

## JOB DESCRIPTION

### Section 1 – Identifying Data

**Position Title:** Ombudsman, Information and Privacy Commissioner, Public Interest Disclosure Commissioner  
**Position Number:** 23002  
**Supervisor:** Yukon Legislative Assembly

**Department:** Ombudsman's Office  
**Location:** Whitehorse  
**Medical Clearance Required:** No  
**Security Clearance Required:** No  
**Date Completed:** December 2, 2021

### Section 2 – General Summary

#### Ombudsman

The Ombudsman is an independent Officer of the Yukon Legislative Assembly and is governed by the provisions of the Yukon *Ombudsman Act*.

The Mission of the Ombudsman is to provide an independent, impartial means by which complaints from the public regarding the delivery of public services in the Yukon can be heard and investigated with the goal of promoting fairness, openness and accountability in public administration.

Under the *Ombudsman Act*, the Ombudsman is responsible to investigate complaints received from the public about unfairness in the delivery of public services by authorities. In performing this work, the Ombudsman reviews administrative actions, decisions, recommendations and omissions by authorities by investigating these complaints, making recommendations or taking other appropriate action in response to those complaints.

The authorities under the Ombudsman's jurisdiction are as follows:

- departments of the Yukon government
- crown corporations and certain other independent persons, boards and commissions
- public schools and Yukon University
- hospitals and boards of management of hospitals
- governing bodies of professional and occupational associations
- First Nations Service Authorities
- Child and Youth Advocate

#### Information and Privacy Commissioner

The Ombudsman also serves as the Yukon Information and Privacy Commissioner (IPC). The IPC has oversight mandates for the *Access to Information and Protection of Privacy Act* (ATIPPA) and the *Health Information Privacy and Management Act* (HIPMA).

The mission of the IPC is to provide an independent and impartial means of ensuring public bodies subject to ATIPPA and custodians subject to HIPMA comply with their obligations under the Acts and for ensuring the purposes of the Acts are achieved.

ATIPPA governs the collection, use disclosure and management of personal information by Yukon public bodies. It also establishes a right of access to information held by these public bodies. One

of the purposes of ATIPPA is to provide the IPC with powers and duties that enable the commissioner to monitor public bodies' compliance with the Act and ensure that public bodies' decision-making and administration is conducted in accordance with the purposes of the Act.

The powers and duties of the IPC under ATIPPA include the following:

- Investigate complaints made about access to information and privacy of personal information including those initiated by the IPC on their own motion;
- Intervene as may be necessary in court reviews of a decision by a public body to reject a recommendation of the IPC;
- Conduct compliance audits of a public body's duties in administering the privacy provisions of the Act;
- Review privacy impact assessments provided by public bodies who intend to process personal information in a new information system or for the delivery of a new program or service;
- Review privacy breach reports received from a public body and provide recommendations to prevent recurrence where warranted;
- Inform the public and public bodies about their rights, duties and obligations, as applicable, under the Act;
- Receive comments from the public related to matters covered by the Act;
- Provide recommendations to public bodies related to their powers or duties under the Act
- Promote changes in public bodies to improve access to information and privacy protection;
- Inform the public about deficiencies in the administration of the Act.

HIPMA governs the collection, use disclosure and management of personal health information by custodians. Custodians include public body custodians and private sector health care providers in the Yukon. Under HIPMA, the IPC is responsible for overseeing how the Act is administered to ensure its purposes are achieved.

The powers and duties of the IPC under HIPMA include the following:

- Investigate complaints made about privacy of personal health information;
- Review privacy impact assessments provided by custodians who intend to process personal health information in a new information system or where there is a change of processing for an existing system;
- Review privacy breach reports received from a custodian and provide recommendations to prevent recurrence where warranted;
- Inform the public about the Act;
- Receive comments from the public related to matters covered by the Act;
- Advise custodians and promote best practices;
- Provide recommendations to custodians related to their powers or duties under the Act.

### **Public Interest Disclosure Commissioner**

The Ombudsman also serves as the Yukon's Public Interest Disclosure Commissioner (PIDC).

The mission of the PIDC is to provide an independent and impartial means of investigating disclosures of wrongdoing that are in the public interest and investigating complaints of reprisal

made against an employee who made a disclosure, requested advice, cooperated in an investigation associated or who declined to participate in a wrongdoing.

The powers and duties of the PIDC under PIDWA include the following:

- Provide advice and information on PIDWA to potential disclosers so that they may make an informed decision on whether to make a disclosure under the Act;
- Investigate disclosures of significant and serious matters in or relating to public entities made by an employee of a public entity who believes may be unlawful, dangerous to the public or injurious to the public interest;
- Investigate allegations of reprisal made against an employee of a public entity because the employee sought advice about making a disclosure, made a disclosure, cooperated in an investigation under the Act or declined to participate in a wrongdoing;
- Review and comment on policies created by public entities for making disclosures of wrongdoing.

### **Section 3 – Principal Duties and Responsibilities**

As indicated above, the *Ombudsman Act*, ATIPPA, HIPMA and PIDWA, each mandate functions, duties and responsibilities that are complex and unique from one another.

The four mandates overlap in the responsibilities for the office including human resources and financial management and planning.

Unique to each mandate function is: the development of strategic direction and goals, policies and procedures; public education strategies and materials; community outreach; workload planning; training and support of staff and contract workers; maintaining a quality assurance process; reporting requirements; research activities and maintaining current knowledge of best practices.

### **Combined Operational Responsibilities**

The Ombudsman is responsible for the overall direction and supervision of the Office of the Ombudsman, IPC and PIDC and reporting to the Legislative Assembly through its Speaker.

More specifically, the operational responsibilities and duties of the Ombudsman, IPC and PIDC include:

- implementing and operationalizing the legislation, mandate, policy and procedures for the office of the Ombudsman, IPC and PIDC;
- leading the development, planning and evaluation of goals, objectives and strategic direction of the office of Ombudsman, IPC and PIDC;
- managing office services, staff and financial resources within a framework that ensures independence and confidentiality to promote accountability and public trust;
- determining allocation of human and financial resources;
- managing workload planning, recruitment, training, support and supervision of staff and contract workers for the effective and efficient operation of the office;
- developing and maintaining job descriptions for staff;
- as the employer designated by the *Ombudsman Act*, setting remuneration and terms and conditions of employment, oversight of payroll and responsibility for statutory Workers' Compensation coverage;

- setting office performance standards for the work required pursuant to the *Ombudsman Act*, the ATIPPA, HIPMA and PIDWA;
- oversight of accounts payable and receivable; and
- submitting annually capital and operating budgets and periodic reporting required by the *Financial Administration Act*.
- developing, implementing, maintaining and evaluating operational policies, procedures, and practices;
- developing, implementing, maintaining and evaluating a comprehensive case handling system, including relevant processes and procedures specific to an Act;
- developing, implementing, maintaining and evaluating case management and tracking systems.

#### **Section 4 – Contacts**

The Ombudsman, IPC and PIDC communicates with members of the Yukon Legislative assembly, the Speaker, members of the Executive Council, employees in the office of the Yukon Legislative Assembly, and senior executives of authorities, public bodies, custodians and public entities to perform their work. In addition, to effectively meet their mandated responsibilities, the Ombudsman, IPC and PIDC must be able to establish effective working relationships with representatives at all levels of these bodies.

As part of performing public outreach functions, the Ombudsman, IPC and PIDC meets with members of the public and with local organizations and associations to inform them about their rights under the Act and to clarify the roles and responsibilities of the Ombudsman, IPC or PIDC. They also communicate with members of the press concerning the work of the office.

The Ombudsman is part of the Canadian Council of Parliamentary Ombudsman, which is a group comprised of Ombuds offices from across Canada. This group meets at least annually to discuss common issues and challenges.

The IPC meets on a monthly basis with information and privacy commissioner colleagues from other jurisdictions across Canada to discuss emerging access and privacy issues. The IPC participates in the national FPT meeting that is held annually. The IPC also meets monthly with international counterparts in countries around the world to discuss global privacy trends and issues.

The PIDC meets at least annually with public interest commissioners from other Canadian jurisdictions across Canada and their staff to discuss common issues and challenges.

The IPC works in collaboration with other Ombudsman, IPC or public interest disclosure offices as may be necessary to perform their work including the conduct of joint investigations and joint reviews of privacy impact assessments.

#### **Section 5 – Specific Accountabilities**

##### **The Ombudsman’s Specific Accountabilities**

To fulfill the legislated mandate of the *Ombudsman Act*, the Ombudsman is required to:

- direct, conduct and report on investigations of complaints affecting any person or body of persons related to the administration of services and programs delivered by government and government agencies and those authorities subject to the jurisdiction of the *Ombudsman Act*;
- apply negotiation and conflict resolution skills in dealings with parties;
- develop and maintain effective working relationships and communication with government ministers, senior managers and staff;
- develop educational materials and information about how to access the services of the Ombudsman;
- undertake proactive community outreach to publicize the function of the Ombudsman throughout the Yukon;
- direct research activities to maintain current knowledge of principles of administrative law, natural justice and fairness and Ombudsman practices;
- represent the Yukon at national meetings of Ombudsman and participate in national activities with Canadian parliamentary and organizational Ombudsman, with duty travel as required;
- develop, maintain and share a diverse body of knowledge related to law, investigations, dispute resolution, and fairness;
- prepare and publish an annual public report on the activities of the Ombudsman; and
- prepare and publish special reports as required.

The Ombudsman has broad powers of investigation to perform their work including that they may conduct hearings.

### **The Information and Privacy Commissioner Specific Responsibilities**

To fulfill the legislated mandate of the ATIPPA the IPC is required to:

- develop, implement, maintain and evaluate a comprehensive complaint, comment and adjudication process and procedures;
- direct, conduct and report on investigations of complaints from the public concerning the compliance with the Act;
- review decisions made by public bodies or the Yukon government's Access and Privacy Officer relating to access to information, correction of personal information or whether its collection, use or disclosure is in compliance with ATIPPA;
- conduct adjudications and write quasi-judicial decisions;
- comment on the implications for access to information or for protection of privacy of existing or proposed legislative schemes or programs of public bodies;
- authorize the collection of personal information from sources other than the individual the information is about;
- apply negotiation and conflict resolution skills in dealings with parties;
- decide whether to approve the request of a public body to collect personal information from a source other than the individual whose information is to be collected;
- report to the Minister information and the IPC's comments and recommendations about any instance of improper administration and management or safekeeping of a record or information in the custody or control of a public body;
- inform the public about ATIPPA;
- develop educational materials and information about how to access the services of the IPC;
- undertake proactive outreach to Yukon to publicize the function of the IPC;

- direct research activities to maintain current knowledge of access and privacy best practices;
- develop, maintain and share a diverse body of knowledge related to international, federal, provincial and territorial legislation, technology, and principles of access and privacy; and
- prepare and publish an annual public report on the activities of the IPC under ATIPPA.

To fulfill the legislated mandate of HIPMA, the IPC is required to:

- develop, implement, maintain and evaluate a comprehensive complaint, comment, review and consideration processes and procedures;
- direct, conduct and report on investigations of complaints from the public concerning the compliance with the Act;
- review decisions made by custodians relating to access to information, correction of personal information or whether its collection, use or disclosure is in compliance with HIPMA;
- conduct considerations and write quasi-judicial decisions;
- comment on the implications for access to information or for protection of privacy of existing or proposed legislative schemes or programs of custodians;
- apply negotiation and conflict resolution skills in dealings with parties;
- inform the public about HIPMA;
- develop educational materials and information about how to access the services of the IPC;
- undertake proactive outreach to Yukon to publicize the function of the IPC;
- direct research activities to maintain current knowledge of access and privacy best practices;
- develop, maintain and share a diverse body of knowledge related to international, federal, provincial and territorial legislation, technology, and principles of access and privacy; and
- prepare and publish an annual public report on the activities of the IPC under HIPMA.

The IPC has broad powers in carrying out their duties under these Acts, including the powers of a board of inquiry under Yukon's *Public Inquiries Act*.

The IPC represents the Yukon at provincial/territorial and national meetings of information and privacy commissioners and participates in activities with Canadian federal/provincial and territorial IPCs, with duty travel as required. The IPC also represents the Yukon at international meetings of data protection officers.

### **PIDC Specific Responsibilities**

To fulfill the legislated mandate of the PIDWA, the PIDC is required to:

- develop, implement, maintain and evaluate a comprehensive complaint, comment, review and adjudication processes and procedures;
- direct and provide advice on request from potential disclosers on whether a matter may constitute a wrongdoing as defined by the Act;
- direct, conduct and report on investigations of wrongdoings received from a discloser under the Act;
- direct, conduct and report on investigations of complaints of reprisal received;
- apply negotiation and conflict resolution skills in dealings with parties and investigate as informally and expeditiously as possible;
- develop educational materials and information about how to access the services of the PIDC;



## Section 9 – Organization Chart

