

Department and network contributions to quality of service and respect for user rights

Introduction

The Québec Ombudsman watches over health and social service issues. As such, the Ombudsman offers independent recourse to both Ministère de la Santé et des Services sociaux (MSSS) over which it has jurisdiction under the Public Protector Act, and to agencies in the health and social services network, carrying out responsibilities conferred by the Act respecting the Health and Social Services Ombudsman. The Ombudsman is completely impartial.

The Ombudsman is thus able to maintain perspective regarding department orientations and decisions and their implementation within the institutional network. While the Ombudsman can appreciate the complexity of managing a network that includes MSSS and the regional health and social services agencies, it can also recommend steps to improve operations, based on analysis of complaints received and investigations conducted. The Ombudsman is also responsible for ensuring that users are treated with respect and user rights are respected, and it has the power to intervene of its own initiative if it thinks that the actions or omissions of a body are harming a natural person or group of natural persons.

In the Ombudsman's 2006–2007 annual report, after emphasizing the rights of health and social services users, reminded MSSS of its obligation to monitor the quality of services provided by the health and social services network, as well as the user complaint management system particularly. The Ombudsman informed it of its observations in regard to the implementation of changes made to this system as a result of its own examination of complaints on appeal and its work in the field. To this effect it introduced the results of a survey conducted with institution presidents as well as with managers of complaint assistance and support centers.

The Québec Ombudsman surveyed the same respondents again this year to get a current reading on the state of the system two years after major changes became effective on April 1, 2006. This section will discuss its findings.

Monitoring service quality

The Act respecting the Ministère de la santé et des services sociaux (R.S.Q., c. M-19.2) makes the minister responsible for department management and administration, as well as the enforcement of laws and regulations relating to health and social services.

Under the Act respecting health services and social services, the minister is responsible for monitoring and overseeing the quality of care and various services provided by the network. In this regard, investigation of complaints and reports expressed to the Québec Ombudsman raise a number of concerns as to the role of MSSS in their monitoring and vigilance oversight.

Certification of private facilities and living environments

As part of the 2005 proposal for Bill 83, an Act to amend the Act respecting health services, social services, and other legislative provisions,²⁵ the Québec Ombudsman had recommended that private residential facilities and resources that serve vulnerable individuals - such as drug abusers, the mentally ill, or intellectually disabled be certified - in the same way that homes for senior citizens are certified. It also was of the opinion that the complaint management system and Ombudsman jurisdiction should apply to these facilities. The Health and Social Services Ombudsman had also made a similar recommendation.

In its 2006–2007 annual report, the Québec Ombudsman reiterated its position that these requirements should apply to private facilities. In this regard, MSSS informed the Québec Ombudsman in December 2007 that in cooperation with Ministère de l'Emploi et de la Solidarité sociale, it set forth a pilot project for drug-addicts. The goal of that project is to improve referrals to appropriate resources for the clientele of assistance or social solidarity programmes. It involves directing this clientele to MSSS certified drug rehabilitation centers or intervention agencies.

In fall 2007, 36 of the estimated 95 organizations of this type in Québec had been accepted by the certification process for residential drug abuse intervention agencies. MSSS has asserted the Ombudsman that it intends to take the necessary steps to provide legislative support for the certification program, taking its lead from the certification process for private senior citizen homes. The department expects to distribute a directory of certified rehabilitation facilities and resources to network agencies and involved departments at a date not yet specified.

The Québec Ombudsman, while acknowledging that there has been progress in establishing a resource certification program, is of the opinion that more -and swifter- action must be taken.

Complaints and findings uncovered by onsite investigations have, again this year, confirmed our belief that provisions relating to private nursing homes for senior citizens certification should be applied to all private residential facilities serving a vulnerable clientele. Consequently, the Québec Ombudsman formulated the following recommendation :

25 2005 S.Q., chapter 32

2007– 2008 recommendation

Given that private nursing homes and facilities for senior citizens are now subject to the certification program and application of the complaint management system set forth in the Act respecting health services and social services ;

Given the other vulnerable citizens residing in similar facilities, such as drug-addicts, the mentally ill, or the intellectually disabled, deserve similar protection ;

Given the MSSS has a role and responsibility with regard to the quality of care and services provided in its network ;

Given that it is important to create quality living environments for all institutionalized persons ;

Given the inspection program alone is not sufficient to achieve this objective ;

Given there is a previously developed recommendation that private residential facilities serving vulnerable citizens be certified, in the same way as residential facilities for the elderly are ;

THE QUÉBEC OMBUDSMAN RECOMMENDS :

That private residential facilities serving drug-addicts, the mentally ill or the intellectually disabled be subject to a certification program and application of the complaint management system set forth in the Act respecting health services and social services.

Comments from the department

On behalf of MSSS, the Deputy Minister responds as follows :

“ In the coming months, the department will clarify its approach to certifying residential facilities in this sector. ”

Quality of services : focus on indicators

The Québec Ombudsman recognizes and stresses that the majority of institutions provide many quality services. Complaints handled by the Québec Ombudsman indicate, however, that there are certain shortcomings in regard to service quality.

In carrying out its responsibilities, the Québec Ombudsman has many times observed that health and social services network administrators assign a great deal of importance to management resources such as rendering mechanisms. It is the Ombudsman's

opinion that these administrators must urgently include qualitative components – in the same way that quantitative components are already included – and provide compelling indicators of results.

At this stage, the department pointed out to us that this responsibility rests with the institutions, who are now under the obligation to obtain accreditation from recognized accreditation agencies. The department thus intends to rely on the quality components already included in this obligatory process, and to determine general areas for improvement if needed. It asserts that it has taken steps with accreditation agencies such as Conseil québécois d'agrément and the Canadian Council on Health Services Accreditation to ensure that standards are established in this area.

In view of this, the Québec Ombudsman is of the opinion that MSSS must fully carry out its role to oversee all network institutions for the purpose of optimizing quality.

To ensure that network institutions have adequately taken upon themselves the responsibilities for quality assurance they have been assigned, MSSS should focus even more so on certification, inspection, and accreditation efforts.

The accreditation process is limited, however, to the institution or agency for which it is performed. Yet the Québec Ombudsman frequently observes that institutions are often not aware of efforts underway elsewhere, or what could be implemented to settle problems they have faced, sometimes for many years.

However, the Québec Ombudsman has noted that MSSS is leaving improvement of service quality – which of course by its nature remains of varying quality – up to administrators, since they are responsible for ensuring quality only within institutions they manage directly.

The Québec Ombudsman thus reiterates its concern with MSSS. The Act respecting health services and social services imposes on MSSS the obligation to oversee and monitor the quality of care and services provided within the network. Monitoring must be systematic.

2007–2008 recommendation

Given that MSSS relies on local and regional administration regarding management of the quality of services provided by institutions ;

Given that the Québec Ombudsman can attest to the varying quality of services provided in network institutions ;

Given that the role of MSSS includes overseeing the enforcement of legislation relating to health and social services, as well as determining healthcare priorities, objectives, and approaches ;

THE QUÉBEC OMBUDSMAN RECOMMENDS :

That MSSS continue and intensify its efforts to inspect institutions ;

That notably inspection programs, as additional security measures, be developed for private residential facilities serving vulnerable persons, and that these facilities be constrained to a certification program and complaint management system ;

That MSSS, in view of its role and obligations regarding quality of care and services, encourage each institution to implement quality indicators ;

That MSSS prepare an annual progress report on quality indicators developed and used by institutions.

Comments from the department

On behalf of MSSS, the Deputy Minister responds as follows :

“The department, in conjunction with the institutions, will continue to develop quality indicators deemed most fit to measure quality of services.”

The complaint management system

The National Assembly has prioritized respect for user rights and health and social services quality. The complaint management system was substantially changed in 2006 with the ratification of Bill 83, an Act to amend the Act respecting health services and social services and other legislative provisions (2005, c. 32).

The primary purpose of the complaint management system is to uphold user rights, but it is also a means to improve service quality. Strengthening the status of local and regional complaints and service quality commissioners, and the total independence and impartiality that resulted from the transfer of duties and powers from the former Health and Social Services Ombudsman to the Québec Ombudsman demonstrate that Québec legislators are intent upon creating conditions that foster the new system's success.

In its 2006–2007 annual report, the Québec Ombudsman expressed specific concerns regarding the lack of availability of complaints and service quality commissioners, and consequently their capacity to meet service users needs and to assume all their duties. The Québec Ombudsman then suggested that MSSS take some steps to accelerate implementation of the system. The Québec Ombudsman emphasized out the department's efforts in this area in 2007–2008.

MSSS used its Quality Branch to produce a number of documents so as to oversee implementation and improvement of the complaint management system. In addition,

it established a training program designed for complaints and service quality commissioners as well as medical examiners, a program dealing in particular with their roles and duties. In January 2008, a reference framework spelling out commissioner intervention powers was produced and distributed.

For the second year in a row, the Québec Ombudsman has surveyed institutions in the health and social services network, as well as complaint assistance and support centers (CAAP) in order to measure implementation of the complaint management system and its progress during the past year.

2007–2008 survey of the complaint management system

It is important for the Québec Ombudsman to make sure that the first level of the system performs properly, since its own efficiency depends upon it. Our 2006–2007 survey, carried out in February and March of 2007, led us to certain observations. In this way the main problems that were raised concerned delays in hiring local commissioners. Most respondents asserted that the part-time status of a number of commissioners was compromising their capacity to properly perform the duties related to their jobs.

The purpose of this year's survey, conducted in January and February 2008, was to obtain and update factual data regarding progress in implementing the new complaint management system.²⁶

Complaints and service quality commissioners

In 2007–2008 we noted that most commissioner positions were now filled. The percentage of open positions is 2% this year, whereas it was 9% in 2006–2007.

The percentage of commissioners working full time in 2007–2008 was 36%, in comparison to 40% in 2006–2007. Nearly half of those working part-time –47%, specifically–work about 10 hours or less per week. On average the part-time commissioner works 12.2 hours a week.

Commissioners spend most of their time (72%) handling complaints and reports, and another 12% promoting the system.

In the opinion of the CAAP respondents surveyed, only six out of thirteen regions comply with the 45 day legally prescribed limit in which users are to receive notice of complaint resolution; last year, ten out of sixteen regions complied with this requirement. This is a significant drop.

Again this year, the majority of respondents assert that their capacity to fully assume the duties of their position is affected by their part-time status.

Operating budget

Approximately 98% of facilities provide operating budgets for their User Committees, in keeping with their legal obligations, whereas 86% of Resident Committees have operating budgets.

²⁶ The survey conducted by SOM had a 73% response rate, a 95% confidence level, and a 3.6% margin of error. It is available on the Québec Ombudsman website at www.protecteurducitoyen.qc.ca

This survey revealed that complaint system implementation intensified during the past year and that MSSS as well as the majority of network institutions are paying it more heed.

However, it also alerted us to two crucial dimensions that still deserve greater attention: respecting time requirements for complaint and reports investigation as well as, and the public need for information.

Deadline compliance

To instill user confidence in the system and make necessary correctives in a timely manner, the delay established by legislation must be abided to in a usual and habitual manner. Yet regarding this point, the implementation of the complaint management system has deteriorated since 2006–2007, year two of its implementation.

Indeed in the opinion of the CAAP respondents, only six out of thirteen regions act on complaints and reports within average established time periods.

The office of the Québec Ombudsman, in the course of its daily activities, can attest to the increase in cases that are submitted by local commissioners who have been unable to undertake complaint investigation within legal time limits. The number of complaints and reports of user dissatisfaction in this regard is growing.

A connection must be drawn with the tenuousness of the complaint and services quality commissioner's duties, which our survey also reveals. This is particularly the case with those who work for a number of institutions (up to six, in many cases; sometimes more) in areas where it is often necessary to travel great distances. It is also apparent when commissioners work alone or part time within institutions of paramount importance. This tenuousness increases as the status of more commissioner positions becomes uncertain, and in the majority of cases, there is no plan in place to pass along accumulated expertise.

Our survey revealed, in short, that despite the efforts of the past year, the public is still not sufficiently aware of its rights and recourse, and how to exercise them within the system. The survey further revealed that information documents explaining and promoting the system have not been adapted and distributed to meet the special needs of those citizens who are most vulnerable.

These observations are of concern to the Ombudsman, notably because they impact its own capacity, with current resources, to compensate for the system's inadequate response with respect to legal imperatives. In any case, it is the Ombudsman's opinion that this is not its role because, in so doing, it would deprive users of a first point of recourse as intended by law. Moreover, this initial recourse was planned to facilitate prompt resolution of the greatest possible number of complaints not resolved at the local level.

It is important that these fundamental shortcomings in the complaint management system be corrected. If these correctives are not made at this point in the implementation of the system – year two only of system implementation – the discrepancy between the estimate and reality will only worsen, and the credibility of the system itself, which relies on user confidence, will suffer.

2007–2008 recommendation

Given the health and social services user complaint system is in its second year of implementation ;

Given there are disturbing shortcomings in meeting complaint handling deadlines set forth by legislation ;

Given more than half of complaint and service quality commissioners do not meet legally established requirements to notify users of complaint findings ;

Given the Québec Ombudsman, as a first point of recourse, is not responsible for compensating for this shortcoming, and is unable to do so ;

Given these delays have an impact on the system's efficiency and its very credibility ;

Given citizens, especially those most vulnerable, remain insufficiently informed of their rights and recourses under the system ;

THE QUÉBEC OMBUDSMAN RECOMMENDS

That boards of directors of institutions in the health and social services network and regional agencies make sure that local and regional complaints and service quality commissioners have at their disposal adequate resources and operating conditions to carry out their responsibilities in an effective and efficient manner.

That MSSS continue and intensify its plan to support implementation of the complaint management system, notably by making user information a priority, with specific attention paid to reaching those who are vulnerable.

Comments from the department

On behalf of MSSS, the Deputy Minister responds as follows :

“ MSSS confirms that it will continue its plan to support implementation of the complaint management system.”