

## PART 1

# RESULTS IN FIGURES AND LESSONS DRAWN

## 2007–2008 Results

### Presentation of statistical data

This chapter presents information on the actions of the Québec Ombudsman under the terms of the two pieces of legislation that govern it, the Public Protector Act and the Act respecting the Health and Social Services Ombudsman. The latter includes special requirements, the most important being the obligation to produce separate reports on the complaints it investigates and the reports it receives.<sup>1</sup> The Québec Ombudsman may act in response to a request or on its own initiative. While anyone can file a report, complaints can be submitted only by the user or his or her representative.<sup>2</sup>

The Québec Ombudsman releases the findings of its investigations into complaints and reports:

- When it has obtained assurances that the accepted recommendations have been implemented
- When the organization or body has rejected the recommendations

Consequently, reports only deal with closed cases, not those still under investigation.

### Requests for service received in 2007–2008

When a citizen or his representative comes to the Québec Ombudsman for assistance or a referral or to file a complaint or make a report, it is recorded as a request for service.

In 2007–2008, the Québec Ombudsman received 20,181 requests for service compared to 20,641 in 2006–2007, a drop of 2.2%. The total number of complaints, reports, and requests for assistance (10,486) that were investigated in 2006–2007 rose by 5.9%.

The first graph entitled “Requests for Service Received in 2007–2008” shows the number of citizens who approached the Québec Ombudsman (new requests), those whose requests were investigated (and who received a final response), and those whose requests are under investigation. In cases where implementation followup is required, the citizen received a response, but the Québec Ombudsman does not close the case until it has obtained assurances that its recommendations have been implemented.

Given that citizens can submit more than one problem in a single request, the breakdown of the requests for services includes more requests investigated than citizens whose requests were investigated.

1 Art. 38: The Health Services Ombudsman must produce an annual activity report. The report must describe the complaints received under article 8 and indicate the following for each type of complaint:  
(1) the number of complaints received, rejected after summary examination, investigated, rejected, or abandoned since the last report  
(2) the actions taken following investigation of the complaints  
Moreover, the report must list the interventions of the Health Ombudsman pursuant to article 20 as well as its main conclusions and recommendations, where applicable. The content of this report is incorporated into the report referred to in article 28 of the Public Protector Act [chapter P-32].

2 For a more in-depth understanding of the data, refer to the definitions in Appendix I of this report.

# Statistics for fiscal year 2007–2008

## Requests for Service Received in 2007–2008

Implementation Followup		Requests Under Investigation <sup>1</sup> as of April 1, 2007		Citizens with Requests Received		Requests Investigated		Requests Under Investigation as of March 31, 2008		Implementation Followup <sup>2</sup>
29	+	1,286	+	20,181	-	19,939	=	1,492	+	65

1. For a more accurate picture, requests under investigation now includes all cases that were not closed at march 31, 2007 (1,315 versus 1,135). previously, requests under investigation excluded cases that were at any stage other than processing with the citizen, authority, department, or organization. This excluded all cases that were awaiting processing, already complete, being verified, or being monitored for implementation. These cases will no longer be excluded, thereby providing a more complete snapshot of the situation. Among the 180 cases (1,315 less 1,135), at March 31, 2007, some were awaiting processing while others were already complete, being verified, or being monitored for implementation.
2. Implementation Followup Requests are completed cases for which the Québec Ombudsman is awaiting implementation of its recommendations before closing the case definitively.

## Requests for Service Investigated in 2007–2008

TABLE 1 – Breakdown of Requests		
	n	%
Complaints and reports	9,709	45.67
Requests for assistance	777	3.66
Requests for assistance referred to the appropriate resource	6,920	32.55
Requests for information	3,147	14.80
Requests not completed by the citizen/user <sup>3</sup>	706	3.32
Total	21,259	100.00

3. New category: "Requests not completed by the citizen/user". We were unable to contact the inquirer after three attempts. These requests cannot therefore be held against an authority as complaints, requests for assistance, etc.

TABLE 2 – Overview of Complaints, Reports, and Requests for Assistance*														
	Implementation Followup		Under Investigation as of April 1, 2007		Received in 2007–2008		Total to be Investigated		Investigated <sup>1</sup> in 2007–2008		Under Investigation as of March 31, 2008		Implementation Followup <sup>4</sup>	
Public Service														
Complaints and requests for assistance	0	+	1,144	+	10,201	=	11,345	-	10,184	=	1,138	+	23	
Health and Social Services														
Complaints and requests for assistanc	70	+	511	+	661	=	1,242	-	636	=	496	+	110	
Reports	0	+	25	+	28	=	53	-	18	=	25	+	10	
Total	70	+	1,680	+	10,890	=	12,640	-	10,838	=	1,659	+	143	
1. Includes requests not completed by the citizen/user														

- \* The term "Complaint grounds" used in the 2006–2007 annual report has been replaced by "Complaints."
4. Implementation Followup: Complaints for which analysis is complete and for which the Québec Ombudsman is awaiting implementation of its recommendations

## Processing of Complaints and Reports Investigated

TABLE 3 – Breakdown of Complaints and Reports Investigated*		
	Inquirers	Plaintes et signalements
Public Service		
Complaints	8,102	9,058
Health and Social Services		
Complaints	395	633
Reports	12	18
Total	8,509	9,709

\* The term “Complaint grounds” used in the 2006–2007 annual report has been replaced by “Complaints.”

TABLE 4 – Processing of Complaints and Reports Investigated*					
	Under Investigation		Investigation Completed		Total
	Referred Elsewhere <sup>1</sup>	Interrupted <sup>2</sup>	Unsubstantiated	Substantiated	
Public Service					
Complaints	1,269	3,113	3,499	1,177	9,058
Health and Social Services					
Complaints	4	86	345	198	633
Reports	1	4	2	11	18
Total					9,709
<p>1. <b>Complaints Referred Elsewhere:</b> During investigation of the complaint, the Québec Ombudsman identified a possible outside solution and referred the citizen to the appropriate authority. Reports with possible outside solutions were referred to health and social services agencies.</p> <p>2. <b>Interrupted Investigation:</b> The Québec Ombudsman, after initial examination, had to interrupt its investigation for one of the reasons provided for in the applicable legislation. Investigations may also be interrupted at the request of the citizen or because the situation has been resolved in the meantime.</p>					

\* The term “Complaint grounds” used in the 2006–2007 annual report has been replaced by “Complaints.”

TABLE 5 – Government Departments and Agencies Subject to Substantiated Complaints in Public Service*		
Departments and Agencies	n	%
Agence de l’efficacité énergétique	-	-
Assemblée nationale	-	-
Autorité des marchés financiers	1	0.08
Bureau d’audiences publiques sur l’environnement	-	-
Bureau de décision et de révision en valeurs mobilières	-	-
Centre de services partagés du Québec	-	-
Comité de déontologie policière	-	-
Commissaire à la déontologie policière	-	-
Commissaire à la santé et au bien-être	-	-
Commissaire au lobbying	-	-

**TABLE 5 –  
Government Departments and Agencies Subject to Substantiated Complaints in Public Service\***

Departments and Agencies	n	%
Commissaire de l'industrie de la construction	-	-
Commission administrative des régimes de retraite et d'assurances	5	0.43
Commission consultative de l'enseignement privé	-	-
Commission d'accès à l'information	3	0.26
Commission d'évaluation de l'enseignement collégial	-	-
Commission de l'équité salariale	1	0.08
Commission de la fonction publique	-	-
Commission de la qualité de l'environnement Kativik	-	-
Commission de la santé et de la sécurité du travail	80	6.80
Commission de protection du territoire agricole	-	-
Commission des lésions professionnelles	2	0.17
Commission des normes du travail	2	0.17
Commission des relations du travail	-	-
Commission des transports du Québec	-	-
Commission municipale du Québec	-	-
Commission québécoise des libérations conditionnelles	-	-
Conseil consultatif de la lecture et du livre	-	-
Conseil consultatif du travail et de la main-d'œuvre	-	-
Conseil de gestion de l'assurance parentale	-	-
Conseil de la famille et de l'enfance	-	-
Conseil de la justice administrative	-	-
Conseil de la magistrature	-	-
Conseil de la science et de la technologie	-	-
Conseil des aînés	-	-
Conseil des relations interculturelles	-	-
Conseil du statut de la femme	-	-
Conseil permanent de la jeunesse	-	-
Conseil supérieur de l'éducation	-	-
Conseil supérieur de la langue française	-	-
Coroner	3	0.26
Curateur public	20	1.70
Fonds d'aide aux recours collectifs	-	-
Fonds d'assurance-prêts agricoles et forestiers	-	-
Institut de la statistique du Québec	-	-
Institut de tourisme et d'hôtellerie du Québec	-	-
La Financière agricole du Québec	-	-
Ministère de l'Agriculture, des Pêcheries et de l'Alimentation	5	0.42
Ministère de l'Éducation, du Loisir et du Sport	35	2.97
Ministère de l'Emploi et de la Solidarité sociale	40	3.40
Ministère de l'Immigration et des Communautés culturelles	4	0.34
Ministère de la Culture, des Communications et de la Condition féminine	1	0.08

TABLE 5 –  
Government Departments and Agencies Subject to Substantiated Complaints in Public Service\*

Departments and Agencies	n	%
Ministère de la Famille et des Aînés	7	0.59
Ministère de la Justice	16	1.36
Ministère de la Santé et des Services sociaux	3	0.26
Ministère de la Sécurité publique	499	42.40
Ministère des Affaires municipales et des Régions	4	0.34
Ministère des Finances	2	0.17
Ministère des Relations internationales	-	-
Ministère des Ressources naturelles et de la Faune	7	0.60
Ministère des Services gouvernementaux	-	-
Ministère des Transports	3	0.26
Ministère du Conseil exécutif	-	-
Ministère du Développement durable, de l'Environnement et des Parcs	2	0.17
Ministère du Développement économique, de l'Innovation et de l'Exportation	2	0.17
Ministère du Revenu	111	9.43
Ministère du Tourisme	-	-
Ministère du Travail	-	-
Office de la protection du consommateur	-	-
Office des personnes handicapées du Québec	1	0.08
Office des professions du Québec	1	0.08
Office québécois de la langue française	2	0.17
Régie de l'assurance maladie du Québec	16	1.36
Régie des alcools, des courses et des jeux	1	0.08
Régie des marchés agricoles et alimentaires du Québec	-	-
Régie des rentes du Québec	22	1.87
Régie du bâtiment du Québec	1	0.08
Régie du cinéma	-	-
Régie du logement	23	1,96
Secrétariat du Conseil du trésor	-	-
Services Québec	1	0.08
Société d'habitation du Québec	-	-
Société de l'assurance automobile du Québec	245	20.82
Tribunal administratif du Québec	6	0.51
Vérificateur général	-	-
Total	1,177	100.00

\* The term "Complaint grounds" used in the 2006–2007 annual report has been replaced by "Complaints."

The names of certain departments and agencies in the above table reflect changes during the year, notably Ministère de la Culture, des Communications et de la Condition féminine and Ministère de la Famille et des Aînés.

TABLE 6 – Health and Social Services Entities Subject to Substantiated Complaints*		
Health and Social Services Entities	n	%
Hospitals	93	46.97
Local community service centers (CLSCs)	41	20.70
Residential and long-term care centers	22	11.11
Rehabilitation centers	17	8.58
Youth centers	16	8.08
Health and social services agencies	3	1.52
Community organizations	3	1.52
Private nursing homes	-	-
Prehospital emergency services	3	1.52
Total	198	100.00

\* The term "Complaint grounds" used in the 2006–2007 annual report has been replaced by "Complaints."

The Québec Ombudsman issued 1,370 recommendations, including 23.5% with broader public implications. There were 248 substantiated complaints about the public service which resulted in no recommendation since no redress was possible.

TABLE 7 – Number and Scope of Recommendations by the Québec Ombudsman					
	Individual Scope <sup>1</sup>		Broader Public Implications <sup>2</sup>		Total
	n	%	n	%	
Public Service					
Recommendations (Complaints)	876	91.44	82	8.56	958
Health and Social Services					
Recommendations (Complaints)	160	41.67	224	58.33	384
Recommendations (Reports)	12	42.86	16	57.14	28
Total					1370
1. <b>Individual scope:</b> The Québec Ombudsman managed to have the inquirer's situation corrected. 2. <b>Broader public implications:</b> The Québec Ombudsman ensured that individuals who did not submit a request but who were in the same situation as the complainant benefited from the correction that was made..					



TABLE 8 – Followup on the Recommendations of the Québec Ombudsman		
	Accepted and Implemented	Rejected
Public Service		
Recommendations (Complaints)	98,53 %	1,47 %
Health and Social Services		
Recommendations (Complaints)	98,41 %	1,59 %
Recommendations (Reports)	100,00 %	-

TABLE 9 – Overview of Requests for Assistance			
		n	%
Private sector	Total	3,194	46.16
Personal or property insurance		245	
Lawyer/ Legal profession/ the Bar		127	
Credit bureau/ Collection agency		71	
Cable television company		47	
Telephone company		135	
Legal opinion		339	
Dentist/ Dental association		31	
Divorce, separation, spouse, etc.		34	
Bankruptcy		13	
Financial institution ( bank, credit union, trust, etc. )		166	
Court ruling		110	
Physician/ College of physicians		79	
Notary/ Chambre des notaires		41	
Professional/ Professional association (excluding lawyer, dentist, physician, pharmacist, notary)		72	
Labor relations ( not under government jurisdiction ) / union		283	
Seizure/ Bailiffs		9	
Other		1,392	
Excluded Health and Social Services ( HSS ) Network Actions	Total	550	7.95
Procedure by a physician in an HSS network institution		90	
Medical procedure in a detention centre		224	
Private clinic ( not linked by an agreement with the public system )		86	
Other		150	
Municipal government	Total	577	8.34
Borough council		2	
Exceeding municipal jurisdiction		46	
Social housing		127	
Council member		6	
Regional County Municipality ( RCM )		7	
Permit		15	
Police, firefighters		118	
Bylaws		44	
Taxes		38	
Other		174	



TABLE 9 – Overview of Requests for Assistance			
		n	%
Education system	Total	102	1.47
School board – Governing board		8	
Private school		4	
Adult education (excluding secondary)		4	
Adult education (secondary)		1	
College education		8	
Primary education		26	
Professional education (excluding secondary)		5	
Professional education (secondary)		1	
Secondary education (regular)		12	
University education		14	
School daycare		1	
School transportation		6	
Other		12	
Departments and agencies of the federal government or of other provinces	Total	386	5,58
Employment Insurance		95	
Revenue Canada		53	
Health and Welfare Canada		3	
Canada Mortgage and Housing Corporation		1	
Other		234	
Government agencies not under the Québec Ombudsman's jurisdiction	Total	404	5,84
Regional legal aid centers		42	
Commission de la construction du Québec		19	
Commission des droits de la personne et des droits de la jeunesse		22	
Legal Aid		24	
Hydro-Québec		208	
Institut national de santé publique du Québec		1	
Investissement Québec		2	
Régie de l'énergie		3	
Société de télédiffusion du Québec		1	
Société des alcools du Québec		3	
Société des établissements de plein air du Québec		9	
Société des loteries du Québec		13	
Sûreté du Québec (peace officers)		41	
Other		16	
Others	Total	141	2,03
Parliamentary commission		2	
Member of the National Assembly		4	
Constituency office staff		2	
Chief electoral officer		8	
Others		125	
First-level health and social services recourse not completed	Total	1 566	22,63
Total requests for assistance referred to the appropriate resource		6 920	100,00

Here is the list of appendices that completes the statistical presentation of results for the 2007–2008 year. You will find these tables in Part 4 of this document.

<b>Appendix 1</b>	Definitions to better understand the data
<b>Appendix 2</b>	Sources of complaints about the public service, by administrative region
<b>Appendix 3</b>	Sources of complaints and reports about health and social services, by the health and social service region of the body involved
<b>Appendix 4</b>	Complaints investigated by departments and agencies, according to outcome
<b>Appendix 5</b>	Substantiated complaints against the public service, by category
<b>Appendix 6</b>	Breakdown of health and social services complaints investigated, by entity
<b>Appendix 7</b>	Breakdown of health and social services reports investigated, by entity
<b>Appendix 8</b>	Substantiated health and social services complaints, by category

## The lessons

### Complaints and reports investigated in 2007–2008, what the numbers show...

#### Highlights

In 2007–2008, the Québec Ombudsman took action involving

- 61 departments and government agencies out of the 84 under its jurisdiction, that is 73 %
- 156 health and social services network establishments out of a total of 295, that is 53 %

#### Recommendations of the Québec Ombudsman

In the public service, 98.53 % of the Ombudsman's recommendations were accepted and implemented, that is, the same proportion as in 2006–2007.

In health and social services, 98.41 % of recommendations were accepted and implemented further to complaints, and 100 % further to reports, compared to 98 % and 100 % in 2006–2007.

#### Percentage of Substantiated Complaints

The percentage of substantiated complaints is comparable to that of last year : 26.5 %.

- Public service = 25.17 % compared to 26.3 % in 2006–2007
- Health and social services = 37.58 % compared to 37 % in 2006–2007

#### Requests investigated

We note that compared to last year, there were 588 more requests to the Québec Ombudsman—complaints, reports, or requests for assistance—investigated this year. This represents an increase of approximately 5,9 %.

2006-2007 (From Tables 1 and 4)	2007-2008 (From Table 1)
9,214 grounds for complaint 684 requests for assistance	9,709 complaints and reports 777 requests for assistance
( 9,898 )	( 10,486 )
588 ↑	

Investigating complaints and reports therefore required greater institutional effort. Since complaints and reports require more extensive processing than requests for assistance or information, we can see that the number of requests under investigation as of March 31, 2008, is higher than on March 31, 2007<sup>3</sup> : an increase of 242, of which 36 are undergoing implementation monitoring. The Québec Ombudsman always ensures that its recommendations have been implemented before closing a file, which is then classed under complaints investigated.

### Variations in the rate of substantiated complaints

The percentage of substantiated complaints is calculated from the number of complaints that are fully processed, that is, ruled to be valid or unfounded. Complaints referred elsewhere or interrupted are excluded from these calculations.

Departments / agencies	Substantiated / Investigation Completed 2006–2007	Substantiated / Investigation Completed 2007–2008	
Commission de la santé et de la sécurité du travail	92 / 312	80 / 357	↓
- Compensation	82 / 262	60 / 280	↓
- IVAC	10 / 50	20 / 77	↑
Public Curator	27 / 126	20 / 83	↓
Ministère de la Sécurité publique	511 / 1 599	499 / 1 497	↓
Ministère de l'Éducation, du Loisir et du Sport	54 / 164	35 / 218	↓
Ministère de l'Emploi et de la Solidarité sociale	78 / 579	40 / 468	↓
Ministère du Revenu	94 / 462	111 / 487	↑
Régie de l'assurance maladie	11 / 143	16 / 137	↑
Régie des rentes du Québec	22 / 118	22 / 152	-
Régie du logement	17 / 49	23 / 60	↑
Société de l'assurance automobile du Québec	180 / 528	245 / 881	↑
- Compensation	160 / 361	206 / 619	↑
- Highway Safety Code	20 / 167	39 / 262	↑

### Types of wrongs or losses to Individuals

For individuals who appealed to the Québec Ombudsman with substantiated complaints, damage is either directly financial or arises from delays regarding admission to programs, issuing of permits, or access to services. Delays generally result in a period of financial insecurity during which individuals must assume their everyday expenses and responsibilities while taking steps to defend their point of view and their rights.

3 In 2007-2008, in order to account for the activities in a more exhaustive fashion, the REQUESTS UNDER INVESTIGATION now include ALL files which were not closed on March 31, 2007 (1315 instead of 1135). Previously, the REQUESTS UNDER INVESTIGATION did not include files that were at other steps than under process with the citizen, department or agency. Were thus excluded all files that were [waiting to be processed, finished, under verification or undergoing implementation monitoring]: they will no longer be, hence providing a more accurate picture. On March 31, 2007, among these 180 files [1315 minus 1135], some were waiting to be processed, finished, under verification or undergoing implementation monitoring. Therefore, there were, on April 1, 2007, 1315 requests under investigation.

Type of citizen complaint	% / Investigation Complete	% Substantiated
Sums owed by the government	28.77	21.93
Delays	14.54	36.93
Information and communication problems	3.63	34.21
Non-respect of individual and users' rights	4.80	35.85
Shortcomings in the conduct, skills, and qualifications of human resources	2.20	33.04
Problems gaining access to care	9.50	34.00
Lack of coordination of services and programs	24.93	17.93
Problems related to the environment and living environment	10.31	29.44
Other	1.32	28.99
Total	100.00	-

## Collective Gains

### The Ombudsman’s recommendations benefit the general public and users as a whole

In 2007–2008, the Québec Ombudsman formulated 1,370 recommendations, 23.5 % of which had collective effects. Of these (322),

- 82 targeted the **public service**
- 240 targeted the **health and social services network**

### The Public Service

Each year, the Québec Ombudsman deals with numerous complaints directed at correctional services, which are under the jurisdiction of Ministère de la Sécurité publique. In 2007–2008, a significant portion of corrective measures are aimed at correctional services. These recommendations, which are collective in scope, cover staff training and information, improvements in living conditions, the review of policies, procedures, and directives, the management of inmates’ files, and organizational reform.

Here are the most frequent recommendations concerning the public service :

- 14 recommendations regarding adherence to procedures and regulations for all persons as provided for under a program or act ;
- 17 recommendations regarding improvements to communication materials, public information, and information provided to staff to better prepare them to discharge their duties ;

- 10 recommendations regarding staff training, work organization, and the adaptation of services ;
- 6 recommendations advocating the development or review of a policy, administrative regulation, procedure, or directive.

## The Health and Social Services Network

1. **General and specialized hospitals** were the subject of 106 recommendations from the Québec Ombudsman. Of this number,

- 11 relating to clinical aspects (assessments, clinical judgment, practices, therapeutic approaches) and recommending either adjustments to clinical operations or the review of procedures or clinical protocols ;
- 21 relating to staff, 13 of which address training issues. Other cases involved employee or staff supervision. Even the actions of a single employee can have repercussions for many people, both co-workers and users ;
- 12 regarding the rights of users, be it the complaints involving investigation process, general respect for users' rights, or the specific obligation of keeping users informed ;
- 20 regarding the development or review of policies, procedures, or directives ;
- 10 regarding the adaptation of services, facilities or equipment, as well as adjustments to practices ;
- 5 regarding the improvement of communication materials or interpersonal communications.

2. **Residential and long-term care centers (CHSLDs)** were the subject of 35 recommendations. Of these,

- 3 involved improvements in interpersonal communications ;
- 2 involved staff training ;
- 4 involved adjustments to professional and clinical practices ;
- 2 involved adhering to complaints treatment procedures and respecting users' rights ;
- 3 involved supervision of an employee ;
- 3 involved the development or review of policies or procedures ;
- 7 involved the adaptation of services, facilities, living conditions and equipment, as well as work organization and methods.

3. **Local community service centers (CLSCs)** were the subject of 31 recommendations. Of these,

- 6 involved the regulation of access to care and services and improvements in the continuity of these services ;
- 5 involved the organization, the adaptation of services, practices, and methods ;

- 5 involved the improvement of the tools used to inform and communicate with users ;
  - 4 involved respect for rights, and adherence to procedures and the code of ethics ;
  - 3 involved the supervision of an employee.
4. **Youth centers** were the subject of 15 recommendations. Of these,
- 3 involved the adjustment or review of a clinical protocol ;
  - 1 involved staff training.
5. **Rehabilitation centers** were the subject of 21 recommendations. Of these,
- 3 involved improving interpersonal communications ;
  - 3 involved staff training ;
  - 3 involved improvements in the continuity of services or the regulation of access to care.

Types of Recommendations (the main recommendations, irrespective of object)	
38	Staff training or supervision of an employee
26	Clinical aspects
22	Communications and information
12	Respect for rights

## Individual Gains

### Corrective Measures to Re-Establish Citizens’ Rights

#### Public Service

The Québec Ombudsman’s actions to address substantiated complaints about the public service led to the following results :

- 159 cases** : obtainment of services due
- 88 cases** : reduction in wait time
- 77 cases** : reassessment of needs
- 67 cases** : obtainment of reimbursement or financial assistance
- 54 cases** : adherence to rules and procedures
- 52 cases** : receipt of a more fully justified written response or additional explanations



**49 cases :** correction of files (addition of significant information, correction of errors, or filling in of missing information)

**77 cases :** obtainment of an awaited decision, report, or document

A number of other cases: cancellation of claim or interest charges, improvements to living environment.

## The Health and Social Services Network

The Québec Ombudsman's response to substantiated complaints directed at the health and social services network led mainly to the following results:

**28 cases :** Supervision of one or several staff members, or staff training

**25 cases :** Reassessment of the user's needs, provision or adaptation of a service, even reorganization of services and service continuity, and access

**16 cases :** Revision of the care plan, adjustment of clinical activities or clinical protocol

**20 cases :** Cancellation of fees or reimbursement of amounts paid

**13 cases :** Improvement in communication and the obtaining of an apology

## Recommendations that were rejected or for which follow up was withdrawn

In rare cases, the Québec Ombudsman's recommendation is not followed up on. This unusual outcome usually arises for one of the following reasons :

- The Québec Ombudsman's interpretation of the directives or regulations in question differs from that of the department, agency, or health and social services institution to which the recommendation is addressed ;
- While the Québec Ombudsman considers the case to be a priority, the department, agency, or institution refuses to implement the recommendation due to adverse effects on other individuals in a similar situation.

If the Québec Ombudsman remains convinced of the merits of its recommendation, it takes further steps according to the powers granted it by law. Occasionally, a recommendation may be withdrawn if the problem is cleared up due to :

- A change in the status of the complainant ;
- An alternate solution having been found. Such cancellations are at the Québec Ombudsman's discretion.

## Complaints outside the purview of the Québec Ombudsman, and for which individuals have no independent recourse

### The Education System

This year, over a hundred people called on the Québec Ombudsman regarding problems with the education system, including problems with private and public schools, school boards, school transportation, and daycare centers. These people were referred to the administrative remedies provided by the school boards, which do not constitute a source of redress independent of the school system. Year after year, the number of people in this situation has remained constant. In the section on this department, we propose a specific recommendation to deal with the lack of independent recourse.

### Other Areas of the Public Service

Other government agencies are also the subject of complaints, although the Québec Ombudsman has no independent redress to refer them to. The most frequent complaints concern Hydro-Québec (208) and Société des loteries du Québec (13).

Individuals who initially approach Hydro-Québec are generally dissatisfied with customer service. They feel that customer service representatives merely repeat what they already know, without trying to understand their particular problem.

Accessible, independent, and impartial recourse thus remains an unfulfilled objective in certain situations where individuals must deal with government agencies. In these specific cases, we are still far from the advantages that the Administrative Justice Act provides for the agencies and departments subjected to it.

We conclude this chapter by examining ten years after this act came into effect, its achievements and its still unfulfilled promises based on our findings and our analyses of the respect for individual rights and the quality of services provided to all citizens and users.

## Staying the course on administrative justice, ten years after the Act was passed

The Act respecting administrative justice (R.S.Q., c. J-3) and the Act respecting Health services and social services (R.S.Q., c. S-4.2) are two pieces of framework legislation that guide the Québec Ombudsman in exercising its jurisdiction over the public service, i.e., government departments and agencies, and health and social services network authorities. Following are its observations and recommendations in this matter :

This year marks the tenth anniversary of the Act respecting administrative justice. It was passed by the National Assembly in 1996, and came into effect on April 1, 1998. It governs tens of thousands of individual decisions made each year by the government, many of which have considerable impact on the lives of Quebecers.

The Act respecting administrative justice distinguishes between agencies that make individual decisions in the exercise of an administrative function and those that do so in an adjudicative function (agencies tasked with settling disputes between individuals and the government). It imposes on the former a duty to act fairly, and on the latter, a duty to act impartially and ensure a fair process. Both are required to uphold the general principles of law and hand down appropriate decisions expressed in clear and concise terms.

### Administrative justice in the daily lives of Quebecers

In its day-to-day work regarding administrative decisions made by the government, the Québec Ombudsman concerns itself with ensuring compliance with the rules set out in the Act respecting administrative justice (articles 1 to 8). These rules govern the procedures government departments and agencies must follow in handing down individual decisions (those concerning a specific person or entity). They stipulate that government departments and agencies called on to exercise an administrative function have a duty to act fairly in the procedures leading to each individual decision.

This duty to act fairly means, among other things, that individuals who are the object of a decision must be given an opportunity to present their observations before the decision is handed down. Just because the process is flexible and adapted to various situations doesn't mean there are no rules. Even if the government authority is not acting in an adjudicative capacity (according to a quasi-judicial process), it must provide individuals with an opportunity to present information and make observations pertaining to their case.

Listening to individuals, informing them of the facts, and making them aware of government policy and intentions helps put them in closer touch with the government and better understand and accept its decisions, even unfavorable ones. If people come away from the process with a feeling of injustice, that can be sufficient motivation for them to contest a government decision. Instead, individuals should feel they have been treated courteously and fairly by an attentive decision-maker receptive to their point of view.

Another article in the Act respecting administrative justice stipulates that government departments and agencies must take appropriate measures to ensure procedures are conducted as per standards ; according to simple, straightforward, and flexible rules ; with respect, prudence, and promptness ; and in good faith.

Lastly, additional provisions in this act and other specific pieces of legislation stipulate that decisions must be founded and explained in clear and concise terms, and must indicate any non-judicial recourse available to the individual, along with their prescribed limitations period.

Through its preventive and corrective actions, whether in examining legislation or investigating citizen complaints, the Québec Ombudsman works to ensure the principles enshrined in the Act respecting administrative justice are upheld. Unfortunately, the complaints it receives suggest that government departments and agencies still too often contravene the letter or, at the very least, the spirit of the law.

Once again in 2007-2008, the Québec Ombudsman was called on to intervene. The situations described below are just a sampling of the cases it acted on :

**No formal decision**

*When Commission de la santé et de la sécurité du travail refused to turn over a complaint to an inspector for further analysis, the refusal was not forwarded in writing to the complainant. As a result, the complainant and the other interested parties could not challenge the decision. As stipulated in the Act respecting administrative justice, the decision must be in writing.*

**Failure to allow a citizen to complete her file before the decision was made**

*An agent at Société de l'assurance automobile du Québec (SAAQ) noted that there were no medical reports in an accident victim's file justifying an earlier reimbursement. He immediately issued a notice of seizure to deduct the amount reimbursed from the accident victim's compensation payments, without notifying her in advance. A subsequent conversation with her revealed that the medical reports in question did in fact exist. The accident victim was reimbursed once again and SAAQ asked the physician directly for a new copy of the required documents.*

## Failure to allow a citizen to submit his observations before the decision was made

*A citizen contested the warning he received from Ministère des Ressources naturelles et de la Faune regarding the annual payment of his trapping lease. The case had been handed over to a bipartisan committee for analysis and recommendations, but the committee had not invited the individual to submit his observations before a decision was made. The Québec Ombudsman recommended the case be reexamined to allow the individual to submit his observations and relevant documents to the committee, which the Department agreed to.*

## Respecting citizens' rights in health and social services

Health and social services network personnel are not named under the Public Services Act. They are therefore not subject to the Act respecting administrative justice. However, the Act respecting Health services and social services sets out the fundamental rights of health and social service users.

Despite the different scope of these two pieces of legislation, their provisions are quite similar. The Act respecting Health services and social services stipulates that the *raison d'être* of health and social services is the person requiring them.

This act also sets out guidelines for the management and delivery of health and social services. While these guidelines were drawn up specifically for the health and social services sector, they are founded on principles that are similar in many ways to those of the Act respecting administrative justice. Indeed, the guidelines for health and social services state that ...

- Users must be treated with respect and their rights and freedoms recognized ;
- Users must be treated with courtesy, fairness, and understanding, and with respect for their dignity, autonomy, needs, and safety ;
- Users must, insofar as possible, play an active role in the care and services they receive ;
- Users must be encouraged, by means of the appropriate information, to use these services judiciously.

The following examples illustrate that the wrongs observed by the Québec Ombudsman in the health and social services network are often comparable to those committed in public service.

## Lack of information before the decision was made

*An elderly woman was hospitalized and, during her hospitalization, the treatment team decided it would be best that she not return home, but be transferred instead to a long-term care facility. This decision was made without properly informing either this elderly woman or any close relative. The Québec Ombudsman recommended that the healthcare establishment adopt measures to encourage the involvement and participation of users and their families in such situations.*

## Decision made without the consent or involvement of the user

*An individual suffering from a mental health problem discovered upon wanting to leave the hospital, where she had been hospitalized but a few hours, that she could not get out. Indeed, a nurse informed her that she was being placed in protective custody since, according to the treatment team, she represented a possible serious and immediate danger for herself and others.*

*This citizen was therefore not allowed to contact a lawyer or a member of her family when this decision was made. After examining the case, the Québec Ombudsman also noted that there was nothing in the woman's file to justify the decision and it recommended, among other things, that the healthcare establishment adopt a detailed procedure for institutional custody that respected the rights and freedoms of users.*

## Decision made without an assessment

*A woman registered her child with the psychology department at a health and social services center. As it turns out, the girl's name and contact information was simply added to the bottom of a first come, first served waiting list. No initial assessment was done to determine priority or take into account the specifics of her case (the mother wanted her daughter to see a psychologist as early as possible, fearing her child's development was at risk). The Québec Ombudsman recommended that the healthcare establishment take appropriate measures to assess needs on a priority basis in drawing up its waiting list.*

## Conclusion

In handling the complaints it receives every day, the Québec Ombudsman has observed that the legitimate safeguards of the Act respecting administrative justice and the Act respecting Health services and social services and their underlying principles are still not sufficiently recognized, understood, and observed. Nearly 20 % of the substantiated complaints filed in 2007–2008 had to do with slow response time (e.g., unreasonable delays in receiving payments or access to healthcare).

Ten years after the passing of the Act respecting administrative justice and fifteen years after the implementation of the first health and social services complaints process, these findings are worrisome. We urge all public servants to remember the principles enshrined in these two pieces of framework legislation and to respect their obligations in this regard. Consequently, the Québec Ombudsman recommends the following :

### 2007–2008 Recommendations

Given that public servants must take appropriate measures to ensure that services and care are delivered in compliance with legislative and administrative standards and all other applicable rules of law ;

Given that the importance of the principles and rules set out in the Act respecting administrative justice and the Act respecting Health services and social services are recognized ;

Given that shortcomings have been observed in the way these principles and rules have been applied ;

#### THE QUÉBEC OMBUDSMAN RECOMMENDS :

That Public service managers within government departments and agencies and within the health and social services network ensure that the staff they oversee reacquaint themselves with the principles and rules set out, respectively, in the Act respecting administrative justice and the Act respecting Health services and social services.

That they take measures to familiarize their staff with the fundamental principles in the legislation and the need to uphold them.

These drawn up measures materialize among others, in

- the formulation of specific expectations for supervisory staff in applying these principles and rules ;
- regular updates for staff, specifically for those persons whose actions and decisions have a direct impact on citizens ;
- systematic and appropriate training for all new employees, from the moment they are hired.

Let us point out that these recommendations can be implemented immediately and at no cost. Over the coming year, the Québec Ombudsman will pay particular attention to the degree to which the authorities in question have appropriated the principles set out in these acts, and will verify, as needed and depending on circumstances, the concrete measures that will have been put in place to this end.