

VOLUNTARY CONSULTATION ON BYLAW ENFORCEMENT POLICIES AND PRACTICES WITHIN THE ISLANDS TRUST

**CONSULTATION AND TRAINING TEAM
OFFICE OF THE OMBUDSPERSON**



OMBUDSPERSON
BRITISH COLUMBIA

AUGUST 2023

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Introduction

The following feedback is provided by the Office of the Ombudsperson's Public Authority Consultation and Training team at the request of the Director of Planning Services of the Islands Trust. This request was in response to the Islands Trust's Trust Council resolution, passed at the Trust Council's quarterly meeting on March 10, 2023. We understand that the resolution states:

That the Director of Planning Services request the Office of the Ombudsperson to undertake a comprehensive review of the enforcement related policies and practices of the Islands Trust, and recommend such improvement and changes to them as may be required to bring the policies and practices into conformity with best practices for local government bylaw enforcement.

We appreciate the opportunity to learn more about bylaw enforcement within the Islands Trust, and to provide feedback from our perspective on fairness. While we hope that the information we provide is helpful, this feedback should not be taken as legal advice or formal recommendations from the Ombudsperson. Our Voluntary Consultation Policy, which was previously provided as well, is attached at the conclusion of this document for your reference. Please note that it highlights that consultations do not limit, bind or bias the Office of the Ombudsperson from future analysis or investigation of a complaint that may relate to this consultation.

To inform our consultation and subsequent feedback, we have reviewed the following Islands Trust documents:

- Bylaw Compliance and Enforcement Policy 5.5.1;
- Bylaw Compliance & Enforcement Best Practices & Procedures internal document (currently labeled as "draft");
- Handling of Administrative Fairness Complaints Policy 7.1.2;
- Bylaw Compliance and Enforcement Frequently Asked Questions pamphlet; and
- Various flow charts, forms, and template letters utilized by bylaw enforcement staff throughout the course of their work.

We also completed our own research into bylaw enforcement and reviewed our office's [*Bylaw Enforcement: Best Practices Guide for Local Governments*](#). This *Guide* provides relevant guidance on ensuring that bylaw enforcement policies and practices are administratively fair, and we will not be repeating all of that guidance within this feedback. In addition, we reviewed our Best Practices Checklists at the conclusion of our *Guide*.

As part of our review, we also looked at the bylaw enforcement policies of other local governments, including the [City of Coquitlam's](#) Bylaw Enforcement Policy available on their website, the [District of Clearwater's policy](#), and the [Columbia Shuswap Regional District's](#), each of which have details within them and wording which may be useful. We are sharing these as examples and for reference and not as an endorsement or recommendation of these policies.

This report is intended for the use of the Islands Trust to assist with revising bylaw enforcement policies and practices in accordance with administrative fairness. Our review and feedback fall under section 9 of the *Ombudsperson Act*, and information obtained by staff at the Office of the Ombudsperson remains confidential.

Scope of Consultation

The scope of our consultation was to review the policies and procedures followed by bylaw enforcement staff at the Islands Trust and to provide our feedback and suggestions on ways in which administrative fairness may be enhanced.

As part of the consultation, we did not review previous bylaw enforcement activities within the Islands Trust. This is because our team is unable to audit specific bylaw enforcement events or past scenarios. Our team does not review or comment on individual cases; instead, we are focused on providing administrative fairness feedback to enhance policies and procedures at public organizations under the jurisdiction of the *Ombudsperson Act*.

In addition, it is outside the scope of our consultation to provide feedback on the section within the Best Practices & Procedures internal document which addresses the Bylaw Enforcement Notices and Dispute Adjudication System (section D) and associated forms and flow charts. This is because the decisions made within that process are made in accordance with the individual bylaws of the Islands Trust areas, the *Local Government Bylaw Notice Enforcement Act*, and the Bylaw Notice Enforcement Regulation, and we generally do not comment on procedures set out in legislation unless requested as part of a review of the legislation. However, as this process is the primary appeal process regarding bylaw violations for the Islands Trust, we would like to highlight our Quick Tip document [Leading Practices in Conducting Appeals](#) for general information on administrative fairness within appeal processes.

Administrative Fairness in Bylaw Enforcement

Our Office's [Bylaw Enforcement: Best Practices Guide for Local Governments](#), states that "administrative fairness refers broadly to an overall approach to administrative decision-making that is transparent, fair and accountable" (page 7). For a detailed list of what fairness means within bylaw enforcement, see page 7 of the *Guide*.

In the context of bylaw enforcement, having administratively fair, reasonable, and transparent practices in bylaw enforcement can help to instill public confidence in your organization and to resolve bylaw matters efficiently and with minimal conflict.

Generally, a key aspect of administrative fairness is meeting the duty of procedural fairness. This requires that decision makers follow a fair decision-making process when making decisions that impact the rights, privileges, and interests of an individual or an organization. There are two key aspects of the duty of procedural fairness:

- **The right to an impartial decision maker:** Impartiality is about the state of mind and attitude of the decision maker. To be impartial, decision makers must be unbiased, have an open mind and not prejudge the case or decision they will make.
- **The right to be heard and participate in the decision-making process:** Individuals or groups who are impacted by decisions have a right to participate and be heard in the decision-making process. This includes being notified in advance of the decision being made, and receiving information about the decision-making rules and criteria, as well as the decision-making process the decision maker will follow. It also includes providing an opportunity for those impacted by the decision to be heard and have their information considered in the decision-making process.

Procedural fairness also generally requires providing clear and understandable reasons for the decision and information about any available appeal or review options. In addition, procedural fairness requires a timely decision-making process.

In the context of bylaw enforcement, the duty of procedural fairness applies to bylaw enforcement staff whenever they are making a decision that directly impacts a person or organization's rights, privileges or interests.

Below we have summarized principles of administrative fairness, including procedural fairness considerations, that we suggest be incorporated into the current bylaw enforcement policies and practices for the Islands Trust and which we will discuss further in our feedback below. These include:

- Providing individuals with notice of decisions related to bylaw enforcement. This includes providing notice that a potential bylaw infraction is being investigated and providing notice of inspections of private property. It also includes providing notice of any potential enforcement action.
- Providing those who are impacted by bylaw enforcement activities, including investigations, with an opportunity to be heard and participate in the process, and at multiple times within the process when decisions are being made.
- Ensuring that individuals who are impacted by decisions are provided with understandable and meaningful reasons for the decision(s) made throughout the bylaw investigation and enforcement process. We have a Quick Tip document on [The Reasons for Reasons](#) which bylaw enforcement staff may find useful.
- Transparency is an important part of administrative fairness. As such, the policy and procedures followed by the Islands Trust in bylaw enforcement which indicate the decision-making processes used by bylaw enforcement staff should be publicly accessible (ie. on the Islands Trust's website).
- Exercising discretion fairly is integral, as much of bylaw enforcement and related decisions are discretionary on the part of bylaw enforcement staff. We have a Quick Tip document on [Exercising Discretion Fairly](#) which may be useful.
- Managing the expectations of individuals is very helpful for maintaining positive relationships with those who may be involved in bylaw enforcement. Therefore, it is beneficial to set out and follow timelines within the Islands Trust's policies and procedures in relation to bylaw enforcement.

Feedback on administrative fairness within the Islands Trust's current policies and practices related to bylaw enforcement

Best Practice: to have a bylaw complaints policy that provides direction to staff and information for the public

Our *Bylaw Enforcement: Best Practices Guide* states that a best practice is for “[l]ocal governments [to] develop and implement a bylaw complaints policy that provides direction to staff and information for the public about: how to make complaints; which staff members are responsible for receiving, recording and responding to complaints; how staff will record and respond to complaints; [and] how complainants will be informed of outcomes” (see pages 18-20). Having such a policy which is available publicly is important for several reasons: it ensures consistency on the part of the local government; it supports transparency and fairness in the processes followed; and it can enhance the efficiency of responding to and resolving any identified bylaw violations as all parties will have a shared understanding of the process being followed.

We understand from you that the Islands Trust currently has a publicly available Bylaw Compliance and Enforcement Policy and an internal Bylaw Compliance & Enforcement Best Practices & Procedures document for staff. The internal document sets out in some detail the bylaw enforcement process.

We would suggest, regardless of what internal policies or procedures are maintained, that a publicly available policy be drafted that comprehensively sets out the Islands Trust's approach to bylaw complaints and enforcement in a clear and detailed manner. This policy should specifically set out the steps that will be taken to ensure bylaw enforcement decisions are made fairly. Furthermore, we note that there are aspects within the Islands Trust's internal Best Practices & Procedures document which could be used to enhance the current publicly available Bylaw Compliance and Enforcement Policy. Once a publicly available policy is developed, it will be important to ensure that any internal documents related to bylaw enforcement are consistent with the publicly available processes and contain procedures which are administratively fair. We suggest you may also wish to seek legal advice to ensure the bylaw enforcement policy and process you adopt is legally sound and fair.

Additionally, our *Guide* also suggests having a policy (see pages 12-14) which assists staff in exercising discretion when making enforcement decisions. In our view, for the purposes of bylaw enforcement within the Islands Trust, information about how staff at the Islands Trust exercise discretion fairly when making enforcement decisions could be placed in the publicly available comprehensive policy as described above; a separate policy is not necessarily required.

What to include within a publicly available policy on bylaw complaints

Below we have set out some thoughts and suggestions for your consideration on the potential contents of a publicly available bylaw complaints policy:

- Purpose of bylaw complaints policy: We note that the current Policy and the Best Practices & Procedures internal document both have a general purpose statement which may be more appropriate for the section on Guiding Principles, (see below). A revised purpose statement could state that the policy is to establish the procedures for effectively and fairly receiving,

reviewing, recording, and responding to bylaw complaints, and addressing possible and confirmed bylaw violations within the Islands Trust. The Islands Trust's legal authority for enforcing bylaws should be stated here as well (we noted this is currently absent from both the Policy and the Best Practices & Procedures document).

- Guiding Principles: This section would be to clarify the overarching purpose of bylaw enforcement within the Islands Trust, ie. "[T]o ensure public safety and support the objective of the Islands Trust to preserve and protect the trust area and its unique amenities and environment for the benefit of residents of the trust area and of the province generally by ensuring compliance with Local Trust Committee's Bylaws" (taken from the Purpose within current Policy and the Best Practices & Procedures document).

The prioritization of bylaw violations can be helpful to include for both staff and the public. For example: 1. Safety to the public or environment, 2. Significant negative impact to others, 3. General nuisance. This would be more detailed than the current statement within the Best Practices & Procedures document which states "[t]his [complaint-based] system gives priority to those bylaw infractions of greatest concern to island communities" as you could specifically state which types of matters are given priority because they are considered to be of greatest concern. You may wish to review the bylaw enforcement policies from other local governments (see above) for examples of prioritization of bylaw complaints.

It would also be beneficial to clearly state that the objective is for bylaw enforcement action to be proportionate to the nature of the violation found. For this, you could utilize the statement within the Best Practices & Procedures document which states that "[c]ompliance is sought through a combination of education, mediation and enforcement techniques" (page 5).

The discretion held by the Islands Trust as to whether and how to enforce bylaws could be explained here as well. We note that the current Policy has both a section on "Priority of Investigation" as well as a section on "Commencing Investigations" which could be combined and clarified. In addition, we note that the Best Practices & Procedures and the Islands Trust FAQ for Bylaw Compliance and Enforcement states that bylaw enforcement is complaint-based and based on budget; this could also be acknowledged here.

- Definitions: We suggest including a comprehensive list of definitions of the terms used within the policy and pertinent to decisions related to bylaw enforcement. This section could clearly define a "bylaw complaint" and could incorporate the current wording used in the Best Practices & Procedures document which clarifies "[w]hat is not a complaint". In addition, "malicious" or "frivolous" complaints as referred to within the Best Practices & Procedures document could be defined, among other specific terms utilized.
- Roles and responsibilities: The policy should clearly state the roles and responsibilities of all staff and Trustees of the Islands Trust in relation to bylaw enforcement. While we note the Best Practices & Procedures document does refer to the roles and responsibilities of some staff involved, it may be useful to have a specific section which clearly outlines them.

- Confidentiality: We suggest including a specific section in the policy on confidentiality, as we noted that the internal Best Practices & Procedures document only references confidentiality in relation to the section titled “[c]omplainants must identify themselves”. This specific section could address the responsibility of all staff to maintain confidentiality and identify any specific parts of the process where staff have an obligation to maintain confidentiality. It could also highlight how the identity of an individual complaining about a possible bylaw violation will be kept confidential, and that the details of an investigation will be kept confidential by the Islands Trust. We suggest the policy also reference any specific legislation (for example: *FOIPPA*) or other sources of any confidentiality requirements.

- Procedures for handling complaints about bylaw violations: While we recognize that the Best Practices & Procedures document provides detail in this regard, we would suggest considering including sub-sections within the publicly available policy that cover the following:
 - o How bylaw complaints are received: This is in essence the section within the current Best Practices & Procedures document which currently states “How can complaints be sent to the Islands Trust”. We noted that the Best Practices & Procedures document states that while complaints must be submitted in writing, there are accommodations made for those who may have language related barriers. This supports accessibility to the bylaw complaint process and we would encourage you to enhance this to ensure that anyone who may have difficulty submitting a complaint in writing be supported by staff in order to do so. This could be achieved by including a statement within the policy and on any complaint forms which indicates that if a person has difficulty submitting a complaint in writing, they may contact the Islands Trust staff who will assist in taking their complaint. Ensuring that public services/programs are accessible to all is an important aspect of administrative fairness.

 - o Bylaw complaints will be acknowledged: Set out who will receive bylaw complaints, how, and within what number of days they will be acknowledged.

 - o Bylaw complaint review process: This part of the policy should set out the process Islands Trust staff will follow to review and determine whether to investigate a complaint. This is currently addressed in Section A3 of the Best Practices & Procedures document and you may wish to incorporate some or all of this content into the publicly available policy. Section A3 outlines that “[o]n receipt of a file, the BCEO will conduct a file analysis” and should do so within 3 working days. The section titled “What is a case file analysis” explains the criteria that will be used to determine whether to investigate the complaint. Ideally, a reference would be made back to the Purpose and Guiding Principles statements within the same policy.

 - o Investigations into possible bylaw violations: This part of the policy should explain the process that will be followed when investigating a bylaw complaint, including who is authorized to investigate complaints. Below we set out the topics that should be covered:

Notice of bylaw investigation and/or site inspection

The policy should set out the process that should be followed to notify the subject of a bylaw complaint of the complaint about them (this process will likely vary depending on the nature of the bylaw complaint) and also regarding any planned site inspection.

In most circumstances, a person should be provided with information about the nature of the possible bylaw violation being investigated and any relevant evidence in support of the violation so that they can respond to the allegation and provide information or evidence they have which is relevant to the investigation.

Our review of a template letter titled, in part, “Notice to Respondent” appears to provide this notice to individuals who are the subject of a bylaw investigation. The practice of providing these types of notice letters, though, is not explicitly stated within either the current policy or Bylaw Compliance & Enforcement Best Practices document; it may be what is referred to in this passage: “[w]hen a file is opened, the BCEAA will send an email...to the property owner/respondent” (page 11 of Bylaw Compliance & Enforcement Best Practices). However, it is unclear from the document exactly what the content and purpose of this email should be. Therefore, we would suggest that the notification process to individuals who are the subject of a bylaw investigation, as stated above, be set out within the publicly available policy.

There may be some circumstances when it may be reasonable to commence a bylaw investigation and/or conduct a site inspection without providing notice to the subject of the investigation. We suggest the Islands Trust’s policy clearly state which types of circumstances this may occur (such as immediate threat to life, environment or human health), the legal authority for acting without notice, and the steps that will be taken to ensure notice is provided at the earliest opportunity. A fulsome discussion on inspecting private property as part of a bylaw enforcement investigation begins on page 30 of our *Guide*. As it acknowledges, an inspection on private property can be a significant intrusion into a space that would otherwise be private. In particular, individuals may have personal circumstances which could lead them to feel threatened, intimidated, or otherwise uncomfortable with a bylaw enforcement staff member attending their property without providing adequate notice.

Currently, the Best Practices & Procedures document indicates that for all bylaw complaints where there may be a potential violation, the Bylaw Compliance and Enforcement Officer (BCEO) will conduct a site inspection of the property for multiple purposes (section A4). However, there is no explicit requirement that the BCEO provide notice of the property inspection to the individual (identified as the Respondent) or information about the nature of the bylaw complaint regarding them/their property and the reasons the BCEO has for investigating the complaint. There is only a requirement that the BCEO send a letter to the Respondent when they have “confirmed by inspection or other means that a contravention of a bylaw has occurred or is occurring” (Best Practices & Procedures page 11, “Communications with Respondents”). In addition, section 4.4 of the Best Practices & Procedures document states that “BCEOs

have the legal authority to conduct an inspection, sometimes with notice, but for most of the land use bylaws, no notice is required”.

Our *Bylaw Enforcement: Best Practices Guide* (pages 31 to 32), states that while local governments do not need a warrant or permission from the owner or occupier to enter property, inspections must be done in a reasonable manner and at a reasonable time, and an inspector must take reasonable steps to advise the owner or occupier before entering the property. Therefore, it is important to set out the legal authority that the Islands Trust has to enter a property in order to inspect the property which is the subject of a bylaw investigation. The publicly available policy should also set out what process will be followed to enter a property (both with and without notice) and outline how this process meets any legal requirements. We would suggest that further review of the current approach be undertaken to ensure that the current approach is reasonable and is consistent with legal and fairness principles.

In addition, we would suggest removing section A6 of the Best Practices & Procedures document which states that “[w]hen visiting properties, BCEOs have no obligation to respond to questions directed to them” as this is not aligned with the principles of administrative fairness. Generally, being administratively fair requires letting individuals who are the subject of the bylaw complaint investigation know the purpose of your visit and answering any reasonable questions related to the visit and to any bylaw complaint investigation that is underway.

To summarize the above, the publicly available policy should require that, subject to specific exceptions set out in the policy, BCEO’s should notify the subject of a bylaw investigation of an investigation into a potential bylaw violation, including information about the nature of the violation being investigated. This includes providing notice to individuals of the need for a site inspection in order to gather evidence. While doing so, it is important to meet any privacy or confidentiality obligations that may exist in each circumstance.

Opportunity to be Heard

Providing the opportunity to be heard is an important aspect of administrative fairness; this means notifying a person about an alleged bylaw infraction and providing them a chance to respond. It is important that the policy explain when and how the subject of the bylaw complaint will be provided with an opportunity to be heard and participate in the investigative process.

Progressive enforcement

This section of the publicly available policy can also detail the progressive enforcement steps that bylaw enforcement staff will take if a bylaw violation is found through an investigation; section A7 of the Best Practices & Procedures internal document could be used here. In addition, this section of the policy could also address the discretion (referred to as ‘judgement’ within the Best Practices & Procedures) held by those staff involved in bylaw enforcement. This may include setting out how bylaws will generally

be interpreted and what factors will be considered to determine whether and how to take bylaw enforcement action with respect to a bylaw violation.

Equitable enforcement

In addition, you may also wish to include a requirement that bylaw enforcement staff be equitable in their approach. This means that bylaw enforcement staff should consider each person's unique circumstances when determining the appropriate and fair investigative approach and enforcement actions to take in relation to bylaw complaints. A discussion and example of what this may look like in practice can be found in our *Bylaw Enforcement: Best Practices Guide* on page 41.

- Complaints closed following an investigation: The policy should state when a complaint will be closed after an investigation is completed (and if applicable, any related bylaw enforcement action is taken) and how those impacted by the closure of the file (particularly the person who made the bylaw complaint and the person subject to the bylaw complaint) will be notified of that decision. It should also include a requirement, within the bounds of any privacy or confidentiality requirements, to explain the outcome of the bylaw investigation and the reasons for any decision to enforce or not enforce a bylaw. Information should be included regarding any available review or appeal options. While the current Best Practices & Procedures document does address the circumstances when files will be closed (page 5 and also page 8), there are details which could be added to ensure the closure of files is completed in a way which is administratively fair; including ensuring that the reasons for the decision to close the file are provided to individuals (identified as the Respondent) along with information on how to appeal decisions made by bylaw enforcement staff.

Forms, letters and other communications with individuals should reflect administrative fairness

As part of our consultation, we reviewed a number of template letters and forms which it appears that bylaw enforcement staff use, and which are referred to or linked within the Best Practices & Procedures internal document, when communicating with individuals who may be involved in bylaw enforcement. As part of our review, we will not offer individual comments on the template documents, but rather more general comments as set out below. First, we note that it is important for the forms and template letters, as well as all other communications with individuals, to be consistent with and demonstrate that the Islands Trust is following the principles of administrative fairness. This means that, when communicating with individuals, individuals should be provided with adequate notice of decisions, information about their opportunity to be heard within the bylaw enforcement process, fulsome, clear and understandable reasons for decisions, and information on review or appeal options available to them.

Additional details on the importance of reasons and how to provide meaningful and understandable reasons can be found within our [The Reasons for Reasons](#) Quick Tip document (also referred to above). Overall, it is important that the reasons for decisions include:

- The issue(s) decided upon, or to be decided upon

- The facts, information and evidence considered by the decision-maker
- The decision-making criteria (such as the bylaw)
- An analysis by the decision-maker
- The decision itself, and
- Appeal and review options available.

It is also important for communications with individuals to be understandable while being informative, particularly for those who may have no knowledge of the subject matter (such as bylaws and bylaw enforcement) and keeping in mind the goal of compliance with bylaw enforcement. Our Reasons for Reasons document highlights that when providing written reasons, the reasons should be drafted with the reader in mind and be written in a way that is understandable to them. Our review indicates that some of the forms and template letters being used by bylaw enforcement staff are formal and may be difficult for individuals to understand, and we would encourage you to review these while considering all aspects of administrative fairness and legal requirements.

Additional complaints related to bylaw enforcement

It is important to note that the Islands Trust may also receive complaints which are not about alleged bylaw violations but may still relate to bylaw enforcement, such as the conduct of bylaw enforcement staff. It is important to have an established process for receiving and responding to all types of complaints, including those regarding staff conduct. Therefore, we suggest it is important that the Islands Trust have a general complaints policy which addresses any complaints and concerns related to services provided and decisions made by the Islands Trust generally.

Our review of the Handling of Administrative Fairness Complaints Policy is that it appears to be serving as a general complaints policy as it covers several matters a person may complain about, such as the conduct of staff or the delivery of other services. However, we suggest you may wish to amend the Policy's title and content to reflect its function as a general complaints policy. We also suggest continuing to use administrative fairness principles as part of how these complaints are analyzed and addressed.

Should you decide to revise the current Administrative Fairness Complaints Policy into the suggested general complaints policy, our [Complaint Handling for Local Governments](#) Quick Tip document, as well as our [Complaint Handling Guide](#) and [Model Complaints Policy](#) may be useful.

Summary

The investigation of bylaw matters and the enforcement of bylaws can significantly impact those involved in these processes, including bylaw staff, complainants and those subject to bylaw investigations. It is best practice to have a bylaw complaints policy which provides direction to staff and information for the public about the ways in which bylaws are enforced (see page 20 of our *Bylaw Enforcement: Best Practices Guide*). This supports the administratively fair, efficient, and reasonable enforcement of bylaws. It will also support public confidence in the fairness of bylaw enforcement by the Islands Trust and it may help to reduce conflict in the bylaw enforcement process.

In conclusion, we hope that this feedback is helpful to ensure fairness within the policies and procedures for bylaw enforcement by the Islands Trust.

VOLUNTARY CONSULTATION POLICY



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The Office of the Ombudsperson's mandate includes supporting public organizations under our jurisdiction to deliver their programs and services fairly. As part of this work, public organizations may voluntarily consult with our Public Authority Consultation and Training Team (PACT) to informally address administrative fairness issues outside of an investigation. During voluntary fairness consultations the PACT team will:

- work informally and collaboratively with public organization staff;
- share our knowledge of the principles of administrative fairness;
- provide practical advice and suggestions to support public organizations to be fair in the delivery of their services and programs;
- focus on proactively addressing fairness issues outside of the context of a formal investigation by our office; and
- consult with public organizations on the development of best practice resources for their sector.

When we conduct a voluntary fairness consultation, we are not providing legal advice or formal findings and recommendations from the Ombudsperson. While we hope our suggestions will be considered as ways to support and enhance fairness in policies and programs, public organizations are not required to implement the suggestions provided. A public organization's participation in a voluntary fairness consultation does not limit, bind or bias the Ombudsperson or Ombudsperson staff in the analysis or investigation of a complaint on the Ombudsperson's own motion that relates to the subject matter of a prior voluntary consultation.

The PACT team conducts voluntary fairness consultations on administrative fairness issues that are not currently the subject of an active Ombudsperson investigation. The PACT team has no role or involvement in the investigative process or investigative decision making. However, during a voluntary fairness consultation, the PACT team may review our internal case management system and consult with investigative staff to gather relevant information about previous complaints made to our office about the organization and related investigations. The PACT team may also provide follow-up assistance to support the organization in the implementation of changes being made to address fairness issues identified through an investigation.

At any point in the voluntary consultation process, if significant administrative fairness issues are identified that are not resolved through the voluntary consultation and could result in findings of unfairness under section 23 of the *Ombudsperson Act* (for example, unjust, oppressive, or contrary to law), the matter may be raised further within our office for additional review and possible investigation. In these rare circumstances, the PACT team will inform the public organization before deciding whether to escalate such matters. In such cases, the voluntary consultation would be terminated before an investigation is commenced.

Voluntary fairness consultations occur under section 9 of the *Ombudsperson Act*, and information obtained by Ombudsperson staff is securely stored and confidentially retained by our office on our electronic database. This information is excluded from disclosure under the *Freedom of Information and Protection of Privacy Act* (section 3(1)(c)). If our office receives a complaint about a matter that was subject to a voluntary fairness consultation, Ombudsperson investigative staff may review records relating to the voluntary consultation that are stored on our office's electronic case management system.

The Office of the Ombudsperson is an oversight office, independent of government, that investigates complaints about administrative unfairness and makes recommendations for system-wide improvements. The office also offers advice and investigates allegations of serious wrongdoing from BC public servants. Our Consultation and Training Team offers educational webinars, training workshops and individual consultation with public organizations to support fairness and continuous improvement across the public sector. For more information, please contact us at consult@bcombudsperson.ca.



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