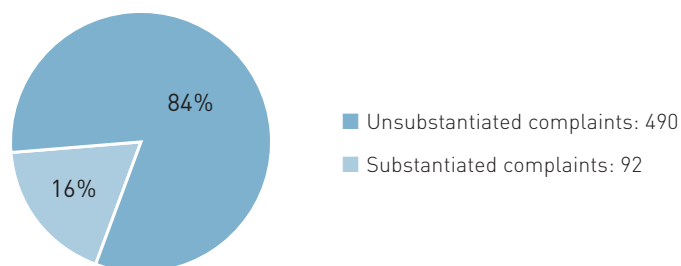


SOCIAL PROBLEMS



Health and social services network missions / Government departments and agencies	Complaints and reports received	Investigations not completed		Investigations completed		Total
		Complaints and reports referred	Complaints and reports interrupted	Unsubstantiated complaints and reports	Substantiated complaints and reports	
Curateur public	191	3	102	108	22	235
Ministère de l'Emploi et de la Solidarité sociale						
Employment	77	5	34	29	4	72
Parental insurance	59	-	16	24	16	56
Social solidarity	898	58	286	324	41	709
General	116	1	1	5	9	16
Total	1,341	67	439	490	92	1,088

The number of complaints relating to the Curateur public and the Ministère de l'Emploi et de la Solidarité sociale fell from 1,406 in 2007-2008 to 1,341 this year. The percentage of substantiated complaints relating to the Curateur public also fell, from 24% to 17%, but those relating to the Ministère de l'Emploi et de la Solidarité sociale increased, from 9% to 15%.

More than 50% of the substantiated complaints relating to the services of the Curateur public were concerned with the time taken to respond to the needs of wards, such as organizing various aspects of the everyday lives of incapacitated incarcerated individuals, and preparing care plans and release plans.

Delays in processing benefit applications accounted for 44% of all substantiated complaints relating to the Ministère de l'Emploi et de la Solidarité sociale, while 51% of substantiated complaints relating to its social solidarity mission were concerned with delays in paying amounts granted via last-resort financial assistance programs, payment interruptions, refusals to pay, and payment of insufficient amounts.

INDEXATION OF SOCIAL ASSISTANCE BENEFITS

COLLECTIVE
GAIN

The Québec Ombudsman salutes the Government's decision to index all social assistance benefits as from January 1, 2009; these benefits had not been fully indexed since 2005. The Québec Ombudsman recommended this measure in its last report, pointing out that the cost of many essential services such as rent, electricity and transportation had risen, eroding the purchasing power of those people whose quality of life was already at the bare minimum. The Government has invested a total of \$66 million in this measure, which will benefit 332,000 families and represents a significant collective gain.

Curateur public du Québec

In 2007-2008, the Québec Ombudsman made three recommendations to the Curateur public. The following paragraphs present the results obtained in the last year.

EXCHANGES OF INFORMATION BETWEEN THE CURATEUR PUBLIC AND THE MINISTÈRE DE LA SÉCURITÉ PUBLIQUE

Following a number of complaints received from incarcerated incapacitated individuals, it became clear that the Curateur public may often be unaware that a person it represents has been placed in detention. Deficiencies such as these in exchanges of information between the Ministère de la Sécurité publique (MSP) and the Curateur public prevent the Curateur public from acting in the interests of these people, since it has no knowledge of their situation. The impacts of this are also felt when the people concerned leave the detention centre and find themselves alone, homeless or without the psychological and social support they need.

In 2007-2008, the Québec Ombudsman recommended that the Ministère de la Sécurité publique and the Curateur public introduce information exchange measures to ensure that the Curateur public is notified immediately when a person under its supervision is kept or held in a detention centre, and that it is consulted where necessary. This recommendation has been applied. An information exchange measure has been prepared, and is expected to be implemented in the summer of 2009. In addition, it has been agreed that individuals will be asked about the existence of a protective supervision program when they are admitted to a detention centre. In the event that they are subject to such a program, a note to that effect will be placed in their file and the Curateur public will be immediately notified that the person has been detained. The Québec Ombudsman will monitor the implementation and application of this measure.

LIMITING DELAYS IN LAUNCHING PROTECTIVE SUPERVISION PROGRAMS

It is up to the Curateur public to begin court proceedings where necessary, following a request from a health and social service network representative to open a protective supervision program. It estimates the average time required to obtain the necessary court ruling at 265 days.

In addition to the legal process, an average period of 111 days is required to complete the different steps of the process between receipt of the request and submission of a recommendation to the court. These steps include summary analysis of the file, assignment of the file to an agent, obtaining a mandate in case of incapacity, making contact with health network personnel and relatives, visiting the person and making a recommendation.

The legal process is also divided into several different steps that can take up to 154 days in all, as follows:

- the 30-day period stipulated in the Code of Civil Procedure, to allow an individual to request a protective supervision program;
- the 12-day period between the end of the 30-day period and filing of the application by the bailiff;
- the nine-day period for notification by the bailiff and submission of the process to the court clerk;
- the 103-day period between filing of the application and receipt by the Curateur public of the judgement in favour of protective supervision.

In its 2007-2008 report, the Québec Ombudsman asked the Curateur public to introduce measures aimed at minimizing the time taken to open protective supervision.

Based on the Québec Ombudsman's observations, the Curateur public adopted a plan of action composed of five major measures designed to reduce delays. These measures ensure that incomplete reports from institutions are identified quickly and returned for corrections or additional information, and that the health and social services network is aware of the importance of providing full information.

Although the Curateur public is dependent on collaboration from the health and social services network, one of its four regional offices has almost been able to achieve the 90-day standard for the processing of a report, and two other offices have made substantial progress towards this goal. The situation in the other regional office is being strictly monitored. The Curateur public believes the steps it has taken to reduce processing times should produce results in the coming months.

As a result of the steps taken following the Québec Ombudsman's recommendation in July 2008, there have been a number of returned files and incomplete reports. The Curateur public has approached the health and social services network and the Ministère de la Justice to raise awareness of the impacts of their responsibilities in cases where individuals are deemed to be incapacitated.

RECOMMENDATION

Whereas the Curateur public has taken steps to reduce processing times for the opening of protective supervision;

Whereas the Curateur public's initial analysis covered a period of time that is too short for it to be able to judge the results obtained;

Whereas, in addition to its interventions with the health and social services network, the Curateur public also approached the Ministère de la Justice in the winter of 2009, to examine the causes of the delays and find solutions;

Whereas the measures introduced by the Curateur public have begun to produce results and the Québec Ombudsman will be monitoring the situation in the coming year;

The Québec Ombudsman recommends that the Curateur public present a review of the measures it has introduced, and that it submit a report on its analysis of the results obtained as a result of the steps taken by other bodies.

COMMENTS FROM THE CURATEUR PUBLIC

The Public Curator herself made the following comments:

“The Curateur public undertakes to inform the Québec Ombudsman, by the end of 2009, of the results obtained from the measures it has introduced to reduce its own processing times.”

CONSENT FOR CARE FOR INCAPACITATED INDIVIDUALS

Over the years, the Curateur public has worked hard to ensure that health institutions submit consent for care requests on behalf of incapacitated individuals. Last year, the Québec Ombudsman was concerned about the impacts of its efforts, and recommended that the Curateur public measure the results to ensure that its message had been properly understood by health and social services network personnel. As a result, the Curateur public took the following steps:

- Consultation of the medical records of people for whom requests for consent are received;
- Reporting of cases where consent was required but not requested;
- Interventions with negligent institutions;
- Awareness activities for health and social services network personnel to ensure that requests for consent are submitted.

The Québec Ombudsman and the Curateur public also agreed on the need to remind the latter's personnel about the importance of consent for care requests. These people have a role to play in identifying cases for which consent was required but not given, and avoiding any repetition of the situation.

Lastly, the Québec Ombudsman, upon reviewing a file, noted that the consent for care form was incomplete, and as a result the Curateur public could not know if all the steps in the consent process had been taken by the network personnel. In this particular case, exchanges of information between a health professional and a relative of the incapacitated person had been summarized in a single word. The Curateur public said it was concerned about deficiencies such as this, and undertook to obtain the missing information from the health professionals concerned.

RECOMMENDATION

Whereas although the Curateur public has undertaken to assess the results of its effort to ensure that health and social services institutions submit consent for care requests;

Whereas the results of this assessment are not yet known;

The Québec Ombudsman recommends that the Curateur public complete its assessment of the results in the near future, and submit a profile of the situation no later than June 2009.

COMMENTS FROM THE CURATEUR PUBLIC

The Public Curator herself made the following comments:

"The Curateur public has completed its analysis and will report to the Québec Ombudsman on its conclusions by June 2009."

Understanding its clientele

For the last ten years, the Québec Ombudsman has reminded the Curateur public of the importance of understanding its clientele. One of the methods proposed was to visit all wards at least once a year. The Curateur public responded by saying that this was impossible, given the very heavy workload of its personnel, and it decided to give priority to visiting wards living in their homes – in other words, approximately 1,200 individuals, or 10% of its adult wards.

Last year, however, the Québec Ombudsman drew the Curateur public's attention to the large number of incapacitated people living in their homes who had not been visited by their appointed curator. The situation improved in 2007-2008, but barely; the percentage of wards visited in their homes rose by just 3%, from 80% to 83%, despite an increase of 8% per year in the total number of wards over the last three years.

The Curateur public did, however, increase the number of visits to people living in residential facilities (90% of its wards), from 67% in 2006-2007 to 78% in 2007-2008.

The Curateur public estimates that more than 10,000 people will have been visited by the end of 2008-2009, for a total of more than 11,000 visits in all, compared to 9,736 in the previous year. Here again, the Curateur public notes that a number of factors will prevent it from achieving the goal of visiting 100% of its wards every year.

The Curateur public also points out that visits to wards are only one of the methods available to obtain information on its wards, their living environment and their needs.

RECOMMENDATIONS

Whereas the Curateur public states that it has introduced methods to help it understand its clientele and respond satisfactorily, and with a reasonable time, to their needs;

Whereas the Curateur public set itself the goal of visiting all wards living in their homes, but has still not achieved that goal;

Whereas the number of people to be visited continues to increase;

Whereas the Curateur public and the Québec Ombudsman meet periodically to review the follow-up to the Québec Ombudsman's recommendations;

The Québec Ombudsman recommends that, at one of the regular meetings between now and January 2010, the Curateur public submit a review of the steps taken to understand its clientele.

Reassessment of protective programs

The Québec Ombudsman recommended that the Curateur public should seek out and record the opinion of the incapacitated person concerned when reassessing his or her protective supervision program. The Curateur public's 2007-2008 operating plan provided for an upgrading of the protective program reassessment process, to be completed by December 31, 2008.

Unfortunately, however, the Curateur public has not met its own deadline for this task. As a result, a working group was set up to review every step in the reassessment process, examine the causes of delays and identify the problems encountered at each stage. According to the group's initial findings, the delays appear to be due among other things to deficiencies in the computer system, a lack of appropriate monitoring mechanisms and poor circulation of information within the Curateur public.

The Curateur public has completed the work required to implement its action plan for corrections to the protective program review process. These corrections will make the process more functional and bring it into line with the timeframes stipulated by law, i.e. three years for tutorships and five years for curatorships.

RECOMMENDATION

Whereas the Curateur public intends to introduce remedial measures to ensure that its process is functional and complies with the deadlines set by law;

Whereas it intends to implement a plan of action beginning in May 2009;

The Québec Ombudsman recommends that the Curateur public report to it by May 2010 on the implementation of its plan of action.

COMMENTS FROM THE CURATEUR PUBLIC

The Public Curator herself made the following comments:

"The Curateur public intends to report to the Québec Ombudsman on the results of its actions in May 2010."

Appointment of a tutor or curator by the Société de l'assurance automobile du Québec

The Québec Ombudsman was concerned by the possibility that an administrator appointed by the Société de l'assurance automobile du Québec to manage amounts of money owing to a minor or incapacitated person might not be subject to the same level of supervision by the Curateur public. As a result, the Curateur public set certain guidelines and informed the SAAQ of its position in 2007. However, the requested agreement has still not been made official and the work of the joint committee was suspended in June 2008, at the SAAQ's request, on the grounds that it was undergoing an administrative reorganization. The Québec Ombudsman is concerned that the Curateur public should have accepted such an excuse. It therefore asks the Curateur public to resume talks with the Société de l'assurance automobile du Québec as soon as possible, and to submit a report to the Québec Ombudsman by June 2009 on the results obtained.

Transmission of annual reports to persons represented by a private tutor or curator

The Québec Ombudsman recommended that the Curateur public's annual management reports be sent to persons represented by a private tutor or curator. To do this, the directive on access to and protection of documents and information held by the Curateur public had to be amended to specify the circumstances in which the Curateur public can transmit annual management reports to persons represented by a private tutor or curator. Two years later, the Curateur public finally produced the necessary directive and prepared a distribution plan for all its personnel, which it hopes to implement in the spring of 2009. The Québec Ombudsman is concerned about the two-year delay in producing these documents, and asks the Curateur public to provide it with copies this year, by the agreed-upon deadline.

Overseeing instances of private supervision

The Québec Ombudsman asked the Curateur public to strengthen its role as a provider of information and assistance for private tutors and curators, and to improve its supervision so as to be able to act more quickly in cases of actual or potential abuse. The Curateur public admits that its action plan has not yet been fully implemented.

During the year, the Curateur public conducted a survey of more than three hundred private tutors to identify their problems, needs and expectations with regard to the Curateur public. The survey's findings, which will be analyzed in the spring of 2009, will be used to improve the training and support available to tutors. Two policies are also being prepared, one on the protection of adults and the other on the assets of minor persons. The Curateur public believes both these policies will be completed in 2009, and will be implemented gradually in 2009 and 2010.

The Curateur public also intends to prepare an action plan for 2009-2010, which will include roughly a dozen projects designed to improve its supervision of private tutors and curators. The Québec Ombudsman will examine this plan and monitor its application.

Final report and accounting

At the end of its curatorship, the Curateur public must present a final report and account for its management of the person's assets. In processing the complaints received, the Québec Ombudsman noted that, while the documents provided by the Curateur public comply with the law and with current accounting rules, they can be difficult for ordinary people to understand. They contain many columns of figures, but no explanation.

The Curateur public includes very little information in its documents, and citizens are left to their own devices when deciphering them.

The Québec Ombudsman notes that the Curateur public complies with both the law and current accounting rules. In practice, it sends explanatory letters to people who obtain a release, or to their successors where necessary, asking them to contact it if they have questions, which many do. It provides the name and telephone number of the employee concerned. The Curateur public notes that it rarely receives comments on the presentation of its documents, even though the Québec Ombudsman intervenes regularly in this respect.

RECOMMENDATIONS

Whereas the Curateur public, at the end of its curatorship for a ward, must submit a final report and account for its management of that person's assets;

Whereas the Québec Ombudsman notes that these documents are difficult for ordinary people to understand;

Whereas the Curateur public believes these documents comply with current legislative and regulatory requirements and with accounting rules;

The Québec Ombudsman recommends:

That the Curateur public produce explanatory documents with a generalized version of its final report and accounts, based on the principles set out in the Act respecting administrative justice, and that it submit these documents to it by January 2010.

Ministère de l'Emploi et de la Solidarité sociale

EMPLOYMENT

RETURN TO WORK SUPPLEMENT

New flexibility

The Ministère de l'Emploi et de la Solidarité sociale (MESS) pays \$500 for the first month of employment to support and encourage financial assistance recipients who join or return to the job market. The eligibility conditions are very strict, however, and vary from one region to the next. The Québec Ombudsman has intervened on several occasions with regard to these criteria.

COLLECTIVE
GAIN

Because the public is not generally aware of this measure, many do not meet the 30-day deadline for applications. In 2007-2008, a number of other obstacles were also identified, including inequality between the regions, the requirement that employment be for 14 to 18 consecutive weeks, and the fact that employment cannot result from extension of an existing contract. In its 2007-2008 Annual Report, the Québec Ombudsman recommended that the MESS should review all the eligibility criteria for this measure. The MESS agreed to do this, and amendments were introduced in March 2009. The deadline for applications is now 45 days, and a more flexible approach has been taken to the other criteria.

CALCULATING EARNED INCOME

The Government introduced the Québec Parental Insurance Plan in January 2006. The Plan provides for the payment of benefits to all salaried and self-employed workers who take maternity leave, paternity leave, parental leave or adoption leave.

A number of problems surfaced when the Plan first came into force, many of them related to the calculation of benefits. For example, some women with high-risk pregnancies must stop working and rely on the income insurance plan included in their employment contract. Under the parental insurance regulations, income replacement indemnities paid by an employer constitute insurable income. The level of income from which parental insurance benefits are calculated is therefore reduced. In the Québec Ombudsman's view, however, benefits should be calculated on the basis of the income that would normally be earned by the person during the reference period.

In March 2007, the Ministère de l'Emploi et de la Solidarité sociale informed the Québec Ombudsman that a committee had been set up to study the general problem of lower income during the reference period.

In a letter sent to the Minister of Employment and Social Solidarity in September 2008, the Ombudsperson reiterated its recommendation that the rules be changed so that parental benefits are calculated on the basis of the income earned rather than the income replacement indemnity.

In February 2009, the MESS authorities informed the Québec Ombudsman that the current regulations, although they may appear to be unfair in certain cases, may nevertheless be advantageous to other people. For example, a parent who worked for only a few weeks before obtaining salary insurance may be eligible if he or she has accumulated enough months.

The Québec Ombudsman acknowledges that this will be the case for a small number of people in exceptional circumstances. For most people, however, it believes the income calculation problem has not yet been solved.

SOCIAL SOLIDARITY

THE DUPLESSIS ORPHANS: THE QUÉBEC OMBUDSMAN OBTAINS AN ADDITIONAL PERIOD FOR COMPENSATION REQUESTS

The Government introduced the National Reconciliation Program for Duplessis Orphans in 2001, as a means of compensating the prejudice suffered by orphans placed in psychiatric institutions between 1935 and the 1960s on the basis of false diagnoses of mental disease.

Initially, the Program was intended only for those orphans who had been placed in psychiatric institutions. Subsequently, however, the Government extended the reconciliation to include orphans who were placed in non-psychiatric institutions. This latter group had to submit their applications for compensation to the Ministère de l'Emploi et de la Solidarité sociale between April 10 and August 10, 2007.

COLLECTIVE GAIN

In 2008, the Québec Ombudsman received a number of calls from people who were eligible but who, for a variety of reasons, had not applied for compensation within the time allowed. It organized a working session with the Ministère de l'Emploi et de la Solidarité sociale to obtain an extension. As a result, on November 5, 2008, an order-in-council was adopted, extending the period for applications to February 2, 2009. By the end of this additional period, the MESS had received 1,200 new applications. The Québec Ombudsman salutes the open approach taken by both the Government and the Minister of Employment and Social Solidarity in this matter.