



Yukon
Ombudsman

3162 Third Avenue, Main Floor
Whitehorse, Yukon, Y1A 1G3
T: 867.667.8468
F: 867.667.8469
1-800-661-0408 ext. 8468
www.yukonombudsman.ca

DELIVERED BY SFT

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The Honorable Jeremy Harper
Speaker of the Yukon Legislative Assembly and
Chair of the Members' Services Board
jeremy.harper@yukon.ca

Dear Speaker Harper:

**Re: Ensuring the independence of our budgeting process as required under s.9(2) of the
*Ombudsman Act***

I am writing to you, as Chair of the Member Service' Board (MSB). It has recently come to my attention that the Yukon Government Management Board Secretariat has become involved in the budgeting process of our office, for reasons that are not immediately clear to me.

As an independent officer of the Legislative Assembly, it is of fundamental importance that decisions with direct influence on our operations, including such things as the appointment of an Ombudsman¹, discipline and termination², compensation³ and our office's operational budgeting,⁴ are left to the Legislative Assembly to be the decider of these matters, with insight and recommendations from the all-party membership of the MSB. The *Ombudsman Act* deals specifically with each of these matters to preserve independence.

How, or even why, the Management Board Secretariat is involved in the MSB's financial vetting process is confusing. Section 9 of the *Ombudsman Act* clearly outlines the process as it relates to the review and approval of my operating budget.

9 (1) The Ombudsman shall submit annually to the Members' Services Board in respect of each financial year, an estimate of the sum that will be required to be provided by the Legislature to defray the several charges and expenses of the Office of the Ombudsman in that financial year.
[Emphasis added]

¹ Section 2 of the *Ombudsman Act*.

² *Ibid.*, section 5.

³ *Ibid.*, subsection 4(2).

⁴ *Ibid.*, section 9.

(2) The Members' Services Board shall review the estimate submitted pursuant to subsection (1) and, on completion of the review, the Speaker shall transmit the estimate to the Minister of Finance for recommendation to the Legislative Assembly. [Emphasis added]

As required under subsection 9(1), we provided a financial estimate to the MSB in the early part of September for its review and consideration. We also included a slide deck to help illustrate the increase in case volumes over the past five years as justification for my request for an additional investigator FTE.

On September 16th, my Deputy Ombudsman attended a meeting with the MSB. She walked it through the estimates, including our rationale, and took questions relating to the estimates. At that meeting, the MSB approved the estimates as presented and you, as Chair, conveyed your approval by letter to the Minister of Finance, pursuant to subsection 9(2).

Final approval of the Ombudsman budget estimates now rests with the Legislative Assembly, as is required under that provision.

I recognize that my office, in setting its annual budget, must consider the financial environment of the day and be held accountable to the public for the expenditure of public funds. However, the check on this accountability is the process by which Members of the Legislative Assembly debate, on a line-by-line basis, an Appropriation Bill containing my Vote. It is also why I must first submit my annual estimate to the MSB for review and approval. On completion, the MSB then provides it to the Speaker who, in turn, transmits it to the Minister of Finance for recommendation to the Legislative Assembly.

I kindly request that you clarify this matter with the Minister of Finance, including why the Management Board Secretariat believes that it has the legal authority to insert itself into this independent process and review the MSB's recommendation. I also request that the MSB seek a legal opinion, if one is thought to be required.

As this unexpected departure from the established practice and legal process has interrupted our current hiring competition of an investigator, I require clarification and direction as soon as possible.

Kind regards,



Jason Pedlar, MA,
Ombudsman
Information and Privacy Commissioner
Public Interest Disclosure Commissioner