

Job Description

Section 1 – Identifying Data

Position Title: Investigator and Compliance Review Officer (ICRO)

Position Number: 23004, 101199 and 109236

Supervisor's Title: Ombudsman, Information and Privacy Commissioner, and Public Interest Commissioner

Date Completed: February 7, 2022

Office: Office of the Ombudsman, Information and Privacy Commissioner, and Public Interest

Location: Whitehorse, Yukon

Medical Clearance Required: No

Security Clearance Required: No

Oath of Confidentiality Required: Yes

Section 2 - General Summary

The Ombudsman, Information and Privacy Commissioner (IPC), and Public Interest Disclosure Commissioner (PIDC) (collectively “Ombudsman/Commissioner”) is an independent Officer of the Legislative Assembly with oversight responsibilities under *the Ombudsman Act*, *the Access to Information and Protection of Privacy Act* (ATIPPA), *the Health Information Privacy and Management Act* (HIPMA), and *the Public Interest Disclosure of Wrongdoing Act* (PIDWA) (collectively the “Acts”). The Ombudsman/Commissioners jurisdiction spans all of Yukon and delivers service to all Yukoners and other persons who engage the services of the bodies subject to the Acts. The oversight by the Ombudsman/Commissioners in respect of the Acts serves the public interest.

The Ombudsman investigates complaints about fairness of public administration under the Ombudsman Act. The IPC investigates complaints about access to information and protection of privacy under the ATIPPA and the HIPMA and is responsible to monitor compliance by the bodies subject to these laws. The PIDC investigates disclosures of wrongdoing and reprisal complaints and can comment on any policies and procedures developed to manage disclosures using an internal process.

The Ombudsman/Commissioners has broad powers of investigation including the powers of a Board of Inquiry under *Public Inquiries Act*. Broad powers are provided under the Acts to the Ombudsman/Commissioners and their staff (through delegation) to investigate matters of administration, disclosure of wrongdoing and complaints of reprisal, and non-compliance with the ATIPPA and HIPMA. To monitor compliance, the IPC has extensive authority including to comment on proposed legislation, conduct audits, and review privacy impact assessments, security threat risk assessments, and breach reports.

The Ombudsman/Commissioners authority is over the public sector and the health sector in Yukon,

both in the public and private sectors. The Ombudsman and PIDC each have the power to form an opinion about maladministration, wrongdoing, and reprisal (as applicable). The IPC has adjudicative authority to make findings of fact and law during an investigation. Following an investigation under each of the Acts, the Ombudsman/Commissioners has the power to recommend formally that corrective action be taken. The IPC has the authority to make recommendations to remedy any non-compliance with the ATIPPA and HIPMA. The Ombudsman/Commissioners also has the authority to follow-up on actions taken by the bodies subject to the Acts in response to recommendations made, and to report publicly. A finding of reprisal under PIDWA or non-compliance with the ATIPPA and HIPMA can result in an offence.

Formal reports with decisions and recommendations, sometimes include critical comments and, as applicable, find that maladministration, wrongdoing or reprisal has occurred or that there was a violation of the ATIPPA or the HIPMA. These reports are provided to senior officials of the body investigated and may also be provided to Ministers, the Commissioner in Executive Council, and the Legislative Assembly. Some reports are published or otherwise made publicly available and draw public scrutiny.

In addition, the Ombudsman/Commissioners has authority under the Acts, respectively, to provide informational and educational services to the public and bodies subject to the Acts.

The offices of the Ombudsman/Commissioners operate as one office (collectively, the "Office") fulfilling the mandates of each role under the Acts. The operations of the Office, including for staffing, is funded through the Member Services Board of the Legislative Assembly.

The ICRO has delegated authority under the Acts to:

- provide advice (where applicable) about the Acts to the public and bodies subject to the Acts;
- informally resolve complaints including requests for reviews, and disclosures received under the Acts by working with the parties to achieve settlement;
- review and decide the granting or denial of time extension requests made by public bodies in their processing of an access request.
- decide to investigate a complaint including requests for reviews, and disclosures received under the Acts; prepare investigation reports containing findings and recommendations to remedy any non-compliance, unfairness, wrongdoing or reprisal;
- prepare investigation reports containing findings and recommendations to remedy any non-compliance, unfairness, wrongdoing or reprisal;
- evaluate risks to privacy and information security resulting from the implementation of a new public or health body program or activity and make recommendations to mitigate risk including evaluating and providing recommendations on Privacy Impact Assessments received from Public

Bodies and health bodies;

- evaluate privacy breaches reported by public and health bodies and works with these bodies to mitigate risks and prevent recurrence and provide recommendations;
- evaluate and approve conditions for information sharing agreements for research purposes;
- evaluate privacy risks of pilot projects conducted by the Minister of Health under the HIPMA and provide recommendations to mitigate any risks;
- comment on access, privacy, and disclosure policies and procedures, and develop guidance materials and communications to educate the public and the bodies subject to the Acts; and
- work with the bodies subject to the Acts to ensure recommendations made as a result of any of the foregoing are implemented.

Section 3 - Principal Duties and Responsibilities

ICRO Functions

The ICRO will perform the following functions:

1. Performs intake and receives and responds to all incoming general enquiries, complaints, requests and notifications from the public or from public bodies subject to the Acts by telephone, letter, electronically and in person. Explains processes, determines jurisdiction, assists individuals to determine whether to make a complaint, resolves issues where possible, provides guidance and acts as a resource, refers to other agencies or to the Deputy or the Omb/IPC/PIDC where appropriate, and completes and enters intake tracking information into the case management system. Opens case files and assigns as directed by the Deputy or Omb/IPC/PIDC and sends out opening correspondence.
2. Conducts investigations under the Acts both informally or formally, including exercising the power to summon a person to appear or provide testimony, compel the production of documents; examine information or a record and receive and consider evidence; to enter any premise of the public body to satisfy security requirements, and adjudicate complaints made under the ATIPPA and HIPMA;
3. Following a formal investigation, writes a report that make findings of fact and law, the reasons for the findings, and any recommendations for consideration by the Omb/IPC/PIDC.
4. Performs compliance reviews and audits to ensure the bodies subject to the Acts are meeting their respective obligations;
5. Performs the duties of the Acting Registrar of Adjudications (ATIPPA and HIPMA) when the Registrar is absent. The Registrar manages the administrative process when a file is not

successfully resolved in ICR and proceeds to formal adjudication. This work includes: receiving the fact report from the investigator; preparing the notice of adjudication and forwarding it to the parties along with informational material; receiving, reviewing and exchanging submissions in accordance with specified timeframes; monitoring response timeframes and notifying the IPC about the same.

6. Educates the public and bodies subject to the Acts about the Acts; and
7. Consults with numerous bodies and individuals across Canada to perform effectively.

Section 4 – Contacts (ICRO)

- Works closely with the public, complainants, applicants, disclosers and witnesses to help them understand the Acts, in settling complaints, requests for reviews or disclosures, or to understand the results of an investigation;
- Develops and maintains effective and cooperative working relationships with staff and officials at all levels of public and private sector bodies subject to the Acts to facilitate achieving the objectives of the Acts;
- Work closely and collaboratively with staff and officials at Information and Privacy Commissioners Offices, Offices responsible for public interest disclosures, and Ombuds Offices, nationally and internationally, to acquire knowledge to perform the responsibilities more efficiently and effectively; and
- Interacts with other governments, agencies, boards, commissions, businesses, lawyers, non-governmental organizations, and the general public as needed.

Section 5 - Specific Accountabilities

1. Interpretation of the Acts, other laws, policies and decisions are conducted based on sound legal interpretation methods and are consistent.
2. Investigations and compliance review activities are conducted in a thorough, administratively fair and legal manner.
3. Findings made are legally sound and supported and reasons support findings.
4. Recommendations made are carefully crafted to resolve the complaint, review or wrongdoing that are specific and measurable.
5. Findings, reasons and recommendations are communicated in a clear and understandable manner, whether in writing or verbally.

6. Parties are guided through the ICR or investigation processes and any conflict arising is effectively managed.
7. Relationships are established with the public and bodies subject to the Acts that promote timely resolution of complaints and completion of investigations, and relationships are established to achieve performance objectives.
8. Investigations and ICR are completed within statutory and/or target timelines.
9. Matters are elevated to the Ombudsman, Information and Privacy Commissioner and the Public Interest Disclosure Commissioner for her involvement where warranted.
10. Functions are performed in a quality manner with sufficient skill.

Section 6 – Budget - N/A

Section 7 - Working Environment

Generally, works in an office environment with some travel required within and outside Yukon. Must be able to manage competing priorities, be extremely well organized and pay close attention to detail and manage challenging individuals who may be emotional or dissatisfied. May work in the Office alone on occasion. May be required to work occasionally from home and have a space that is suitable for conducting confidential work activities.

Section 8 - Signatures

I approve this job description as being representative of the work required to be performed, and confirm that the necessary authorities have been delegated to the position.

Signature:  Date: May 17, 2022

Ombudsman, Information and Privacy Commissioner, and Public Interest Disclosure Commissioner

Director, Human Resources

Signature:  Date: May 17/2022

Section 9 – Organization Chart

