



Legislative Assembly of Alberta

The 30th Legislature
Second Session

Standing Committee
on
Legislative Offices

Tuesday, February 23, 2021
9 a.m.

Transcript No. 30-2-5

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The 30th Legislature
Second Session**

Standing Committee on Legislative Offices

Schow, Joseph R., Cardston-Siksika (UCP), Chair
Sigurdson, R.J., Highwood (UCP) (UCP), Deputy Chair

Ceci, Joe, Calgary-Buffalo (NDP)
Horner, Nate S., Drumheller-Stettler (UCP)*
Lovely, Jacqueline, Camrose (UCP)
Loyola, Rod, Edmonton-Ellerslie (NDP)
Nixon, Jeremy P., Calgary-Klein (UCP)
Rutherford, Brad, Leduc-Beaumont (UCP)
Shepherd, David, Edmonton-City Centre (NDP)
Sweet, Heather, Edmonton-Manning (NDP)
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Jill Clayton	Information and Privacy Commissioner
Del Graff	Child and Youth Advocate
Glen Resler	Chief Electoral Officer, Election Commissioner
Marianne Ryan	Ombudsman, Public Interest Commissioner
Marguerite Trussler, QC	Ethics Commissioner
W. Doug Wylie	Auditor General

Office of the Ombudsman Participant

Rodney Fong	General Counsel
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9 a.m. Tuesday, February 23, 2021

[Mr. Schow in the chair]

The Chair: Good morning, everyone. I'd like to call this meeting of the Standing Committee on Legislative Offices to order and welcome everyone in attendance and joining us virtually.

My name is Joseph Schow. I'm the MLA for Cardston-Siksika, and I'm chair of this committee. I'd ask that members on the committee joining us at the table introduce themselves first for the record, and then we'll go to those joining us remotely. We'll begin to my right.

Mr. Sigurdson: R.J. Sigurdson, MLA, Highwood.

Ms Lovely: Jackie Lovely, Camrose constituency.

Mr. Shepherd: David Shepherd, MLA for Edmonton-City Centre.

Member Loyola: Rod Loyola, Edmonton-Ellerslie.

Ms Cherkewich: Teri Cherkewich, Law Clerk.

Ms Dean: Shannon Dean, Clerk.

Mr. Roth: Good morning. Aaron Roth, committee clerk.

The Chair: Thank you.

We'll now go to those on the phone.

Mr. Rutherford: Brad Rutherford, Leduc-Beaumont.

Member Ceci: Joe Ceci, Calgary-Buffalo.

Ms Sweet: MLA Heather Sweet, Edmonton-Manning.

Mr. van Dijken: Glenn van Dijken, the MLA for Athabasca-Barrhead-Westlock. Good morning.

Mr. Walker: Good morning. Jordan Walker, MLA, Sherwood Park.

The Chair: And substituting for Mr. Nixon is Mr. Horner.

Mr. Horner: Good morning. Nate Horner, MLA, Drumheller-Stettler.

The Chair: Excellent. Thank you, everyone.

A few housekeeping items to address before we turn to the business at hand. Pursuant to the November 16, 2020, memo from the hon. Speaker Cooper I would remind everyone that members are encouraged to participate in meetings remotely when possible and that committee room protocols require that outside of individuals with an exemption, those attending a meeting in person must wear a mask at all times unless they are speaking. Based on the recommendations from the chief medical officer of health regarding physical distancing, attendees at today's meeting are recommended to leave the appropriate distance between themselves and other participants.

Please note that the microphones are operated by *Hansard*. Committee proceedings are being live streamed on the Internet and broadcast on Alberta Assembly TV. Committee members are reminded to please have your camera on when you are speaking. Please set all cellphones and other devices to silent for the duration of the meeting.

Item 2 is the agenda. A draft agenda was distributed for consideration and comments. Does anyone have any issues to raise

or changes to propose to the agenda? Hearing none, can I get a member to move to adopt today's meeting agenda?

Ms Lovely: So moved.

The Chair: I see that Ms Lovely has moved that the February 23, 2021, meeting agenda of the Standing Committee on Legislative Offices be approved as circulated. All those in favour, please say aye. Just for housekeeping as well, when I call for a vote, whether you're in person or on video, just say aye. All those opposed, please say no. Okay. That motion has passed.

Item 3, adoption of meeting minutes. Are there any errors or omissions to note? Hearing none, can I please get a member to move the approval of the minutes as distributed?

Mr. Sigurdson: So moved.

The Chair: Mr. Sigurdson has moved that the minutes for the January 12, 2021, meeting of the Standing Committee on Legislative Offices be approved as distributed. All those in favour, please say aye. Any opposed, please say no.

We'll take a brief moment. What we're having is an issue where members in the committee room are voting, but those joining us by video are muted, so we actually can't hear their votes. Just a moment here while we sort this out.

Mr. Roth: Can I just confirm: can a member indicate if you're hearing me okay?

An Hon. Member: Yeah, we can hear you.

An Hon. Member: I can hear you just fine.

Mr. Roth: Thank you.

Ms Sweet: Mr. Chair, it's MLA Sweet.

The Chair: Yes.

Ms Sweet: It's just that I think part of it is that we're muted and then you call the vote, and we don't have time to unmute before you move on. So just probably give us an extra 30 seconds.

The Chair: Sure. That's a fair point. Based on the screen I'm looking at, we might be working with a different audio system than we had before. What I'll do, then, with that in mind, is that I'll go back to item 2 and call the vote on the agenda, to adopt the agenda, and then we'll call the meeting minutes again. I will give that time. Thank you, Ms Sweet, for pointing that out.

All those opposed to the motion moved by Ms Lovely to adopt today's agenda, please say aye.

Member Ceci: Did you say opposed?

The Chair: No, no. Did I say opposed?

Mr. Horner: You said opposed.

The Chair: I apologize. All those in favour to adopt the motion moved by Ms Lovely, please say aye. Okay. That motion is adopted.

Member Ceci: Any opposed now.

The Chair: Any opposed? Hearing none, that motion is carried.

Item 3, adoption of the meeting minutes, a motion moved by Mr. Sigurdson. All those in favour, please say aye. Any opposed, please say no. Well, look at that; that motion is carried.

Okay. We are now on item 4, proposed legislative amendments to the Ombudsman Act. As committee members are aware, we received a letter from the Ombudsman dated January 15, 2021, in which she outlines potential areas for modernization of the Ombudsman Act. The commissioner and her colleagues from the office of the Ombudsman have joined us today to provide a more detailed presentation regarding the changes they would like to see to the act.

Before we proceed, I would like to ensure that all committee members are aware of what the role is when it comes to requests like this, what role we play. First of all, there are precedents for this committee to receive requests of this nature from the various officers, but it is not a frequent occurrence. In fact, the last time this committee dealt with a request for legislative changes from an officer was in 2014. When we do receive requests of this nature, it is the role of the committee to invite the officer to provide additional information regarding the proposed changes and then transmit these proposals to the responsible minister for consideration. In this case it is the Minister of Justice and Solicitor General who has responsibility for the Ombudsman Act. In the past this committee has also chosen to send the *Hansard* transcript of the meeting at which the proposal was discussed along to the minister.

Does anybody have any questions regarding the role of this committee as it relates to proposed legislative changes put forward by any officer?

Okay. Hearing none, we'll now move on to item 4(b), which is the presentation from the office of the Ombudsman, and I am pleased to turn the floor over to Commissioner Ryan and her colleagues Peter Sherstan and Rodney Fong. I've been advised that your presentation should take roughly 10 minutes, and it is augmented by slides that were distributed to the committee members last week. Once the presentation is completed, I will open the floor to questions from committee members. You can proceed when you are ready.

Ms Ryan: Thank you, Mr. Chair, and thank you to all the committee members for giving us the opportunity to speak to you today about proposed amendments to the Ombudsman Act. I'm joined here today by Peter Sherstan, who is our Deputy Ombudsman, and Rodney Fong, who is our general counsel for our office. We have provided for your ease of reference a PowerPoint handout, which I will be referring to in my presentation. I am aiming at approximately 10 minutes for my presentation, and then we would be pleased to answer any questions that you may have.

But as a brief refresher, we conduct thorough, impartial, and independent investigations of complaints from Albertans who feel they may have been treated unfairly in the decision-making process of an administrative body that falls within our jurisdiction. Once we determine that a complaint falls within our jurisdiction to investigate, we look for fair resolutions and make recommendations to improve administrative processes. It's important to point out that Alberta was the first province in Canada to see the need for an office of the Ombudsman, and while there have been some incidental amendments to the Ombudsman Act, a meaningful review has not taken place since my office was created in 1967. Government institutions have evolved. Correspondingly, ombudsman practice has evolved, and the Ombudsman Act requires revision to match modern practice.

9:10

I'd like to express our appreciation at the outset for the opportunity to present to you today our request for your support of some key amendments to the act. Ideally, a full review of the legislation would be preferable, but we believe the most practical way to achieve this is by an amendment allowing for periodic reviews, with the first

review taking place in a relatively short period of time. The key amendments we are seeking can be viewed as more housekeeping amendments, which will significantly assist our work going forward. Today I will be speaking to four key amendments we are seeking. For each of these amendments I will briefly explain the issue, and while I recognize the final wording will be written by people who specialize in this work, I have also proposed some suggested language for how the amendment could be written into the legislation.

Turning to the second slide, to ensure that the legislation can continue to be current and relevant, our first recommendation is that there is an amendment to include a process to allow for periodic legislative reviews. We are proposing that these reviews take place every 10 years, with the first review to take place within one year of this amendment being passed. Incidental amendments have been made over time as a result of changes to other legislation, but the entirety of the act has not undergone a full formal review. A review would ensure that legislation captures these changes and enables the office to provide the most efficient and effective services to Albertans.

Moving to the next slide on page 3, the second area where we are recommending an amendment involves a process which we implemented over the last few years, where we now start all investigations with something we refer to as early resolution. Essentially, early resolution is an effort to front-end load our response to complainants by analyzing whether the complaint can be resolved informally or if there is a need to conduct a full investigation. In the past the standard practice was to conduct full investigations, which can take a year or more to conclude, and what we have continued to find is that through an investigative team approach and introducing early resolution in all cases, our success at resolving complaints in a relatively short time frame remains at a high level. For example, last year we reported to this committee that we'd closed 95 per cent of our total investigations within three months through early resolution. We've also received very positive feedback from complainants and the authorities we engage with respect to the timeliness and mutually acceptable resolutions achieved.

As I mentioned, our act was introduced in 1967, and the drafters of the legislation could not have anticipated modern concepts of early resolution and dispute resolution. It was basically: don't investigate or full steam ahead. I and a few of my predecessors have interpreted our act to allow for the creation of early resolution processes. However, the legislation is not black and white in this regard, and we've understandably received some push-back from some authorities. An amendment giving the Ombudsman the ability to control investigative processes through policy would allow me and my successors to ensure processes continue to be effective. We are seeking the ability to amend policies over time as the investigative processes evolve. I provided examples of success stories related to early resolution when I met with this committee last December and could provide more examples should any of you wish.

On page 4 our third recommendation for amendment involves obtaining clarification of our jurisdiction over municipalities. The act was amended in 2018 and expanded our jurisdiction to include municipalities. However, the amendment simply added the word "municipality" to the list of authorities my office oversees. The act clearly sets out which provincially related bodies we have jurisdiction over, and consequently we have assumed jurisdiction over municipally related bodies that have similar counterparts in the provincial government.

However, some municipally related bodies, including municipal assessment review boards and subdivision development appeal boards, have made legal arguments as to why we do not have jurisdiction. I believe that the questions of jurisdiction may be

resolved in one of two ways, through costly intervention of the courts or through clearly worded legislation. We prefer the latter. The amendment we are seeking in this area calls for the creation of a regulation that clearly defines our jurisdiction as it relates to these municipally related bodies.

For our final proposed amendment, on page 5, we are recommending that the act be amended to reflect modern data retention practices. Our current legislation states, “After 6 years have elapsed from the date on which it is closed . . . any other file made by the Ombudsman relating to a complaint or investigation under this Act may, after it is microfilmed, be destroyed and the microfilm stored in the Provincial Archives.” What this means is that currently the legislation requires my office to keep the files of investigations forever. The act states that paper files may only be destroyed if they have been microfilmed and stored in the Provincial Archives. It is simply impractical to keep paper documents for six years and then microfilm the documents at that point, a process that is no longer commonly used. Our proposal is to remove section 30 entirely from the act as this speaks to storage and access to files and microfilm. We are recommending that provisions of the Ombudsman Act relating to data retention mirror provisions in the whistle-blower act and other legislation to allow for more modern and flexible standards of record keeping.

To conclude, we believe that these proposed amendments to the Ombudsman Act would not only ensure that the needs of Albertans continue to be met but would assist in modernizing the legislation and making my office more efficient.

I’d like to take this opportunity to thank the chair and members of the standing committee again for your time and consideration of the information I have shared here today. At this time we will be pleased to answer any questions that you may have.

Thank you.

The Chair: Thank you very much, Commissioner Ryan. It’s always a pleasure to have you with us. I appreciate your time today.

Having reviewed the information provided by the office of the Ombudsman, does anyone have any thoughts regarding transmitting the proposal to the minister?

Mr. Shepherd: Just one question, Mr. Chair. Do we have the opportunity to ask questions of the Ombudsman at this time, or are we going directly to . . .

The Chair: Yes, this is the time. I know that there are proposed potential motions, but I’d like to know if there are any questions for the officer at this time. If there are, we’ll go to those questions now. Did you have a question, Mr. Shepherd?

Mr. Shepherd: I did if I could. Thank you, Mr. Chair. Thank you, Commissioner. It’s a pleasure to see you again, as it were, albeit virtually. I’m just wondering. In regard to municipalities, from what I heard you saying, it hasn’t necessarily been that there have been challenges or conflicts with, say, the municipal ombudspersons, which we know do exist for some of the larger centres, but specifically smaller bodies under the purview of municipal governments where there have been some questions of a challenge of authority. Is that correct?

Ms Ryan: That’s correct. Basically, what we’re looking for is, you know, a better definition or a more expansive definition of what is included under our jurisdiction for municipalities. For example, when we receive a complaint about a decision made by a subdivision appeal board, we would like to know if we have jurisdiction to look into that complaint. Right now it’s a bit of a grey area.

Mr. Shepherd: May I, Mr. Chair?

The Chair: Yeah. Just as a point of housekeeping what I’ll say is that we’ll do a question and a brief follow-up. I don’t have a timer going for questions, so if we just keep them relatively succinct and brief.

Mr. Shepherd: Of course. Thank you, Chair.

The Chair: Yes. Please go ahead with your supplemental.

Mr. Shepherd: Thank you. Just in follow-up to that, Commissioner, in that case, then, is this a situation where they have gone to that subdivision board, they have not received a ruling they liked, and have they then gone to the municipal ombudsperson, not gotten a decision they liked, and then are coming to you? Or is it that they are circumventing the municipal process and going directly to the provincial?

9:20

Ms Ryan: No. In all cases where there is an opportunity to take a matter to a higher level of appeal, we will insist that that option or that process be adhered to. We also talk about ourselves as the place of last resort, so it’s only after they’ve gone through all levels of appeal, whatever approach that is, whether it’s a tribunal or some type of a mechanism to elevate that complaint, as long as all of those options have been exhausted, then we will take a look at it. So it’s not a question of anyone circumventing. It’s just: you know, when it does come to us after all those avenues of appeal have been looked at, is this something that we can look at? You’re right. It is more for the smaller municipalities, not necessarily the larger municipalities.

The Chair: Thank you.

We now have Ms Lovely.

Ms Lovely: Thank you, Mr. Chair. Commissioner Ryan, thank you for your presentation. You mentioned in your letter that your office has taken strides by introducing an early resolution process. Could you explain this process and what it has done for your office and its investigations?

Ms Ryan: Certainly, and thank you for the question. Early resolution has been a very important process for us because in the past, as I mentioned, when we received a complaint, usually if it was at a certain level of complexity, we would open what we call a full investigation. That would require a letter going to the applicable minister. It would usually involve us doing a scrub down of policy, any type of processes, and really taking a good look at the issue, and that would take a significant amount of time. Through early resolution – we talk about it being a more informal process, where before we send a letter to the minister or before we engage in any of those processes where we call for a look at policies or documents, we will see: is there an easier way to look at this? It may be a quick fix if I could use that. For example, we had a case where someone was assessed a trespass notice, and they were very upset with the trespass notice because it was barring them from going to a recreational facility. They came to us, and we thought, you know, if the municipality had just explained a bit more the details of why this person was prevented and why this person was issued the trespass notice, that may resolve the issue. Sure enough, that’s what happened. The municipality provided a full explanation as to what led to the decision to issue this trespass notice, they amended their policies, and that was it.

The problem for us is that we have, essentially, stretched the definition of investigation because the act talks about investigation. The investigation is the trigger for us to basically enact a lot of our processes. Are we investigating when we engage in early resolution? I like to think so. I like to think it's the front-end piece of an investigation, but technically the act doesn't really speak to that. We've interpreted it that we are investigating, but it's more of an informal process. So what we would like is for the act to provide some clarity, which would allow us to engage in early resolution and allow us to adopt any of the processes that the act speaks to if we need to. Early resolution, as I mentioned, has really expedited our work. We've become much more efficient. Complainants are much happier because now they can get a relatively quick resolution to their matter. The authorities in our jurisdiction are also very happy because it doesn't involve continual engagement, a lot of back and forth, or a lot of bureaucratic processes. So we see early resolution as the way to go if we can.

Again, as I mentioned, some matters are very complex, and in those cases we do have to open a full investigation. But where possible we'd like to go to early resolution. We'd like to have the act provide some clarity, which would cover us to officially engage in early resolution.

The Chair: Thank you.

Anyone from the opposition side?

Ms Lovely: I have a follow-up, or do you just want us to go back and forth?

The Chair: Oh, no, no. We did supplementals. I apologize. I jumped the gun. We'll go to Mr. Shepherd after a brief supplemental.

Ms Lovely: Thank you, Mr. Chair, and thank you, Commissioner. Can you describe the challenges of interpreting the act when developing the early resolution process?

Ms Ryan: Yeah. The challenge is, as I mentioned, that the act just speaks to investigation. They use the word "investigation" throughout the act. Again, you know, that allows us to obtain documents. When we open an investigation, I'm required to send a letter to the minister, but nothing speaks to early resolution, which some may argue is not really an investigation. It is something outside of an investigation. I have interpreted it that it's the early stages of an investigation. Again, by providing clarity in the act to incorporate processes like early resolution or dispute resolution, we feel that that will serve complainants, the authorities, and all Albertans better.

The Chair: Thank you.

I'll now go to Mr. Shepherd for a question and follow-up.

Mr. Shepherd: Thank you, Mr. Chair. Commissioner, I'm just wondering. In regard to the changes that you're recommending, to call for a review every 10 years, with the first review being one year after the amendments are passed, along those lines I'm just wondering if you're recommending that it be reviewed, obviously, because, as you said, it hasn't been since the '70s, or are there other changes that you're aware of right now that you feel should be made, or have you put forward everything that you think should be done right now and are simply looking, then, and saying that it would be good to do another review? Or is it just a question, I guess, that these are – perhaps contentious isn't necessarily the right word – the least complicated changes, and there are others that you have in mind that you feel should be considered as part of a larger process?

Ms Ryan: I think it's the latter, Mr. Shepherd. These are the most critical ones that we feel that, you know, we have received some push-back from the authorities on, and quite frankly we don't want to go to court to have to duke it out with respect to interpretation of the legislation. So these four we feel are the most important, and if there's a process which will allow us to at least get these four done, that would be great. However, you are correct. We do feel that a complete review of the act at some point would be appropriate. There's language that is a bit dated and not terribly practical. There are other areas that we feel should also be amended at some point, but these are the four that we feel will help us with our work most significantly.

Mr. Shepherd: Thank you.

The Chair: A follow-up?

Mr. Shepherd: I'm good. Thank you.

The Chair: Okay. We'll go to Mr. Walker.

Mr. Walker: Thank you, Chair, and thank you, Commissioner Ryan and all your colleagues, for your time and for the very important work you guys do. As for my question, could you explain the changes made to the act in 2017 that provided your office with the jurisdiction over administrative decisions of the municipalities? I know you were touching on this earlier. If you could please expound.

Thank you.

Ms Ryan: Right. That was more, I could say, of an incidental amendment. Those changes came about by the Minister of Municipal Affairs when there were changes made to the Municipal Government Act. When those changes in the Municipal Government Act were made, at that point we were added. We were given jurisdiction for administrative decisions in municipalities. Again, we weren't offered the opportunity to really look at our act and how this could impact it. Quite frankly, I don't think we were really sure how this would impact our work with respect to our jurisdiction and the legislation. Really, the only reference to municipalities in the act is in the definition section, and it just says that "municipality means a municipality or improvement district formed under the Municipal Government Act or a special area constituted under the Special Areas Act."

9:30

It doesn't speak to, you know, again, what our jurisdiction with respect to municipalities is, so we haven't applied the same level of jurisdiction that we have with municipal authorities just because the act does speak to that, to municipalities. However, we would, again, think it would be prudent to have clarity around: specifically, what areas of municipalities and those administrative decisions do we have jurisdiction over?

Mr. Walker: Thank you.

The Chair: And a follow-up if you have one, Mr. Walker.

Mr. Walker: Yes, Chair. Thank you. Staying on this point – and thank you for specifying where there is a lack of clarity, where we want to make things much more clear – in terms of regulations, Commissioner Ryan, what do you think could provide clarity to the act? Any example you're thinking of off the top of your head?

Thank you.

Ms Ryan: Yes. We had talked about making a regulation for one of our amendments, and it could include things like municipalities. A regulation would be easier for us to change or, you know, seek an amendment, something which will just allow us a bit more flexibility if we came across a situation that we haven't in the past where we are looking to provide an amendment. That's where we see that the definition of municipality could apply, in the creation of a regulation. At the present time there is no regulation for the Ombudsman Act, and we just feel that creating a regulation and giving us the opportunity to expand the definition and get some clarity around some of the jurisdictional issues would be very helpful, and it would be easier if there was a regulation created.

Mr. Walker: Thank you so much. I appreciate your thorough answers to my questions.

Chair, I'm finished with my questions. Thank you.

The Chair: Thank you, Mr. Walker.

We'll now go to Mr. Ceci on video.

Member Ceci: Thank you. Commissioner Ryan, I too am interested in exploring the whole issue of municipalities with you. It's the word "association" that's in a little bit of your explanation or how you think further information can – the regulation needs to be explored around association. I certainly get the administrative decisions and municipalities being subject to your office, the office, but I don't understand association because I view that as more of a voluntary participation of a municipality in a group of municipalities. It's like the Alberta Urban Municipalities Association or the rural municipalities association. Those are places you can voluntarily be a part of as a municipality, but you're not making decisions for your municipality at those associations.

I'm just wondering how you would put some boundaries or what associations perhaps you're thinking about at this point, or your office is thinking about at this point, and the boundaries you're going to put on that so it's not overstepping into other areas that aren't municipalities, that are very different than municipalities.

Ms Ryan: Well, that's a very good question, and it's a question that we continue to discuss even in our own offices. I will say that, you know, we're not looking for expanded jurisdiction. We just want to have clarity because we certainly know that all municipalities are very busy, and all offices, all the CAOs are very busy. The last thing they want is another bureaucratic process coming down on them, so we want to just really limit that.

As far as associations: I'm not aware of any cases that we've had where there's been a complaint about an association. I think we're really trying to stick, at the moment, to the clarity of the limited definition in the act that – just the administrative decisions of a municipality, for example, a complaint about a bylaw. A person makes a complaint, it gets elevated in the municipality, they still hold their decision, and then the complaint comes to us. We feel that that is something that we can look at, but as far as associations, I'm not sure. Again, clarity would be very helpful.

As I mentioned, where we're sort of running into a bit of – I wouldn't say push-back – healthy discussion with some municipalities is around, you know, things like subdivision . . .

Member Ceci: SDAB.

Ms Ryan: Yeah. You know, there are 352 municipalities. Every time someone wants to build something, they've got to obtain a permit from a municipality. If they want to build a shed in their backyard or there's a corporation that wants to subdivide a lot: there's a wide range of things in there, of possibilities. If someone

disagrees with the outcome of their application, they make the appeal to the subdivision appeal board. If they're still not happy, is that it? Does that end it? Again, that is the clarity that we're looking for. Do they take it to court, or where . . .

Member Ceci: I think that's what they usually do. But what would they complain to the Ombudsman about? The treatment of the staff in their case? Is that the kind . . .

Ms Ryan: Well, no. It could be things like that they weren't given the opportunity to make their case, or they weren't provided adequate reasons, you know. This doesn't happen, but, to simplify things, a simple "denied" on the application doesn't cut it in any form anymore. I mean, we don't see that, but if someone can provide fulsome reasons as to why that application was denied, what infringement it was causing – if it was a shed on someone's property, you're actually infringing on your neighbour's property – or something like that. It's all the same administrative guideline processes that we look at in any decision. It's nothing to do with people; it's more processes. Again, was there a policy in place which allowed them to make that decision, or did they just say, "This sounds good to us; let's do it"? There has to be some foundation to their decision.

Member Ceci: Yep. That's great.

Thank you, Mr. Chair.

The Chair: Yep. Thank you very much.

We'll now go to Mr. R.J. Sigurdson.

Mr. Sigurdson: Thank you, Chair, and thank you, Commissioner, for your presentation. You mentioned both in your report and in your presentation two things about the current legislation: one, that it requires your office to keep all files of the investigations in perpetuity unless they have been microfilmed and stored in the Provincial Archives and, two, that this requirement is contrary to best practices related to privacy considerations. I think you made mention in your presentation that it's about six years that you've got to hang on to them. Then you also mentioned section 30 to be removed completely. I'm just wondering if you can explain a little bit the contrast in these best practices and the act itself.

Ms Ryan: Certainly. Thank you for the question, Mr. Sigurdson. Yes, we are required to keep the files in paper for six years, but we still can't destroy them after that period. The act says that after six years they shall be microfilmed, so we have this big archaic machine in our office. On the slide that is actually a photo of the microfilm machine that we have in our office to convert the paper to microfilm. Even those files on microfilm are to be kept forever. I don't think that was, you know, ever really contemplated, the privacy issues around keeping files that long.

What we have looked at is my other area that I oversee, which is the public interest disclosure act. There is a section in there – it's section 44.1 – and that is the wording that we would prefer instead of section 30 of the Ombudsman Act, which, again, microfilm – like, we have people who are newer in our office. They don't even know what that is. We would prefer a recommendation that, similar to the public interest disclosure act and other legislation, says that on the recommendation of the commissioner the standing committee may make an order respecting the management of records in the custody or under the control of the office of the Ombudsman.

9:40

You know, again, that gives us an opportunity to destroy records after a certain period of time and not have to convert them and then

consequently send them over to the Provincial Archives. We have boxes and boxes and boxes of paper documents. It's just not practical or in keeping with, as I say, modern data retention practices.

The Chair: Do you have a follow-up, Mr. Sigurdson?

Mr. Sigurdson: Yes. Thank you, Chair. I guess this kind of leads into my next – if these records were to be modernized, can you comment on what kind of a retention period would be appropriate for these documents and how long you would recommend the office keep these documents on record? You mentioned the public interest disclosure act as something that you might want to mirror and also in your presentation even the whistle-blower act as well. Can you comment on what you think is an appropriate time period for this process?

Ms Ryan: Well, again, we would want to be congruent with other similar legislation. You know, if there was an opportunity to consult with the Privacy Commissioner, we would. I think I'm just going to refer to Mr. Fong, who's our general counsel, for his input on what would be the proper length of time. I would say a year, but I think I'm going to guess that. I'm going to ask him if he could provide some clarity on that.

Mr. Fong: Yes. Thank you, Ombudsman. The period of time that we'd be looking at would be – we haven't set a period of time, but it would be consistent with other legislation and other similar authorities. I believe that there is legislation governing other boards and agencies, where we would just simply align ourselves with them. If it was 50 years, then we would agree to a 50-year period. It's just that currently we're not allowed to destroy any of our records. We'd like to put at least some time frame on them or bring them into a current standing with what we do on the public interest disclosure side.

The Chair: Thank you very much.

Anyone from the opposition caucus? Anyone online?
Hearing none, we'll go then to Mr. van Dijken.

Mr. van Dijken: Good. Thank you, Chair, and thank you, Commissioner Ryan, for attending today. Thank you for the work that you do and also for bringing recommendations to the committee in how to move forward with your office.

I do have one concern with regard to the recommendation on effective investigative practices. You talk about in the past how all cases were required to do full investigation. Now, the recommendation is to evolve the investigative process to reflect modern practices. My concern would be: does the early resolution process that you're talking about here allow for ensuring the process is both an effective process and a thorough process? The question being: does the early resolution process have the potential to water down findings and recommendations? Quite often decisions in how to move forward in best practices are based on a lot of the information that we are able to acquire from full investigations. I guess my question would be: what mechanisms may be needed to be put in place to ensure that a full investigation will be utilized when deemed necessary?

Ms Ryan: That's an excellent question. Thank you, Mr. van Dijken. A lot of discussion takes place around: what is the best investigative road to go? We switched to a very team-oriented process when we went to a more active early resolution process. So it's not an individual or just a couple of individuals in the office making a decision as to whether there should be a full investigation. It is also

a process as to whether this can be pursued by early resolution or a full investigation. You know, management is involved.

I should add a couple of things. Sometimes we think that, you know, there may be a way to resolve this very quickly through early resolution. However, once we get into it and we start looking at the matter, those do evolve into a full investigation because they become more complex. We also take a read from the complainant. If the complainant feels, "No, that is not addressing my issue; you have come up with a resolution, but that's not going to assist me" and provides several reasons as to why they feel that that's not enough, then we will again take a look at whether we need to do a more fulsome investigation.

A couple of points, though, about – you mentioned: are we going to miss out on some best practices? It has happened where we have had several what we would call not complex complaints, but we've received many of them, and that may call for us to initiate what we call an own-motion, which is more of an option for me to look at a systemic problem. You know, we have 12 complaints, and any one of those complaints could have potentially maybe been resolved through early resolution, but when we get 12 or 20 or 50 with respect to the same matter, that gets elevated. Like I say, that appears to be more of a systemic issue. Then we would look at initiating possibly an own-motion, which is a higher level, in my opinion, than a full investigation.

The full investigation is still an avenue for us, again, to pursue the more complex cases, but we're always mindful of, you know, what is in the best interests of Albertans in terms of their complaints. What will address the matter through a recommendation that we can initiate fairly quickly and get the matter resolved fairly quickly and have both the complainant satisfied that their matter was addressed and also have the authorities that we deal with satisfied that we're not continually coming back to them for more and more improvements or more changes or a follow-up to our recommendations? It is a bit of a moving target as to when we would investigate, when we conduct a full investigation, but we're very mindful that, for the most part, we can be more efficient and effective if we look at a complaint from an early resolution at the outset.

The Chair: Okay. Thank you very much, Commissioner Ryan. I don't believe we have any more questions on our list. With that said, I want to thank you very much for your time, Commissioner Ryan. Thank you for your service as an officer of the Legislature and also for your many years of distinguished service for Alberta and Canada as a member of the RCMP. We will now go on, then, and you're welcome to stay on for the remainder of the meeting.

Mr. Walker: Chair, MLA Walker here. I would like to move a motion.

The Chair: Yeah, we'll get to that. I do believe that we do have some motions that were submitted to the committee prior. If you have a motion, Mr. Walker, you're welcome to do so so long as it was submitted to the committee 48 hours in advance. Is this one of the motions on record?

Mr. Walker: My understanding is yes, Chair.

The Chair: Okay. You're welcome to read it into the record.

Mr. Walker: Thank you very much. My motion is that the Standing Committee on Legislative Offices transmit the amendments to the Ombudsman Act proposed by the Ombudsman together with the transcript of the February 23, 2021, committee meeting to the Minister of Justice and Solicitor General for the consideration of amendments for introduction in the Assembly.

9:50

The Chair: Thank you for that.

Are there any comments or questions for Mr. Walker from either side to add to this motion?

Hearing none, I am prepared to call the question on this motion moved by Mr. Walker. Oh. Okay. I apologize. Yes. I should give a little more time again. New system.

Mr. Ceci, do you have a comment or question?

Member Ceci: Just to say that my motion is exactly the same, so I agree with this motion. The opposition caucus put in a similar motion. I think it reads exactly word to word. Good job, Mr. Walker.

Mr. Walker: Thank you.

The Chair: That's excellent. Excellent. Okay. All right. Well, it sounds like we have some consensus. All right. Well, I'm prepared to call the question on this motion moved by Mr. Walker. All those in favour of the motion, please say aye. Any opposed, please say no.

That motion is carried.

Thank you very much.

We'll now move on to item 5 of the agenda, officer contracts. I do think it is reasonable to anticipate this next agenda item may involve details of contracts for officers of the Legislature, so I would suggest to the committee, including Legislative Assembly Office committee support staff, that we consider moving in camera as is the precedent for this committee. Do I have anyone who would like to move that motion? Is that a question or to move a motion?

Mr. Shepherd: I will so move, Mr. Chair.

The Chair: All right. Mr. Shepherd has moved that the Standing Committee on Legislative Offices, including the Legislative Assembly Office support staff, move in camera. All those in favour of the motion to move in camera, please say aye. Any opposed, please say no.

That motion is carried.

We'll now move in camera.

[The committee met in camera from 9:52 a.m. to 10:06 a.m.]

The Chair: Thank you, everyone. We have now returned to the record.

Before moving to our next item of business, is there anything that committee members would like to bring forward regarding officer contracts for the agenda item? Mr. Shepherd.

Mr. Shepherd: Thank you, Mr. Chair. I would like to bring forward a motion to support the extension of the contract of the Child and Youth Advocate, Mr. Del Graff, to March 31, 2022.

The Chair: Okay. I have a draft motion here. Mr. Shepherd has moved that

the Standing Committee on Legislative Offices support the request from Mr. Del Graff to continue serving as Child and Youth Advocate until March 31, 2022, under section 3(2) of the Child and Youth Advocate Act.

Being that this motion was not submitted 48 hours in advance, we would first put it toward the committee as to

whether or not we will accept this motion, a substantive motion, from the floor.

All those in favour of accepting this motion, please say aye. Any opposed, please say no.

That motion is carried.

Okay. We're now on the main motion. Are there any comments or questions that anyone from the committee would like to add to this motion?

Mr. Shepherd: I'll just speak briefly, Mr. Chair, to note that I think we have all appreciated the work of Mr. Graff and feel that he has been exemplary in his role as the Child and Youth Advocate. Extending his contract will provide the opportunity for a smoother transition within his office and, of course, for them to continue to do the important work they're doing right now in the midst of this global pandemic, the COVID-19 health crisis. I think that this is a good move to support Mr. Graff in that request and to allow him to finish his mandate on a strong footing.

Thank you.

The Chair: Thank you, Mr. Shepherd.

Mr. Sigurdson.

Mr. Sigurdson: Thank you, Chair. Yes. I'd also agree with Mr. Shepherd in stating that I think it's really important that we support this motion to be able to extend this time period for a smoother transition. We also and myself personally appreciate all the amazing work that Mr. Del Graff has done in his position. I think it's incredibly important, the work he does every day. As I said, I think this is a good motion to have for him to be able to continue to do that incredibly important work that he does.

Thank you, Chair.

The Chair: Thank you.

Any further comments?

Okay. Hearing none, I am prepared to call the question on the motion moved by Mr. Shepherd. All those in favour of the motion, please say aye. Any opposed, please say no. Thank you.

That motion is carried.

Are there any other motions that anyone would like to bring forward at this time? I do have one draft motion I could potentially read into the record if anyone is interested in hearing it. It's that the Standing Committee on Legislative Offices recommend to the Government House Leader that a motion be introduced in the Assembly prior to the completion of the spring 2021 sitting to establish a select special committee to search for a candidate for the position of the Child and Youth Advocate.

Mr. Sigurdson: I'll move that motion.

The Chair: Mr. Sigurdson has moved that motion. Now, being again as this is a substantive motion not submitted in advance, we will first have to vote

whether or not to accept this motion.

All those in favour to accept the motion to be deliberated, please say aye. Any opposed, please say no.

That motion is carried.

We're now on the main motion. Are there any further comments to this motion?

Member Ceci: Yup.

The Chair: Mr. Ceci, please go ahead.

Member Ceci: I don't see it written. Maybe it is somewhere. Oh, there. It's coming up now. It says – here we go – the completion of the spring 2021 sitting. Okay. We've got that calendar out now. Does it say May or June? I can't remember. Anybody remember? Do you remember, Mr. Chairman?

The Chair: I believe it says May, Mr. Ceci.

Member Ceci: Okay. That's fine. Thanks.

The Chair: Okay. Any further comments or questions for this motion?

Hearing none, I'm prepared to call the question on the motion moved by Mr. Sigurdson. All those in favour of the motion, please say aye. Thank you. Any opposed, please say no. Okay.

That motion is carried.

Item 6. Are there any other items for discussion in other business?

Hearing none, the next meeting date will be at the call of the chair. We'll now move to adjournment. Can I get a member to move to adjourn this meeting?

Ms Lovely: So moved.

The Chair: Ms Lovely has moved that the meeting of the Standing Committee on Legislative Offices be adjourned. All those in favour, please say aye. Any opposed, please say no.

Thank you, everyone. This meeting is adjourned.

[The committee adjourned at 10:12 a.m.]

