

May 15, 2023

Honourable Robert Fowler
Review of Statutory Offices of the House of Assembly
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Dear Honourable Robert Fowler:

I write in response to your April 12, 2023, letter inviting me to provide a written submission addressing anything I believe “is pertinent to the review”. Your letter also notes that the review is “a review of the structure or administration of these offices as specifically set out in the Terms of Reference.”

While the Office of the Seniors' Advocate is a Statutory Office of the House of Assembly of Newfoundland and Labrador (HOA), reporting to the HOA on matters including structure, administration and accountability, this review is being conducted by the Government of Newfoundland and Labrador (government) through the use of consultants, namely yourself and staff. Therefore, it is to be understood that your terms of reference have been provided to you by government and the results of your work will be reported to government such that Cabinet, rather than the legislature, will be enabled to make decisions regarding the structure and administration of these independent Statutory Offices.

This extraordinary approach of government reviewing the operation of Statutory Offices, rather than the usual legislative review, or a review guided by the legislative branch, places these Offices in a position of vulnerability as we continue our roles of important public interest oversight of government throughout this review. None the less, I have continued to fulfill my statutory duties as the seniors of this province asked for this position to be created and deserve the dedicated support this position provides to improving their lives.

Contextually, it is also recognized that this review arose out of a conflict between two Statutory Offices that was largely related to the last provincial pandemic election. It appears that the Statutory Officers involved in that matter were placed in a very difficult position and fulfilled their duties in what became a highly publicized and unnecessary political situation. To my knowledge, there was never any dispute between any Statutory Officers prior to this situation.

As will be set out in more detail herein, it would be a disservice to seniors in this province if their voices are silenced or given less priority at a time when their population is growing and their need for advocacy is greater than any time in our history. This submission will highlight the necessity of maintaining an independent voice and advocate for seniors in a world where the most recent global pandemic highlighted the vulnerability seniors experience on a daily basis. Administrative efficiencies should not be gained on the backs of hard-working Newfoundlanders and Labradorians who have dedicated their lives to supporting our province. At a time when they need us most, we must be there for them, as they have always been there for us. In fact, given the first advocate was appointed in November 2017, and the intervening pandemic and associated restrictions, in my opinion it is premature to do a structural review of the Office of the Seniors' Advocate at this time as we have little objective evidence to demonstrate structure review is necessary or in the public interest for seniors.

It is important to note that per capita, Newfoundland and Labrador (NL) has the largest seniors' population in Canada, the fastest growing seniors' population, and the largest older seniors' population, the importance of this Office, and the Seniors' Advocate specifically, in being able to meaningfully fulfill its' advocacy and oversight mandate is critical. We represent 47.1% of the population of this province based on 2022 Statistics Canada census data.

Background

On December 13, 2016 government introduced the legislation to create the Office of the Seniors' Advocate. Then Premier Dwight Ball stated

During our Let's Connect initiative in 2014, and on many occasions since, seniors in our province have consistently, and strongly, expressed the need for an Office of the Seniors' Advocate. As a government, the challenges and opportunities resulting from our aging population must be considered as we evolve our policies, programs and services. The legislation introduced in the House of Assembly today delivers on our commitment and will strengthen support for seniors in our province. (News Release, 2016, para.2)

The news release of Dec 13, 2016, *Supporting Seniors in the Province* noted, "Once established, the Seniors' Advocate will collaborate with seniors, their families, caregivers, policy makers and frontline service providers to identify and address systemic issues facing seniors in the province." (News Release, 2016, para.1)

On December 13, 2016, "An Act Respecting the Senior's Advocate" (Bill 64) received second reading in the HOA. In introducing the Bill, the responsible Minister recognized the necessity of the Office.

Madam Speaker, I am very pleased today to speak to Bill 64, an act to establish an Office of the Seniors' Advocate. In Newfoundland and Labrador, almost 20 percent of our population is aged 65 years or older. Within 10 years that will increase to just short of one-third of the population. These are statistics we cannot ignore.

In it crucial to have an even stronger focus on seniors than what exists today. The challenges and opportunities resulting from our aging population must be considered when we develop policies, programs, and services. We have heard from seniors, seniors' organizations, and major stakeholders. They feel the establishment of a Seniors' Advocate Office is a necessity in our province. (Hansard, 2016, p.3945)

The Office of the Senior's Advocate arose out of a gap in our system – the absence of an independent voice for seniors in our province to advocate for the improvement of systemic issues. In introducing the Bill, the responsible member recognized this gap and the importance of it being addressed:

Mr. Speaker, we know there's a policy gap where we do not have an avenue to address systemic issues that impact seniors. The establishment of the Office of the Seniors' Advocate will address that. The government is fulfilling its commitment. We are addressing a demonstrated need. In times of fiscal restraint, the most vulnerable need a strong voice. (Hansard, 2016, p.3947).

The Office of the Seniors' Advocate was subsequently created through the **Seniors' Advocate Act** (2016) which came into force on July 5, 2017, and the first advocate was appointed November 2017. The Office is an independent Statutory Office of the HOA, therefore is not under the authority of any government department.

It is a Category 3 entity, as per the **Transparency and Accountability Act** (2004) so each year the Seniors' Advocate must report to the HOA on the exercise and performance of her/his powers and duties under the Act.

The Seniors' Advocate is appointed for a term of six years with the possibility of reappointment for a second term of six years. The Advocate is an Officer of the HOA and reports directly to the Legislature through the Speaker of the HOA. The Office has three permanent staff: two Systemic Advocacy Consultants and one Administrative Officer, who are all members of the Public Service of the Government of Newfoundland and Labrador.

The Office of the Seniors Advocate had an initial budget of \$500,000.00 per year when it was created. While it is anticipated that the budget will be conservatively increased in 2023-2024, it is notable that despite a significant increase in the number of seniors in the province since the Office's creation in 2016, the budget has remained relatively stagnant. A breakdown of the 2022-2023 budget appears below:

Salaries	\$ 386,400
Employee Benefits	5,700
Transportation and Communications	48,900
Supplies	5,000
Professional Services	9,000
Purchased Services	44,000
Property, Furnishings and Equipment	1,000
TOTAL	\$ 500,000

The Office is established to identify, analyze and address systemic issues impacting seniors. Systemic issues are those which are found within an overall system, rather than a specific or individual concern.

This Office identifies and addresses systemic issues and makes recommendations for improvements to seniors' services and programs provided to seniors living in NL. The **Seniors' Advocate Act** provides authority to conduct interviews, surveys, consultations and make information requests and to make recommendations to government, government agencies, service providers and community groups respecting legislation, policies, programs and services impacting seniors. All recommendations are monitored for progress and the results reported publicly on an annual basis. All incomplete recommendations will continue to be monitored, and reported on until the recommendation has been met.

While the Office of the Seniors' Advocate does not have legislative authority for individual advocacy, the Office receives an average of 86 advocacy requests a month. Staff work to encourage seniors to use their voices to access what they need, provides information, and uses an electronic information system to analyze when sufficient individual concerns on a matter warrant systemic intervention. Through engagement and public awareness, research, reviews and systemic advocacy, this Office ensures that the collective voices of seniors are respected and heard.

Section 3 of the **Seniors' Advocate Act** outlines that the Office of the Seniors' Advocate is established to:

- *identify, review and analyze systemic issues;*
- *work collaboratively with seniors' organizations, service providers and others to identify and address systemic issues; and*
- *make recommendations to government and government agencies respecting changes to improve services to and for seniors.*

The **Seniors' Advocate Act** defines a "senior" as an individual who *is 65 years of age or older, or less than 65 years of age and receives seniors' services*. Seniors' Services are defined in the legislation as *programs, services or systems of support, prescribed in the regulations, that are related to health care, personal care, housing, transportation or finances that are used by or associated with seniors*. Given the definition of seniors service in the Regulations are so broad, this Office is also responsible to advocate for people under 65 years of age. In practice, the Office typically serves people 50 years of age and older, which is 47.1 per cent of the province's population, according to most recent Statistics Canada data.

Lines of Business

1. Systemic Advocacy: Systemic issues impact large numbers of people. These systemic issues are brought to the attention of the Office through input from individuals, organizations, and service providers; as well as research and media reports. The Office collates all issues under five broad subcategories: health care, personal care, housing, transportation or finances.

The Office can use a variety of methods to advocate including, meeting with officials to discuss the matter, writing to seek resolution of a matter, working with government and community to address the issue or completing a systemic review and/or releasing a report. Systemic reviews may include research, consultations and information requests. Conclusions drawn from reviews may form the basis of recommendations to government, government agencies, service providers and community groups respecting legislation, policies, programs and services impacting seniors. The Advocate will closely monitor all recommendations to assess how they are implemented.

Section 16 of the Seniors' Advocate Act, states the Office of the Seniors' Advocate may:

- (a) receive and review matters related to seniors;*
- (b) initiate and participate in reviews related to seniors;*
- (c) conduct research related to seniors, including interviews and surveys;*
- (d) consult with seniors, service providers and the public;*
- (e) request information, other than personal health information within the meaning of the*
Personal Health Information Act *and personal information within the meaning of the*
Access to Information and Protection of Privacy Act, 2015 ;
- (f) make recommendations to government, government agencies, service providers and community groups respecting legislation, policies, programs and services impacting seniors;*
and
- (g) inform the public about the Office of the Seniors' Advocate and promote awareness of*
systemic issues related to seniors.

2. Research and Reviews: The value of research is its ability to inform action, provide evidence and contribute to developing knowledge. Seniors bring forward their concerns for the consideration of the Seniors' Advocate. When concerns are systemic, thorough research is completed to ensure strong recommendations are evidence based. The **Seniors' Advocate Act** provides the authority to complete reviews, request information and release reports with recommendations.
3. Engagement and Public Awareness: The Seniors' Advocate listens to seniors and encourages seniors to use their voices; this Office makes sure that the collective voices of seniors are heard. All information gathered by this Office informs public policy on many levels including: municipal, regional, provincial and national. While the powers and duties of the Seniors' Advocate are provincial in scope, there are occasions for national and international input and to inform national policy through consultations, collaborations, committee membership and partnerships with national seniors' advocates. Regular communications with the other provincial seniors' advocates (presently established in British Columbia and New Brunswick) allows opportunities to speak as one voice and raise issues important to all Canadian seniors, which issues are becoming increasingly complex across the entire country.

The Advocate has committed to ongoing provincial outreach to gather information and to share what we learn with seniors, families, stakeholders, and policymakers. The Office endeavours to connect with as many people as possible through its website, emails, quarterly newsletter, social media and the publication of reports, which may not necessarily be the subject of a report made to the House of Assembly under our Act. Regular meetings with community organizations and groups provide opportunities to promote education and awareness on topics of importance to seniors.

The independence of this Statutory Office means we can make decisions in the course of our work independent of government. As an independent Office of the HOA this arms-length relationship is critical to our ability to conduct impartial reviews and to publically report on our activities or review findings. While the Office does not have an individual advocacy role, it does have a role in identifying systemic issues and holding government departments to account.

While the Office has only been in operation for almost 6 years, and one of those years the Seniors' Advocate position was vacant, it has had significant and positive impacts improving seniors' services, building relationships with community, assisting seniors throughout the province, and advocating how provincial policies and programs uniquely impact seniors. Some examples include:

- Ongoing provincial outreach, to remain connected with seniors throughout the province
 - Up to and including March 2019, participated in 40 events/information sessions in 19 communities.
 - Up to and including March 2020, participated in 94 events/information sessions in 13 communities.

- Up to and including March 2021, participated in 16 events/information sessions (Restrictions from the pandemic prevented community outreach and significantly impeded events/information sessions)
- Seniors' Advocate position was vacant for fiscal year 2021-2022
- Up to and including March 2023, participated in 87 events/information sessions in 13 communities (the Seniors' Advocate position was filled June 2022).
- In 2018, a presentation to the Board of Commission of Public Utilities addressing the high electricity rates and impact this has on seniors.
- Addressed the International Federation on Ageing Conference in Toronto, Ontario about addressing aging policy through an inclusive lens.
- Based on initial provincial outreach in 2018-2019, a What We Heard report was released September 2019 titled *Long May Your Big Jib Draw: Setting Sail*. This report highlighted the issues seniors brought forward during the public consultations and recommendations for improvements to seniors' services.
- An Older Workers Summit was held on November 13, 2019. The Summit brought stakeholders together to look at older workers and the labour market and plan for the future. The summit was the result of many months of working with community partners on the issue of older workers. A report was released following the summit, which highlighted the concerns older workers have in NL and opportunities for action.
- In Fall 2022, the Office embarked on a public engagement process, which included 15 in-person engagement sessions throughout Newfoundland and Labrador and 2 virtual sessions. This process was a huge success with 390 people attending these sessions. There was also an online survey available as well. There were 1,087 surveys completed, with 913 (84%) completed by seniors.
- In October 2022, the Seniors' Advocate again called for a review of the Personal Care Home and Long Term Care Home system, with the initial recommendation in our 2019 report. Government has agreed to the review and has begun the process.
- Ongoing connection with the other two Seniors' Advocate in Canada, to discuss seniors' issues/concerns and initiatives.
- The Office released a Status of Recommendation report on November 1, 2022, which outlined which recommendations made in the 2019 *Long May Your Big Jib Draw: Setting Sail* report have been implemented, partially implemented or not implemented. This is another avenue for the Office of the Seniors' Advocate to hold government accountable to recommendations made by the Office. This will be an annual report, where any recommendation not fully implemented will be reviewed and reported on.
- Meeting with Federal Minister for Seniors in Winter 2023. As the Office of the Seniors' Advocate has a provincial mandate/legislation, these meetings are important as they provide an opportunity to bring forward concerns regarding Federal programs and services.
- February 6, 2023, the Seniors' Advocate presented at the Premier's Roundtable on the issues of Ageism, Age Friendly Communities & Aging in Place in the

context of Wellbeing, highlighting the importance of an intergenerational approach.

- OSA provided a budget submission for the 2023 Provincial Budget. The submission looked at several government programs that seniors have raised financial concerns about, and included considerations for improvement to seniors' services in the budget.
- The cost of drivers' medicals has been raised by seniors, and the recommendation to include this cost into the Medical Care Plan was in the 2019 *Long May Your Big Jib Draw* report as well as the budget submission. The inclusion of the drivers' medicals by MCP was announced in the 2023 budget.
- On March 30, 2023, the Office released an in-depth What We Heard report, which outlined what was heard from seniors, family members, caregivers and service providers during the in-person and virtual sessions as well as the surveys.
- Age-Friendly Communities is an area of great importance to the Office and is frequently raised during meetings with municipalities and government departments. The Seniors' Advocate discussed the importance with Minister Howell during a meeting, and was pleased to see the government announce over \$2 million for building age-friendly community projects.
- The issue of wait time for cataract surgery has been a concern for many seniors. Our Office has raised this concern with government and there has been positive response from government in reducing the wait times.
- The Newfoundland and Labrador Housing Home Repair and Home Modification programs are two programs that seniors often depend on to make their homes safe, so they can continue to age well at home. The Office of the Seniors' Advocate has had many conversations with government regarding concerns around the wait times for the programs and recommended in the 2019 *Long May Your Big Jib Draw* report that the program be expanded and enhanced. Under the National Housing Strategy, the Newfoundland and Labrador Housing Corporation has expanded its budget for the home repair program.
- Regularly connects with the Department of Health and Community Services, to request updates on various programs/reviews such as the Home Dementia Care Program, Provincial Dementia Care Action plan, Home Support Program and policy, and other areas where concerns have arisen. By connecting with the Department, the Seniors' Advocate is performing an important systemic oversight role and holding government accountable to work they are completing, with the understanding that this work will improve senior services.
- Significantly increased communication and outreach with seniors throughout the province:
 - Enhanced the Office of the Seniors' Advocate's social media presence, through continuously updated website, Twitter and Facebook;
 - Created a list of email addresses provided by seniors who wanted to remain connected and engaged with the Office. This list currently has over 350 individuals, who receive regularly emails with information pertaining to senior services, programs and opportunities;
 - Also have a list for community partners, which is currently at 41 email addresses; and

- Ongoing media presence, through various media platforms such as Radio (Open Line, On Target), Television (NTV and CBC) and online (the Telegram, VOICM, CBC website articles).

In your April 2023 News Release you note “The Consultant (yourself and your team) shall review the structure of the Statutory Offices of the House of Assembly, with the exception of the Office of the Auditor General, and prepare a report (for government) that includes recommendations...” on nine specific areas (News Release, 2023, p.3). Therefore, I will address each of these areas specifically.

1. The minimum required competencies for each Statutory Officer

The minimum required competencies for the Seniors’ Advocate are very broad given the high degree of knowledge, experience and skill required for the ever growing complexity of seniors issues. Policy, program and government structure, clinical skills in working with seniors and their families, management skills in running an office and managing staff, executive and leadership skills, media experience and communication skills are some of the competencies required to ensure successful completion of the role of Seniors’ Advocate. Consideration should be minimally be given to some of the following highlights:

- Progressive leadership and management experience, preferably at an Executive Level;
- Proven experience leading social programs and services to meet the needs of seniors;
- Data, policy and program analysis and development experience ;
- University degree, preferably at the Masters level in one of the following areas – social work, psychology, geriatrics, sociology, or health sciences;
- Extensive experience in advocacy, mediation, and innovative approached to problem solving at systemic levels;
- Effective analytical, negotiation, and communication skills;
- Ability to build and maintain effective relationships with internal and external stakeholders; and
- Experience working at a clinical level with seniors and their families, representational groups, healthcare providers, program designers and other professionals.

Social Science is the study of human society and social relationships, examining how individuals behave in society and the impact of society on their behavior. A social science degree includes a broad range of disciplines, including but not limited to sociology, psychology, economics, anthropology, political science, social work, history. Within each of these disciplines, the specific focus changes based on the discipline. For example, sociology is the study of social life, social change, and the social causes and consequences of human behavior, whereas political science is the study of politics, government and public policy. Specific disciplines within the social science degree would be best suited for the role of Seniors’ Advocate, such as social work, psychology, geriatrics and sociology. Health sciences is the study of well-being, health or medical care for human beings, and this would be an appropriate degree as well.

University degrees such as the ones listed above train individuals to understand the idea of diversity, and the importance of different perspectives. It enhances critical thinking and problem solving skills, deepens cultural understanding and provides a more comprehensive understanding of interrelations of different systems, particularly at a Masters level. An individual with a social science degree in the specific discipline mentioned above, or a health science degree, will develop specific skills that could be easily translated across many differing situations, which is essential for a position that would involve such a vast connection with many different sectors – seniors, family members, service providers, community organizations, government officials.

Having direct, front line experience working with seniors, community, and within systems is crucial to understanding the complex dynamics of systemic issues and its impact. This front line experience is critical to the successful fulfillment of the Seniors' Advocate position. A social science degree, such as Social Work, and significant employment experience within that field, would provide the direct knowledge required to fulfill the advocacy, mediation and problem solving role of an effective independent Seniors' Advocate.

When the Statutory Officer can honestly relay that they have been on the front line and know exactly what challenges exist, it enhances the credibility and creates a powerful connection. Relationship building is essential. Seniors need to feel heard and understood, and believe that their issues and concerns will be addressed. Having someone with a high level of expertise and experience helps create that connection.

Statutory Officers must demonstrate the use of sound judgement when reviewing an issue or making recommendation. These are often complex issues with multiple intersecting factors, which would require a wide knowledge base to draw upon. Such skill comes from both educational background and work experience. Further, it is necessary that the seniors' advocate have proven skills in using this practice knowledge to analyze, develop and recommend change to public policy. Proven leadership and community relations are critical to ensuring successful outcomes.

As the Seniors' Advocate is often speaking on matters publically it is critical that the person, not just their staff, have the clinical work practice, educational and leadership experience to speak with empathy, knowledge and authority on matters related to seniors.

2. The number of statutory officers and whether a statutory officer could fulfil the obligations of more than one statutory role; which offices/statutory officers could be combined based on common objectives, functions, qualifications, clients etc.

The combining of any of the Statutory Offices would greatly affect the ability of the Statutory Officer to fulfil their role, given their need to divide their time between two or more groups currently being served through separate offices. It is not feasible.

The Citizen's Representative provides an important province-wide ombudsman service. The role of an advocate versus an ombudsman is vastly different.

An ombudsman does not advocate. They remain impartial while completing impartial and unbiased investigations of complaints about provincial government services, and seek resolution of conflict or concern.

Advocacy goes beyond the role of an ombudsman. The Seniors' Advocate is not an impartial role, as advocacy is not impartial. Further the Seniors' Advocate has the legislative authority to review and make recommendations on more than just provincial government services. Section 16(1)(f) of the **Seniors' Advocate Act** (2016) states that in carrying out the powers and duties of his or her office the advocate may: "make recommendations to government, government agencies, service providers and community groups respecting legislation, policies, programs and services impacting seniors".

The Seniors' Advocate, through connection with seniors and community, in-depth research and information gathering, and program and policy analysis is mandated to advance solutions to improve services for seniors and advocate for these solutions to be enacted in the best interest of the seniors of NL. A Seniors' Advocate is not impartial but is fair. The Seniors' Advocate uses a variety of forms of communication, such as social media, media interviews, and presentations to the public, to educate on systemic issues impacting seniors, raise awareness, recommend change, and promote government accountability.

Advocacy is defined as: *an activity by an individual or group that aims to influence decisions within political, economic and social institutions.* Actions of advocacy are extremely broad and can include media campaigns and public speaking to bring attention to an issue, or making recommendations for positive change to government or community organizations. Systemic advocacy is advocating for change within a system through policy, legislation or programs to create a positive impact for a number of seniors.

Further, the ability of a singular position to be an Advocate and an Ombudsmen is not practical and may be in conflict. The potential for questioning integrity or correctness of decision-making and recommendations could run contrary to the core mandate of advocating for what is best for seniors. The fact that a government policy was correctly followed, does not necessarily mean the policy is a benefit to seniors.

An additional concern with respect to combining the role of Statutory Officers is that it will result in a competition for resources and priorities. Seniors' issues are separate and distinct. Childrens issues are also separate and distinct. They deserve their own independent voice.

Additionally, since its inception, the role of the Citizens' Representative has been significantly expanded. In addition to acting as the provincial ombudsman, the Citizens' Representative is responsible for disclosures (whistleblowing) under the Public Interest Disclosure Act, and effective April 1, 2020, is responsible for the Harassment-Free Workplace Policy Applicable to Complaints against Members of the House of Assembly. There is a major concern that if the Office of the Seniors Advocate is combined with the Citizens' Representative, the voices of seniors will be significantly diminished given the growth of that office and its numerous mandates. The rights of seniors, and vulnerable children and youth, would be lost in such a model.

The Office of the Child and Youth Advocate focuses on a very different demographic with largely different needs. There is only one example in Canada, New Brunswick,

where the legislation for the Seniors' Advocate and Child and Youth Advocate has been joint into one. New Brunswick does have a combined model, both coming under the **Child, Youth and Senior Advocate Act** (2016) with one Advocate for both. However, although they are guided by combined legislation, given the demands of the offices, they maintain two separate offices – New Brunswick Seniors' Advocate and New Brunswick Child and Youth Advocate. They have separate physical space, separate social media/website, and separate teams of staff. It is also worth noting that while there is only one Advocate in New Brunswick for both offices, there is a Deputy Advocate.

The concept of combining the Office of the Child and Youth Advocate and the Office of the Senior's Advocate is concerning as both of these populations deserve the attention and expertise of a full time Advocate, not half time. Further, given the difference in authority of both Offices (the Child and Youth Advocate has investigatory powers whereas the Seniors' Advocate does not) this would need to be addressed. Neither the voices of children nor seniors would benefit from an Advocate focused on two very different areas of expertise.

In New Brunswick, the Child, Youth and Seniors' Advocate has investigatory powers for seniors, in addition to children and youth. As a consequence, the NB Seniors' Advocate Office has considerably more staff than the NL Office of the Seniors' Advocate. This is in addition to the full staff complement in the NB Child and Youth Advocate Office. Therefore, there appears to be no cost savings or benefit for having the children/youth and seniors come under one umbrella. In fact, given that NL has a higher population per capita of seniors than New Brunswick, we would anticipate this model being even more challenging in this province, given the need for the Advocate to share their time between two essential and busy Offices with distinct needs and priorities.

The Office of the Seniors' Advocate in British Columbia is an independent Office of the BC Provincial Government and maintains statutory authority through the **Seniors' Advocate Act**. However, the BC Seniors' Advocate reports directly to the Minister of Health, whereas the NL Seniors' Advocate reports to the Speaker of the House of Assembly. It is clear from a review of Hansard and news releases when the NL Office of the Seniors' Advocate was created, the idea of having it under a department of government was considered and rejected. Seniors are knowledgeable. They often ask are we a government department or do we report to a Minister of the government. They know that to truly have someone independent that can advocate for their needs that position cannot report to the same government it is meant to review, and sometimes be critical of, in the process of making recommendations to improve seniors' services.

Having the ability to independently make recommendations based on concerns or issues is important to seniors because they know their voices are being heard, and action is being taken. It would be difficult to objectively analyze, criticize and advocate for change to government policy and programs/services if the Office was part of government. A Statutory Office must retain the respect and confidence of the HOA, government and the public. All work completed by the Office, and recommendations, is well grounded in fact, research, independence, and fairness.

As for the remaining Statutory Offices, Office of the Chief Electoral Officer, the Office for Legislative Standards, and Office of the Information and Privacy Commissioner, it is

evident that the Office of the Seniors' Advocate could not combine with these remaining Offices because there are no common objectives or functions.

3. Whether each Statutory Officer requires the dedication of a full-time Statutory Officer or whether it could be part-time or on an as-needed basis.

The Seniors' Advocate is a very busy position that requires undivided attention to seniors issues that can only be achieved through a full-time position. The Seniors' Advocate must remain up to date on current issues/concerns impacting seniors, as well as the ever-evolving best practices within services and programs impacting seniors. This level of expertise is maintained through continuous research, attending information/training sessions, conferences, and staying on top of news events. The aging demographics in our province requires a full-time Advocate.

Remaining connected and engaged with seniors throughout the province has not only been a focus of the Seniors' Advocate, but also a commitment made, so seniors know they are being heard, they have a voice, and they know their systemic concerns will be addressed by an independent Seniors' Advocate. The Seniors' Advocate is often invited to speak at events, present to various community groups, and present expert content during conferences/seminars. To remain connected to seniors throughout the province, the Advocate will travel throughout Newfoundland and Labrador to meet with community groups, seniors and municipalities. The Office of the Seniors' Advocate serves seniors province-wide, and with the senior population 65+ making up a quarter of the total population in Newfoundland, and 50+ almost half the province, it is crucial to be engaged with seniors throughout the province as this is not a homogeneous group. The issues are very different within this 50+ year age span.

Completing these engagements virtually is not the answer. Although the evolution of virtual meetings has been beneficial in some cases, they cannot replace the connection and authenticity that comes with in-person meetings. Many seniors are tech savvy, but many are not, or they do not have access to the technology or know how to navigate online meetings. In-person meetings with the Seniors' Advocate are important to seniors.

Community partnership is also essential to remain engaged on seniors' issues. The Seniors' Advocate maintains these partnerships through constant communication with a number of community groups. Since being appointed as the Seniors' Advocate in June 2022, I have attended 87 meetings with community organizations, medical professionals, and government officials provincially and federally and 21 media interviews. This does not capture the telephone and email correspondence that occur on a daily basis. Collectively, the Office has completed 18 presentations/speaking engagements.

In January, the Office completed its public engagement process, which included 15 in-person engagement sessions across Newfoundland and Labrador and 2 virtual sessions. This process was a huge success with 390 people attending these sessions. As part of the process, there was an online survey available as well. There were 1,087 surveys completed, with 913 (84%) completed by seniors. Following the completion of the engagement process, the Office released an in-depth "What We Heard" report, which outlined what was heard from seniors, family members, caregivers and service providers.

This level of engagement with seniors, community organizations, media and government is essential for the role of the Seniors' Advocate. This does not reflect the research, data

and policy analysis and development that is required for the many reports, reviews and recommendations made by the Office of the Seniors' Advocate. Clearly, all of this work could not be achieved if the position was part-time or shared with another Statutory Office. The Seniors' Advocate must be a dedicated, full-time position.

4. How each Statutory Officer should be recruited, appointed, re-appointed, compensated, disciplined and removed from office.

Recruitment and Appointment

The Statutory Officer of the Office of the Seniors' Advocate is recruited through the Independent Appointments Commission (IAC), which is under the **Independent Appointments Commission Act (2016)**. It is our understanding that the IAC is supported by the Public Service Commission (PSC). The IAC is a legislated, independent, non-partisan commission of seven volunteers appointed by resolution of the HOA. The IAC provides non-binding recommendations respecting appointments to the Lieutenant-Governor in Council or the Minister, as appropriate, following a merit-based process. The merit-based appointment process is open and accessible and ensures the people appointed have the necessary qualifications and are reflective of the population they serve.

The recruitment process follows a Rules of Procedure document when requests to fill vacancies are received. The procedure is clear that the suitability of potential appointees are based on merit and there are no conflict of interest issues for potential appointees, Chairperson or Commissioners.

The IAC Chairperson designates three Commissioners to form the Review Panel whose purpose is to make recommendations for appointments. Generally speaking, the Review Panel selects three people for consideration for one vacancy and forwards its recommendations for consideration by the Appointing Authority along with a brief summary of the reasons for the conclusions reached by the Review Panel. All information respecting conflict of interest checking by the PSC is also forwarded to the Commissioners who were not members of the Review Panel. In the case of the Office of the Seniors' Advocate, the three names being recommended for the Seniors' Advocate would be forwarded to government and Cabinet would then advance the recommended person to the House of Assembly for concurrence.

While the Office of the Seniors' Advocate has no issue with the current appointment process, given this is a Statutory Office of the House of Assembly, you might wish to consider if the recommendation from the IAC should proceed to the Management Commission of the HOA, and then advanced to the legislature for concurrence, rather than being under the control of the executive branch of government.

Re-appointment

As per the **Seniors' Advocate Act**, on resolution of the House of Assembly, the Lieutenant-Governor in Council may reappoint a person for another 6-year term. No person may serve more than two terms.

Limiting the number of years a Statutory Officer can remain in that position is a good idea and should continue. This limit ensures a renewing of the Office's direction, vision and

strategic planning as it works to meet the changing needs of the people it serves. Term limits allow for change and growth for the Statutory Office by ensuring the vision and plans remains relevant and innovative and also safeguards against not having enough time to achieve the longer-term goals.

Compensation

Section 10 of the **Seniors' Advocate Act** states the advocate shall be paid a salary fixed by the Lieutenant-Governor in Council after consultation with the HOA Management Commission. The advocate is eligible to receive the same benefits as a deputy minister. Compensation is usually in line with the rate paid in previous employment, consistent with skills, knowledge and experience one is bringing to the position. This compensation process is still effective.

Discipline and Removal from Office

Sections 7 and 8 of the **Seniors' Advocate Act** (2016) outlines a fair process for the suspension or removal of the Seniors' Advocate: *the Lieutenant-Governor in Council, on resolution of the HOA passed by a majority vote of the members of the HOA actually voting, may suspend or remove the advocate from office because of an incapacity to act or for misconduct, cause or neglect of duty.*

However, there are no provisions within the **Seniors' Advocate Act** about how the Seniors' Advocate might be disciplined or by whom.

The HOA Management Commission is a non-partisan body with membership comprised of representatives of the three elected parties; the Speaker (Chair of the Commission); and the Clerk (secretary to the Commission with no voting privileges). The Commission is responsible for the financial stewardship of all public money used in the operations of the HOA and Statutory Offices, and for all matters of financial and administrative policy affecting the Legislature, subject to the **House of Assembly Accountability, Integrity and Administration Act** (2007). It would be our recommendation that the Management Commission (through the Speaker) also oversee necessary disciplinary actions related to a Statutory Officer. The procedure followed could be similar to what already exists for the disciplining of government deputy ministers, for example.

5. How to manage conflicts which arise between Statutory Offices, who should investigate alleged misconduct of a Statutory Officer, and how that investigation should be conducted (internally, externally, independent ADR, etc.)

The role of the Management Commission could be expanded to allow the Commission (through the Speaker) to play a mediation role should disputes arise between Statutory Offices. That being said, given the fact that the Statutory Offices are independent entities working under separate legislations with separate mandates, disputes between them during the normal course of business would seem unlikely and certainly very rare occurrences.

The same HOA standards/procedures which currently exist to investigate alleged misconduct of HOA personnel in supervisory or high-ranking positions could be applied

to the Statutory Officers. The Management Commission, as an impartial entity, could also play a role should bias or conflict of interest - perceived or real - exist within the HOA.

6. Whether and how quality assurance and performance of each statutory officer/Statutory Office should be measured and overseen

The performance and quality of the work of each statutory officer is measured by the work of its office; each statutory officer represents the Statutory Office and therefore any measure of accountability for the Office, is also for the Officer. The Office of the Seniors' Advocate maintains a work plan and tracks outcomes and timelines regularly.

In addition to possible reporting requirements under its own legislation, statutory offices of the HOA are subject to the **Transparency and Accountability Act** (2004) which specifies the type and number of reports which must be prepared and tabled in the HOA. All of these mandatory annual and multiyear reports are submitted to demonstrate compliance under the Act.

The 3-year plans outline annual objectives and indicators for meeting these objectives. The annual reports demonstrate whether the Statutory Office is meeting the objectives, why or why not, and whether it is working as per its mandate. These legislatively required reports clearly outline the work happening within each Statutory Office. While all of these reports must be provided to the HOA, tabled in the HOA and then available publically, it is unclear whether the information included in these reports are measured by anyone outside the Statutory Office or against an accountability framework/structure which could gauge the impact of the work.

Section 20 of the **House of Assembly Accountability, Integrity and Administration Act** (2007) outlines the duties and responsibilities of the Management Commission of the House of Assembly. Of particular pertinence to the issue of quality assurance and performance of Statutory Offices, the Act states:

20. (1) The commission is responsible for the financial stewardship of all public money, within the meaning of the Financial Administration Act , that may be voted by the House of Assembly for the use and operation of the House of Assembly and statutory offices, and for all matters of financial and administrative policy affecting the House of Assembly, its members, offices and staff and in connection with them and, in particular, the commission shall

(a) oversee the finances of the House of Assembly including its budget, revenues, expenses, assets and liabilities;

(b) review and approve the administrative, financial and human resource and management policies of the House of Assembly service and statutory offices;

(c) implement and periodically review and update financial and management policies applicable to the House of Assembly service and statutory offices;

(d) give directions with respect to matters that the commission considers necessary for the efficient and effective operation of the House of Assembly service and statutory offices;

Further, Section 51 of the **House of Assembly Accountability, Integrity and Administration Act** (2007) requires the Speaker of the House of Assembly, on behalf of the Management Commission, to prepare and submit an annual report which is to be tabled in the HOA, hence made public. The **House of Assembly Management Commission 2021-2022 Annual Report** (2021-2022) states:

Section 20 of the **House of Assembly Accountability, Integrity and Administration Act** requires the Clerk to certify to the Commission that the House of Assembly and Statutory Offices have in place appropriate systems of internal controls and that those systems are operating effectively. Consultants were engaged to provide assistance to enable the Clerk to meet the management certification requirements. The services provided included a review of the design effectiveness and existence of internal controls, identification of any control gaps and recommendations for remedial action. Tests of controls were designed, executed and evaluated to determine if controls were operating effectively. The internal control documentation was updated to reflect the controls in place at the end of each period. The Auditor's Report states that the Clerk's Management Certification as of March 31, 2022 was fairly stated and that the internal controls over financial reporting were operating effectively, in all material respects, as at the date noted.

7. What is an appropriate administrative oversight model for the Statutory Offices, inclusive of financial management, human resources management, information management, procurement, and any other "back office" functions; structure.

The Office of the Seniors' Advocate has one administrative position which is the first point-of-contact for this Statutory Office. The Administrative Officer fulfills all administrative tasks including: financial management, human resources management, information management, procurement, ATIP requests, Executive Assistant to the Statutory Officer, supports the Systemic Advocacy Consultants, is the identified media contact for the Office and triages all requests for systemic advocacy. Further scheduling and organizing all meetings, consultations, presentations and media requests both provincially and nationally in relation to the Seniors' Advocate schedule and priorities of the Office is a critical aspect of this role. The House of Assembly provides support for procurement, quotation, processing and ordering process, human resources, and financial management. However, the Administrative Officer is responsible to develop all required paperwork, overview budget and expenditures, monitor leave and time management, track the financial approval process, the delegate for the Expense Claims and Management System and all other requirements to support the "back office" functions. This is an extremely broad and challenging role. All functions follow HOA protocols and procedures and HOA staff support this position and are

consulted as needed. We believe the current HOA model works well for the purposes of this Statutory Office and no changes are needed.

8. Whether physical space and administrative functions could be shared among Statutory Offices

The Office of the Seniors' Advocate's current physical space would be unable to accommodate inclusion/sharing with another Statutory Office as the space is too small. Our boardroom comfortably holds six individuals at the table and we have one extra office, which will be used by students. We are located in the Sir Brian Dunfield Building, which is owned by NLHC. While we pay rent to NLHC, moving our office into a shared space with another Statutory Office would result in minimal savings.

As for administrative functions, the Office of the Seniors' Advocate consists of 4 staff – the Advocate, two Systemic Advocacy Consultants and one Administrative Officer. Since April 2022, the office has received 902 calls/emails, with October and November 2022 reaching 118 and 105 respectively. The Administrative Officer answers the calls/messages, and forwards them along to the consultants. These 902 calls/emails are seniors/individuals wanting to speak with someone in the office for an advocacy issue. This does not capture telephone calls related to administrative duties. As well, when people call looking for a contact number, the Administrative Officer will provide that contact information. Those calls are also not captured in the 902 calls/emails.

This is a very high volume of calls for such a small office. Additionally, as the sole administrator in the office, she is an assistant to the Advocate, manages her calendar, books/arranges meetings, makes travel arrangements etc. and she is responsible for all of the office management functions and clerical duties. We see little to be gained from sharing administrative functions, particularly if it means adding more duties.

9. Where reports from each Statutory Office should be directed, such as whether any of the reports of the Statutory Offices should go to a standing or select committee of the HOA for review and analysis

This section of the Terms of Reference appears directly related to the delivery of the Citizens' Representative Report into the conduct of the former Chief Electoral Officer to the Speaker of the House of Assembly. As indicated at the outset, this issue was novel and did not impact the Seniors' Advocate Office. It is my understanding that the legislation required the delivery of the Report to the speaker and then it was within the purview of the speaker to decide which appropriate entity would review the Report. The most logical referral of any Report involving the conduct of a Statutory Officer would be to the Management Commission which could then determine next steps.

The ability to work autonomously and unaffiliated with any government department, government agency, private business or political party is absolutely imperative to protect the validity and veracity of all work produced by a Statutory Office. The term "watchdog" has been used by the media to describe these Statutory Offices. Although that label has negative overtones as it implies something on-toward could happen and therefore

requires “watching”, the term is accurate. The Statutory Offices exist to provide assurances to the entities and the public that programs, policies and services are being delivered as best they can, in a fair and just manner; it is precisely why the Statutory Offices were created.

Creating a HOA Committee with the power to amend/adapt reports would negatively impact the Statutory Office’s ability to make robust, unprejudiced recommendations, particularly if a report or recommendations may not look favourably on a government department or entity at the centre of a review. The public’s perception – real or perceived – of the power of a Statutory Office to work for the people with no fear of censorship, would be severely negatively impacted by a prior review process with the potential to change or influence the text. This Office must be – and be perceived to be - free from improper influences that could appear to affect our independent decision-making and recommendations.

In closing I extend thanks for the opportunity to provide this submission to the Review of the Structure of the Statutory Offices of the House of Assembly, being completed at the request of the Provincial Government of Newfoundland and Labrador.

I will reiterate that this Office has been successful regardless of its small size (4 people), conservative budget (\$500, 000) and significant mandate (representing nearly half the population of the province) as a result of our community partnerships, commitment of staff and overwhelming support from the seniors of this province. It is the seniors and seniors’ organizations in this province that lobbied very hard to create an advocate for seniors, very well supported by the previous, current and projected demographics of this province.

I am a strong believer in responsibility and accountability. I am first and foremost accountable to the seniors of this province. I often tell them, “you pay my salary” and then to HOA. I am certainly open to improvements. However, I cannot support any change that would reduce the level of advocacy available to the seniors of this province or would compromise my independence to advocate for the needs of seniors without influence or risk of reprisal.

Sincerely,



Susan Walsh, MSW, RSW
Seniors’ Advocate NL

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