lose out, despite the fact that the Curateur public was late in filing her application. The Curateur public notably admitted that the application should have been submitted earlier.

Late cancelling of a line of credit

A citizen under tutorship for the past 30 years had over time used twice the limit of the line of credit of \$2,000 which had been extended to her by a Caisse populaire. Because the Curateur public took its time cancelling this line of credit, she had been able to withdraw a total of \$4,476.65 while only paying back \$2,488.08 of this amount. A balance of \$1,988.57, plus around \$300 in interest, remained to be paid. As a result of the Québec Ombudsman's stepping in, a resolution was quickly reached, and the citizen's line of credit was cancelled. The Caisse populaire closed her account and agreed to waive the amount owing so that the citizen would not have to pay this debt.

The Curateur public slow and faulty at negotiating leases

The Québec Ombudsman recommended to the Curateur public that it prepare a guide for the early termination of residential leases for persons under public protective supervision. This was done in April 2006. Problems would occur when a person needed to leave his or her lodgings and go live elsewhere. The Curateur public would pay three months' rent without checking whether the lodging in question had been re-let for the period in question. The Curateur public agreed to set guidelines for its staff in this regard. These guidelines notably include checking whether the landlord was able to re-let the lodging within the lease cancellation period. If such was the case, only the months when the apartment was empty would be paid.

RE-EVALUATING PROTECTIVE SUPERVISION

Failure to re-evaluate a protective supervision program

A young man had been represented by a private curator since 1999. He contacted the Québec Ombudsman because he was waiting on the first re-evaluation of his protective supervision program, as provided for by law. Upon verification, the Québec Ombudsman noted that the protective program should have been re-evaluated many years previously. In support of the citizen, the Québec Ombudsman insisted that this be done as quickly as possible.

As a result of this evaluation, the citizen now benefits from a tutorship rather than a curatorship. The Curateur public was not inclined to ask the private curator to request a re-evaluation. In this instance, the Québec Ombudsman feels that the Curateur public did not adequately fill its role of supervising private representatives.