



Bennett Jones

OLHI INDEPENDENT REVIEW 2023

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EXECUTIVE SUMMARY

The OmbudService for Life and Health Insurance (OLHI) is a federally incorporated not-for-profit company established in 2002 to provide alternative dispute resolution for Canadian life and health insurance consumers.

The Canadian Council of Insurance Regulators (CCIR) has an Insurance OmbudServices Cooperation and Oversight Framework (Framework). The Framework identifies the public interest objectives of complaint resolution in the insurance sector and includes Guidelines designed to ensure that they are fulfilled.

Under the Framework and its Guideline on third party evaluation, OLHI's Board must periodically appoint an independent third party evaluator to review OLHI's operations and whether it is achieving the objectives of the Framework. The independent evaluation must also assess the governance of the organization by OLHI's Board of Directors.

This report by Bennett Jones LLP is the fourth review of OLHI's operations under the Framework and its Guidelines. The relevant period for the report is from 2018, when the previous report was completed, up to and including 2022.

The methodology for the report included reviewing foundational and operational documents, minutes of the Board and its committees, and a representative sample of case files. It also included interviews.

The 2017-18 independent review found "that OLHI has matured as an organization that is both independent and skilled in dealing with complaints by customers against their insurance companies". This report finds that over the period under review OLHI has put itself on the path of continuous improvement with positive changes at both the organizational and the Board level.

The report provides an assessment under the Framework and its Guidelines of whether OLHI's operations have achieved their public interest purpose, which is to foster consumer protection by providing an accessible and effective complaint-management system. The report also assesses the governance of the organization through the Board of Directors.

The Framework's Guidelines cover independence, accessibility, scope of services, fairness, methods and remedies, accountability and transparency, and third party evaluation. The report assesses OLHI's operations as to whether they are implementing the objectives of each of the Guidelines. We conclude that OLHI's operations have achieved their public interest purpose. OLHI is very effective at providing its

service and by adopting a culture of continuous improvement has made great strides since the previous evaluation.

The report also assesses the governance of the organization through the Board of Directors. We conclude that OLHI is very well governed through its Board which is strong and committed.

We have made recommendations to build on OLHI's continuous improvement. These recommendations appear throughout the report and are collected in an annex.

We are pleased to have been able to undertake this review, and look forward to seeing how OLHI will continue to improve and innovate in the coming years.



OLHI INDEPENDENT REVIEW 2023

BACKGROUND

The OmbudService for Life and Health Insurance (OLHI) is a federally incorporated not-for-profit company. It was established in 2002 consistent with the legal obligation of federally-incorporated insurance companies to be members of an independent organization that deals with consumer complaints that have not been resolved to the satisfaction of consumers by the companies' own complaints procedures. In addition to its dispute resolution function, OLHI provides information to consumers about their rights, and provides a service for searching for existing insurance policies.

OLHI is funded through assessment fees paid by the members from the life and health insurance industry, and its complaint-resolution service is provided free of charge for clients.

OLHI is an impartial service: it is not an advocate for either the member or the consumer.

OLHI's membership covers virtually the entire health and life insurance industry. As a group, the interests of members are represented by the Canadian Life and Health Insurance Association (CLHIA) which is a long-standing voluntary trade organization.

OLHI's Board of Directors (Board) consists of a mix of both independent directors and industry directors. Independent directors are nominated by the Board's Independent Directors' Committee and must meet certain requirements to ensure their independence including restrictions on past or current involvement with insurance companies and financial services providers. Industry directors are nominated by the CLHIA board of directors. Independent directors must always outnumber industry directors by at least one.

In 2022, OLHI celebrated its 20th anniversary. According to its annual report for 2022, over those 20 years OLHI responded to almost a million inquiries and nearly 40,000 complaints, in addition to more than 20,000 policy searches. The organization grew from receiving 123 complains in its first year to 1,338 in 2022.

The General Insurance OmbudService (GIO) is a parallel organization to OLHI for a different part of the insurance industry, providing an independent dispute resolution service that is free and impartial for consumers of home, automobile and business insurance.

The Canadian Council of Insurance Regulators (CCIR) has a relationship with OLHI and the GIO. The CCIR is an inter-jurisdictional association of insurance regulators and given the regulatory role of its members has a clear interest in resolution of consumer complaints. OLHI and the GIO are independent of

the CCIR, and their relationship with CCIR is one of cooperation in light of their common interest in consumer complaint resolution.

The CCIR's OmbudServices Oversight Standing Committee, in collaboration with OLHI and the GIO, has established a Cooperation and Oversight Framework (Framework). The Framework identifies the public interest objectives of complaint resolution in the insurance sector and includes Guidelines designed to ensure that they are fulfilled. As the Framework states:

Regulators consider effective complaint resolution through independent OmbudServices such as OLHI and GIO to be an important component of a well functioning consumer protection policy framework. As impartial services, they offer an alternative to the legal system in a confidential informal setting that is free to the consumer.

The Guidelines cover independence, accessibility, scope of services, fairness, methods and remedies, accountability and transparency, and third party evaluation.

Under the Framework and its Guideline on third party evaluation, OLHI's Board must periodically appoint an independent third party evaluator to review OLHI's operations and whether it is achieving the objectives of the Framework. This report by Bennett Jones LLP is the fourth review of OLHI's operations under the Framework and its Guidelines. The relevant period for the report is from 2018 when the previous report was completed up to and including 2022.

METHODOLOGY

We reviewed the foundational documents from OLHI including its *General By-Law*, its *Terms of Reference*, its annual reports, and the previous independent evaluations. We also had access to operational documents including the *Three-Year Strategic Plan (2021-2024)*, the *Public Education Strategy*, the *Directors' and Officers' Code of Conduct and Policy on Conflicts of Interest*, and the *HR Policy Manual*.

We reviewed the minutes of the Board of Directors and its committees for the relevant period, as well as those of the Annual General Meetings.

We also reviewed a representative sample of case files that covered a broad spectrum of the types of complaints made to OLHI, that provided insight into the different stages of the complaints review process, and that resulted in a variety of outcomes.

Finally, we carried out several interviews. These included interviews with the Chair of the Board of Directors as well as independent and industry directors, the Chair of the OmbudServices Oversight Standing

Committee, the President of the CLHIA, the CEO and Ombudsman of OLHI, and OLHI senior management and staff.

We would like to thank staff and leaders of the organization for their assistance in ensuring that we had full access to relevant documentation, and to thank those who agreed to be interviewed for their forthright comments.

DEVELOPMENTS SINCE THE LAST EVALUATION

There have been considerable positive developments for OLHI since the last evaluation. One key factor is the Board's 2019 appointment of the new CEO and Ombudsman. The 2017-18 independent review found "that OLHI has matured as an organization that is both independent and skilled in dealing with complaints by customers against their insurance companies". We conclude that the CEO and Ombudsman's leadership along with the Board's direction have further served to put OLHI on the path of continuous improvement. As this report will explain in more detail, the last few years have seen significant changes including: a vastly enhanced website; substantial efforts on public education outreach; improved strategic planning including using metrics based on better data quality and analysis; salutary changes to the complaints review process; better communication with the OmbudServices Oversight Standing Committee and the CLHIA; and, more careful assessment before reaching a decision that a complaint is outside OLHI's jurisdiction.

The Board of Directors has also instituted its own internal changes to improve governance including developing a skills matrix for assessment of potential independent Board members and instituting annual reviews by Board members of the functioning of the Board and of their fellow directors.

We would be remiss not to mention that OLHI and the Board of Directors accomplished all of this while at the same time adapting to the challenges of the COVID-19 pandemic and indeed seizing the opportunity to leverage technology in order to increase the accessibility of their services to consumers as well as their ability to recruit staff and board members from across the country.

What follows below is a more detailed assessment under the Framework and its Guidelines of whether OLHI's operations have achieved their public interest purpose, which is to foster consumer protection by providing an accessible and effective complaint-management system. The report also assesses the governance of the organization through the Board of Directors.

ASSESSMENT OF OLHI'S OPERATIONS

The Framework includes Guidelines designed to ensure that OLHI and the GIO fulfil the public interest objectives of complaint resolution described in the Framework. Each Guideline contains an objective and

measures to implement that objective. The topics covered by the Guidelines are independence, accessibility, scope of services, fairness, methods and remedies, accountability and transparency, and third party evaluation. We found the Guidelines to provide a useful structure for assessing OLHI's operations in the context of their public interest purpose.

Independence

The foundation for consumers and members having confidence in OLHI as an alternative dispute resolution body is OLHI's independence from the life and health insurance industry or companies within it. This means ensuring that a reasonable person would not question that directors, leadership and staff can carry out their functions objectively and fairly.

OLHI's General By-Law requires that a majority of directors are independent. Article 30 establishes seven criteria for independence including not having been a director, officer or employee of a financial services provider or insurance company within the three years prior to appointment, not providing goods or services to and receiving compensation from a member company, and not having a significant interest in a class of shares of a member company. We are satisfied that a reasonable person would perceive that the criteria, if met, mean that independent directors are not biased when it comes to member companies.

All directors, including industry directors, must abide by the *Directors' and Officers' Code of Conduct and Policy on Conflicts of Interest* ("Code"). The Code establishes that directors must report actual, potential or perceived conflicts of interest to the Board which in turn would undertake a process for dealing with the conflict of interest. It is a standing item at each Board meeting to ask directors to declare any conflict of interest. Conflicts may be expected to be rare even for industry members since the Board does not deliberate on individual complaints. No such declarations were made during the period under review.

As with any Board, both independent and industry directors need to act in OLHI's best interests to achieve its public interest objectives. The minutes of Board meetings along with interviews of directors and senior staff reveal a common view that all directors take their fiduciary obligation to the organization's mandate very seriously such that an observer at a meeting would not be able to tell which directors are in which category. We are satisfied that a reasonable person would not question that all directors contribute to providing objective and disinterested oversight.

Leadership and staff of the organization also must be free from conflicts of interest in order to ensure the independence of the organization when it comes to operational matters, including working on resolution of consumer complaints. Each member of the leadership and staff must annually review and make a formal

written attestation to the appropriate codes of conduct and conflict of interest which supports this aspect of independence.

Finally, for the organization to be independent, it must be appropriately funded on an ongoing basis. Member contributions and OLHI's annual budget are approved first by the Independent Directors Committee of the Board before recommendation to the Board in order to provide an assurance that funding decisions are based on objective needs and not influenced by industry considerations. None of our interviews suggested that OLHI is not adequately funded.

Accessibility

For an organization whose public policy purpose is consumer protection, accessibility of services is a bedrock requirement. In order that consumers may access OLHI's services, they must know about those services. The services must be easy to use and clearly explained, and there must be no cost to the consumer.

OLHI has made considerable efforts since the last review in terms of public education outreach. One key approach has been to develop a list of target stakeholders that can connect OLHI with consumers on an ongoing basis, such as legal clinics, organizations that advocate for different health conditions, financial literacy organizations, unions and human resources professionals, and certain government organizations. A second important approach has been digital marketing using Google Ads which provides nonprofit organizations with a certain amount of free access to place search word ads on Google.com. This includes getting real time feedback from Google to help determine whether the advertising is hitting the mark.

Another important way in which consumers learn about OLHI's services is from the member companies themselves. OLHI continues to provide information to its members which in turn inform their customers, as a matter of standard practice, about OLHI's services if a member is unable to resolve a complaint from a customer through the member's internal processes.

OLHI also continues to provide a variety of means for consumers to contact the organization about complaints including toll free phone, Bell Relay Service for those who are hearing impaired, and a web form. This last is particularly crucial since consumers have pivoted heavily to online contact with OLHI.

In response to the societal expectation that services will be available online, OLHI undertook a major overhaul of its web portal. This included reviewing content to ensure that it is in plain language, using video clips to explain OLHI's services, and optimizing its search engine so that consumers can find the information they need more easily and intuitively. **We recommend that OLHI consider whether there is**

a financially responsible way to enhance further their web portal by investigating improvements for accessibility such as by persons with visual impairments.

OLHI continues to provide all of its services in English and in French, and provides consistency of service across the country.

As a small organization, losing even a single staff member or having a sudden spike in complaints can impact heavily the ability of the organization to deliver timely service. Over the period under review, there were times when the organization was understaffed due to departures which resulted in a buildup of unresolved cases. However, OLHI is able to recruit high quality staff more quickly on a national level because of remote working and has stabilized its staff complement. In addition it has put in place changes to the process that improve efficiency. As a result there was no consistent backlog over the period of the review.

Finally, OLHI's services are fully funded by its members and there is no cost to the consumer. The Independent Directors' Committee of the Board of Directors reviews each year's proposed budget to ensure that OLHI is properly funded and recommends the budget to the Board.

Scope of Services

OLHI's Terms of Reference meet the requirements of the Guideline on scope of service. They permit access to its services by consumers of all of OLHI's member companies. Similarly the Terms of Reference enable OLHI to deal with substantially all complaints in the life and health insurance sector except where there is a compelling policy or practical reason to exclude them from the services offered. Examples of reasons for not considering a complaint include where it is about a member's pricing of products or services, or if the complaint is determined to be frivolous or vexatious.

To meet the Framework's public policy objective of consumer protection, OLHI is directed under the Guidelines to "adopt a generous interpretation of its terms of reference so that, if doubt exists as to jurisdiction in a particular case, the doubt would be resolved in favor of dealing with the complaint rather than rejecting it." This is an area where interviews and case file reviews show that OLHI has made considerable strides. Where past approaches may have been to take a more cautious approach to jurisdiction, the leadership of the organization is emphasizing the need to fully embrace OLHI's mandate and to take a careful and indeed a second look before reaching a decision that a complaint is outside OLHI's purview. This includes determining whether at least a part of a complaint could be considered even if other aspects of a complaint may not.

One way to ensure that complaints are not inadvertently found to be outside of the scope of services is for OLHI to work with consumers to help them articulate their complaints and to provide them with easy means to file their complaints. The step by step instructions on the web site as well as the web-based submission form speak to ease of registering a complaint, and staff remain available by phone to assist with this intake process. Our review of the case files shows that staff put considerable effort into working with consumers to understand and help them articulate their complaints.

OLHI has also made improvements to its written communications to consumers including using more simple language and providing more information to explain decisions on scope of services. OLHI also provides consumers with information about alternate fora or services for complaints that are not within their jurisdiction, including when legal recourse may be something for the consumer to consider.

Under the Terms of Reference, OLHI has the mandate to go beyond individual complaints and to look at systemic or widespread issues. During the period under review, there were no investigations of systemic issues because none came to OLHI's attention through its interactions with consumers and members.

We recommend that OLHI continue to emphasize a generous approach to the mandate, including working with members and the CCIR on whether, if there are any gaps in consumer recourse, they could be addressed through revisions to the Terms of Reference.

Fairness

The service provided by OLHI when it comes to complaints is one of dispute resolution as an alternative to consumers pursuing legal action against member companies. In this role, and in order to maintain the confidence of both consumers and member companies, OLHI must reach recommendations that are fair to both parties and be able to demonstrate that its process is fair.

The Guidelines provide that OLHI should "guard against adopting an unduly legalistic approach to complaint resolution" because the objective of the dispute resolution service is to "encourage fair dealings, broadly and reasonably conceived."

Based on the case file review and our interviews, we can see that OLHI is embracing this mandate. Since the business of insurance is based on very specific contractual obligations undertaken within the context of a well-developed legal framework, careful and objective interpretation of the terms between the consumer and the member company will always be necessary. At the same time, as noted above, OLHI is making efforts to ensure that its decisions on whether complaints are in scope reflect the mandate to encourage fair dealings which in some cases may entail giving the benefit of the doubt in favour of the consumer. Similarly,



at the informal conciliation phase of the dispute resolution process, OLHI is working with member companies to consider the issue of fair dealings when looking at possible resolutions of complaints.

We understand that the CCIR will be working with OLHI and its counterpart the GIO to update the Framework and Guidelines for the OmbudServices, and that OLHI in turn will look to update its terms of reference. We urge that consideration be given to further exposition of the concept of fair dealing, to provide greater guidance to members and to the OmbudServices, but make no recommendation on this point given that the content of the Framework and Guidelines are beyond the purview of the report.

In terms of the fairness of OLHI's process, there is a standard published on OLHI's website that touches on matters such as relying on information from both consumers and members, treating similar complaints in similar ways (although with an eye to the unique nature of each complaint), and ensuring neither consumers nor members have special access to OLHI staff during review of a complaint.

Our review of the case files substantiates that OLHI does indeed put a fair process at the heart of its work on complaints. Members are encouraged to and do in fact provide all relevant information, and OLHI continues to work with members to have them adopt a consistent format so that information is provide in an organized and efficient fashion. The case files demonstrate that consumers are asked to provide all relevant information, that they can do so using non-legalistic explanations and that staff will work with them to ensure there is a comprehensive picture around the consumer's complaint. The files also show that staff conduct themselves ethically and with professionalism.

We conclude that OLHI's policies and operations demonstrate that its work is carried out impartially in a way that is fair to both consumers and members.

Methods and Remedies

For a service such as OLHI to be effective, it must start with competent, well-trained and expert staff. Our interviews and case file review reveal that this has been further strengthened over the review period. Staff and leadership alike consistently spoke about recruitment of highly qualified individuals with relevant experience and profile that align with OLHI's mandate, a deepened team atmosphere, the emphasis on continuous improvement, new opportunities for professional development and training, and increased diversity and expertise due to the ability to hire on a national level given that work can be done remotely. Board members in turn spoke highly of how they are supported by staff and leaders.

Consumers and members must also have easy access to information about OLHI's methods. OLHI's web portal and annual reports explain clearly its intake process and the possible steps in the complaint resolution

process. First, the Complaints Manager ensures that the complaint is in scope. If so, a Complaints Analyst reviews the complaint to see if it has merit, and works with the consumer and the member company to try to resolve the matter quickly. If a complaint has merit and has not been informally resolved by the Complaints Analyst, it moves to an Ombudsman Officer (OSO) who investigates the complaint to determine merit and tries to find a solution that is acceptable to all parties. Finally, if a complaint is not resolved at the OSO level then a Senior Adjudicative Officer (SAO) may investigate the complaint for merit and make a non-binding settlement recommendation. OLHI would publish the name of a company that did not accept an SAO's non-binding recommendation but this has never happened.

It is in the interest of the consumer to have a complaint resolved quickly and efficiently. Accordingly, in the period under review, OLHI has made some important operational changes that are designed to increase efficiency. First is that complaints analysts now have the ability to communicate directly with the insurer rather than through the leadership team, for example if they need more information. Second, with prior approval from the Senior Deputy Ombudsman, complaints analysts can now directly try to settle uncomplicated cases with low dollar values.

Our review of the case files shows that OLHI consistently explains the steps in the process as well as anticipated time frames in the context of complaints resolutions efforts. As noted above, while during the review period there was at one point some buildup of unresolved cases, that has been addressed with a more stable staff complement and a renewed emphasis on efficiency.

OLHI offers an alternative to legal recourse and as such it requires for each complaint that the consumer and the member company agree in writing that materials will remain confidential and that staff will not be required to testify in legal proceedings. Further, other than in Quebec where the law does not permit it, the consumer and the member company agree in writing to suspend any limitation periods for legal proceedings.

In each case, OLHI strives to reach a result acceptable to both the consumer and the member company. Of course this is not always possible, particularly given that a large number of complaints files are closed at the Complaints Analyst level with a finding that the complaint does not have merit. Where there is no agreed resolution, OLHI provides an explanation to the consumer. Over the review period, OLHI has increased its efforts to provide explanations in plain language and to give more information to the consumer to help them better understand.

If a complaint makes it to the final level of the process, the SAO will make a non-binding settlement recommendation for meritorious cases. The remedy may be financial or some course of action such as to fix a mistake made by the member company in administering a policy.

Annual reports show that, just as over the previously reviewed periods, very few complaints make it to the level of adjudication by an SAO. On the one hand this may be a sign of a success in that matters are being resolved at earlier stages of the process meaning that consumers more quickly receive either a remedy or else an explanation of why their complaint lacks merit. On the other hand, it may mean that OLHI's standard for when to escalate a complaint to the SAO level is not sufficiently tailored to the organization's consumer protection purpose. An example of a standard aligning with OLHI's mandate would be whether a reasonable person would think that the member had dealt fairly with the consumer. **We recommend that OLHI consider establishing a written standard for when to move a complaint to the SAO level that favours consumer protection.**

Another consideration with respect to moving complaints to the final level of dispute resolution may be that OLHI's *Terms of Reference* provide that this non-binding adjudication is undertaken by someone external "with an appropriate skill set and experience" who is appointed by OLHI. This entails always having an appropriate person or persons on retainer who are able to act as and when needed, and also means that the organization has to bear additional expenses for complaints that reach this stage. In some interviews the question came up as to whether the expense and formality of this stage is at odds with a streamlined process that is supposed to be an alternative to legal recourse. We also wonder about the impact of use of a third party on the ability of the Ombudsman to stand behind the decisions of the organization. This is an important question for consideration by the Board along with OLHI's leaders. **We recommend that OLHI study whether a different model for the final dispute resolution stage of the process could better support consumer protection and accountability, including whether the non-binding recommendation should come from the CEO and Ombudsman as final authority. This model would include using the standard discussed in the previous recommendation for when to move a complaint to the final authority.**

Accountability and Transparency

An independent and impartial organization needs to have the confidence of its clients, its members and its associated regulatory bodies. That confidence in turn relies on the organization to be accountable for the delivery of its mandate, and transparent in its operations.

How does OLHI fulfil these requirements of accountability and transparency? First of all, OLHI has an annual report that is published in a timely fashion on its website. All of its annual reports dating back to 2002-2003 when OLHI was created are easily and publically available on the website. The reports provide public information about the volume and nature of complaints and the disposition of those complaints as well as explanations of the complaints process and of developments in OLHI's operations. All previous external reviews of OLHI, as well as the organization's responses to recommendations, are also available on the website.

Second, OLHI's website contains a wealth of information about the organization including its general by-laws, its terms of reference, and its service standard and fairness standard. There is information about board members as well as the organization's leadership team, and an easily accessible list of the organization's member companies.

OLHI put in place real time consumer perception surveys on its web portal to track how consumers view OLHI so that the data can be used to improve OLHI's services. One metric is the Customer Effort Score (CES) which measures ease of use of a service. A second metric is the Net Promoter Score (NPS) which rates the likelihood that the consumer would recommend OLHI's services to someone else. In the last year of the review period, which is the first one to report data as against an established baseline, OLHI had significant improvements in both these metrics.

OLHI has not undertaken a formal survey of consumers since the last independent review. The usefulness of customer satisfaction surveys is impacted by the fact that, as the last review noted, "any person or organization, which has the authority or power to resolve disputes, will attract disapproval from unsuccessful parties." Since a significant number of complaints are found after investigation by OLHI to be without merit, results from a consumer survey would need to be contextualized when being interpreted. Nonetheless, undertaking a consumer satisfaction survey would further support the organization's accountability to consumers on matters not covered by the real time consumer perception surveys. **We recommend that OLHI consider a periodic consumer satisfaction survey that would in particular look at consumer perceptions related to timeliness, courtesy and impartiality of services.**

When it comes to members, OLHI has a quarterly meeting with the CLHIA as the organization representing members, and the Board holds an annual general meeting with members at which the leadership team from OLHI is also present. These interactions provide members with a window into OLHI's operations and governance so that they can see for themselves that the organization is one in which they can have

confidence. Confidence by members in turn supports the organization in carrying out its mandate since their cooperation is a key factor in success in delivering on OLHI's mandate.

Similarly, OLHI has regular meetings with the CCIR's OmbudServices Oversight Standing Committee (quarterly meetings by the CEO and Ombudsman, and an annual meeting with the Board). From interviews, we learned that over the review period considerable effort has been put into building the relationship between OLHI and the regulator which is very positive.

One area that continues to be a point of difference of views is the type and amount of information that OLHI provides to the CCIR to support an assessment of the organization's effectiveness. From a regulatory perspective, more information better allows CCIR to make sure that insurance companies are meeting their obligations with respect to consumer protection. OLHI has additional important considerations including confidentiality of consumer information, maintaining the trust of members, and ensuring limited staff resources are primarily directed to OLHI's core mission. We recognize that the matter is being approached seriously and in good faith. **We recommend that OLHI continue to work with the OmbudServices Oversight Standing Committee on what information may appropriately be shared in furtherance of a fair, transparent and efficient dispute resolution process.**

Third Party Evaluation

This is the fourth independent evaluation of OLHI. Each of the preceding evaluations found that OLHI was effective in providing its service and made recommendations on opportunities for improvement. These past evaluations were discussed by the Board and made public, including OLHI's responses to recommendations.

As the Framework document specifies and as the section above on methodology demonstrates, we have had access to all materials and personnel, including the Board of Directors and its minutes.

We have assessed the extent to which the operations of OLHI have achieved its public interest purpose since the last evaluation in 2018. In our view, OLHI is very effective at providing its service and by adopting a culture of continuous improvement has made great strides since the previous evaluation. This assessment takes into account the Framework and Guidelines of the OmbudServices Oversight Standing Committee, and the working protocols and standards of the OLHI Board of Directors.

We have made recommendations to build on OLHI's continuous improvement. These appear throughout the report and for ease of reference are collected below in an annex.

GOVERNANCE

The Board oversees strategy, governance, funding, organizational capacity, and accountability for results where OLHI is concerned. It does not engage on individual cases before the OLHI or discuss individual companies. During the period under review, for example, the Board has prioritized issues such as how to increase the visibility of the organization and how to ensure that all regions of Canada are equally well served by OLHI.

Interviews with directors, leaders and staff of OLHI, as well as review of Board minutes, support the conclusion that OLHI has a strong and committed Board. We conclude that OLHI is very well governed by its Board.

Directors review materials and come prepared for robust discussions without the need for staff presentations; they receive the materials in good time and are complimentary of the high quality of information that staff prepare for them. Directors in particular are pleased with the increased reliance on data and metrics to drive organizational decision making. They ask informed questions that support arriving at decisions in the best interest of the organization's mandate.

The ability to have open discussions and healthy, respectful disagreements is a hallmark of a Board that fosters diverse opinions which in turn can enrich decision-making. We remark in particular that the interviews and Board minutes show that the Board is not divided into camps as between independent and industry directors; their main focus is the public interest purpose of the organization.

The Board continues to evolve in terms of implementing best practices for governance. One area where significant change was made during the review period was the process for selecting independent board members to be recommended for appointment. The Board created a skills matrix which is an essential tool of governance. The skills matrix assesses the role and needs of the Board, and then pinpoints the attributes of candidates who would best meet the needs of the Board in providing governance oversight, including factors such as diversity, official languages, and expertise. Critical consideration is given to possible nominees through serious discussions with candidates and meetings of the Independent Directors Committee where minutes are taken when assessing possible candidates for recommended appointment. The ability to hold hybrid or virtual meetings has also opened up searches to the national level. All the interviews reinforced that these changes are having a positive impact on how the Board functions.

Industry directors are nominated by CLHIA which has its own process. CLHIA has an opportunity to benefit from the work that the Board has done for nomination of independent directors. **We recommend**

that CLHIA consider consulting with the Chair of the Board as to the Board's needs and referring to the skills matrix when selecting candidates for appointment as industry directors.

The Board also instituted a practice of an annual evaluation that directors, including the Chair, undertake of each other as well as of the Board as a whole. We learned from interviews that this responsibility is executed respectfully and thoughtfully, and has had a positive impact on directors. This is to be commended given how sensitive such an evaluation process can be.

Finally, we note that there is no term limit set for directors under the General By-Law. The depth of experience that long-standing directors bring to oversight of an organization may be of considerable value. At the same time there can be benefits to rotational leadership including fresh ideas and more opportunities to foster diversity. It is also true that term limits could provide a more formal mechanism for sustaining this level of excellence. Literature on best practices for corporate governance including for nonprofit organizations generally favours term limits, particularly if terms are staggered in order to provide a balance between continuity and turnover. **We recommend that OLHI consider adopting a term limit, such as two consecutive three year terms, for directors, and that terms be staggered.**

CONCLUSION

We conclude, having undertaken this review, that OLHI's operations have achieved their public interest purpose which is to foster consumer protection by providing an accessible and effective complaint-management system. As we noted, there were many positive developments at OLHI between 2018 and 2022, meaning that the organization has built on the success that was recognized in the last independent review from 2018. This is to the credit of an organization which has recently celebrated its 20th anniversary of public service.

The report also assesses the governance of the organization through the Board of Directors. We conclude that OLHI is very well governed through its Board which is strong and committed.

We are pleased to have been able to undertake this review, and look forward to seeing how OLHI will continue to improve and innovate in the coming years.



APPENDIX A

LIST OF RECOMMENDATIONS

We recommend that OLHI consider whether there is a financially responsible way to enhance further their web portal by investigating improvements for accessibility such as by persons with visual impairments.

We recommend that OLHI continue to emphasize a generous approach to the mandate, including working with members and the CCIR on whether, if there are any gaps in consumer recourse, they could be addressed through revisions to the Terms of Reference.

We recommend that OLHI consider establishing a written standard for when to move a complaint to the SAO level that favours consumer protection.

We recommend that OLHI study whether a different model for the final dispute resolution stage of the process could better support consumer protection and accountability, including whether the non-binding recommendation should come from the CEO and Ombudsman as final authority. This model would include using the standard discussed in the previous recommendation for when to move a complaint to the final authority.

We recommend that OLHI consider a periodic consumer satisfaction survey that would in particular look at consumer perceptions related to timeliness, courtesy and impartiality of services.

We recommend that OLHI continue to work with the OmbudServices Oversight Standing Committee on what information may appropriately be shared in furtherance of a fair, transparent and efficient dispute resolution process.

We recommend that CLHIA consider consulting with the Chair of the Board as to the Board's needs and referring to the skills matrix when selecting candidates for appointment as industry directors.

We recommend that OLHI consider adopting a term limit, such as two consecutive three year terms, for directors, and that terms be staggered.

OmbudService
for Life & Health
Insurance



Ombudsman
des assurances de
personnes

OLHI • OAP

**OLHI's RESPONSE TO THE
RECOMMENDATIONS OF THE
FOURTH INDEPENDENT REVIEW
BY BENNETT JONES LLP**

Approved by the OLHI Board of Directors on December 5, 2023

BACKGROUND

- OLHI is a national organization offering Ombudservices in English and French to Canadian consumers across the country. It is funded through assessment fees paid by member companies from the life and health insurance industry to provide a complaint-resolution service, free of charge to consumers.
- OLHI is an independent and impartial service: it is not an advocate for either the member or the consumer.
- OLHI's membership covers virtually the entire life and health insurance industry. As a group, the interests of members are represented by the Canadian Life and Health Insurance Association (CLHIA) which is a long-standing voluntary trade organization.

EXECUTIVE SUMMARY OF THE FOURTH INDEPENDENT REVIEW

The *Insurance OmbudServices Cooperation and Oversight Framework* (Framework) provides for ongoing collaboration among the insurance sector OmbudServices – OmbudService for Life and Health Insurance (OLHI) and the General Insurance OmbudService (GIO) – and the Canadian Council of Insurance Regulators (CCIR). The Framework identifies the public interest objectives of complaint resolution in the insurance sector and includes Guidelines designed to ensure that they are fulfilled. Under the Framework and its Guideline on third party evaluation, OLHI's Board must periodically appoint an independent third-party to review OLHI's operations and whether it is achieving the objectives of the Framework. The independent evaluation must also assess the governance of the organization. OLHI retained Serge Dupont, former Deputy Clerk of the Privy Council of Canada and Laurie Wright, former senior leader of the federal Department of Justice, of Bennett Jones LLP, to conduct the fourth review of OLHI under the Framework and its Guidelines. The relevant period for the report is from 2018, when the previous report was completed, up to and including 2022.

Below are some highlights from the Fourth Independent Review written by Serge Dupont and Laurie Wright of Bennett Jones LLP:

- *The Framework's Guidelines cover independence, accessibility, scope of services, fairness, methods and remedies, accountability and transparency, and third-party evaluation. The report assesses OLHI's operations as to whether they are implementing the objectives of each of the Guidelines. The review concluded that OLHI's operations have achieved their public interest purpose.*
- *There have been considerable positive developments for OLHI since the last evaluation which at the time had indicated that OLHI had matured as an independent organization, skilled in dealing with complaints by customers against their insurance companies.*
- *One key factor is the Board's 2019 appointment of the new CEO and Ombudsman. Bennett Jones concluded that the CEO and Ombudsman's leadership along with the Board's direction have further served to put OLHI on the path of continuous improvement.*
- *Some of the improvements include: a vastly enhanced website; substantial efforts on public education outreach; improved strategic planning including using metrics based on better data quality and analysis; salutary changes to the complaints review process; better communication with the OmbudServices Oversight Standing Committee and the CLHIA; and more careful assessment before reaching a decision that a complaint is outside OLHI's jurisdiction.*
- *The reviewers also noted OLHI's improved service to consumers consisting of operational changes designed to increase efficiency. More specifically, complaints analysts now have authorization to communicate directly with the insurer rather than through the leadership team. Also, having prior approval from the Senior Deputy Ombudsman allows for the settlement of uncomplicated cases with low dollar values.*
- *The report highlighted that OLHI is very well governed by its Board which is strong and committed. OLHI's General By-Law requires that a majority of directors are independent. With established criteria being met, the reviewers were satisfied that a reasonable person would perceive independent directors as unbiased when it comes to member companies and that that all directors contribute to providing objective and disinterested oversight, carrying out their functions objectively and fairly.*

- *Another area where significant change was made during the review period was the process for selecting independent Board members to be recommended for appointment. The Board created a skills matrix which is an essential tool of governance. The skills matrix assesses the role and needs of the Board, and then pinpoints the attributes of candidates who would best meet the needs of the Board in providing governance oversight, including factors such as diversity, official languages, and expertise. Critical consideration is given to possible nominees through serious discussions with candidates and meetings of the Independent Directors Committee where minutes are taken when assessing possible candidates for recommended appointment. The ability to hold hybrid or virtual meetings has also opened searches at the national level. All the interviews reinforced that these changes are having a positive impact on how the Board functions.*
- *The ability to have open discussions and healthy, respectful disagreements is a hallmark of a Board that fosters diverse opinions which in turn can enrich decision-making. The reviewers remarked in particular that the interviews and Board minutes show that the Board is not divided into camps as between independent and industry directors; their main focus is the public interest purpose of the organization.*

GENERAL COMMENTS

The reviewers concluded that *“OLHI's operations have achieved their public interest purpose which is to foster consumer protection by providing an accessible and effective complaint-management system. As noted, there were many positive developments at OLHI between 2018 and 2022, meaning that the organization has built on the success that was recognized in the last independent review from 2018. This is to the credit of an organization which has recently celebrated its 20th anniversary of public service.”*

The report notes eight recommendations to build on OLHI's continuous improvement. The authors of the report, Serge Dupont, and Laurie Wright, concluded by expressing their appreciation for the opportunity to conduct the review and look forward to seeing how OLHI will continue to improve and innovate in the coming years.

COMMENTS ON THE RECOMMENDATIONS

✓ RECOMMENDATION #1

“... OLHI consider whether there is a financially responsible way to enhance further their web portal by investigating improvements for accessibility such as by persons with visual impairments.”

Comment: *OLHI is committed to improving accessibility for Canadian consumers to its web portals. This is an organizational priority. OLHI will investigate and adopt financially responsible improvements to enhance accessibility to its English and French web portals for persons with visual or other impairments, wherever practicable. This recommendation will be implemented in 2024.*

✓ RECOMMENDATION #2

“...OLHI continue to emphasize a generous approach to the mandate, including working with members and the CCIR on whether, if there are any gaps in consumer recourse, they could be addressed through revisions to the Terms of Reference.”

Comment: *OLHI agrees with the recommendation and will continue to emphasize a generous approach to its OmbudService mandate. This approach has been carried forward in the internal review of OLHI’s Terms of Reference, currently underway, including, actively reviewing opportunities for meaningful expansion of OLHI’s mandate that address gaps in consumer recourse. Upon completion of the internal review, the revised Terms of Reference will be discussed with members and the CCIR. We expect to implement this recommendation in 2024.*

✓ **RECOMMENDATION #3**

“...OLHI consider establishing a written standard for when to move a complaint to the SAO level that favours consumer protection.”

Comment: *OLHI will adopt and publish a written standard for when to move a complaint to the final stage of its complaint review process/SAO level. We expect to implement this recommendation in 2024.*

✓ **RECOMMENDATION #4**

“...OLHI study whether a different model for the final dispute resolution stage of the process could better support consumer protection and accountability, including whether the non-binding recommendation should come from the CEO and Ombudsman as final authority. This model would include using the standard discussed in the previous recommendation for when to move a complaint to the final authority.”

Comment: *As part of the aforementioned internal review of OLHI’s Terms of Reference, a different model for the final dispute resolution stage of OLHI’s complaint review process is currently under study. Using the standard discussed in Recommendation #3, the model under consideration would authorize the Ombudsman, or designate, to exercise final authority with independence and impartiality, within a defined time frame. We expect to implement this recommendation in 2024.*

✓ **RECOMMENDATION #5**

“...OLHI consider a periodic consumer satisfaction survey that would in particular look at consumer perceptions related to timeliness, courtesy and impartiality of services.”

Comment: *A periodic consumer satisfaction survey would support OLHI’s commitment to continuous improvement. OLHI will implement a consumer satisfaction survey to consider consumer perceptions relating to timeliness, courtesy, and impartiality of services. We expect to implement this recommendation in 2024.*

✓ **RECOMMENDATION #6**

“...OLHI continue to work with the OmbudServices Oversight Standing Committee on what information may appropriately be shared in furtherance of a fair, transparent and efficient dispute resolution process.”

Comment: *OLHI will continue to work with the OOSC on information sharing in accordance with its policy to maintain a strict focus on its core mission of dispute resolution while exercising good stewardship of its limited resources and respecting its contractual obligations. Moreover, OLHI operates in a manner that seeks to continuously earn and sustain the confidence of consumers and our member companies. This requires a dedicated vigilance to ensure the confidential treatment of all information that both consumers and member companies entrust to OLHI’s care and consideration. Respecting the above principles is mandatory for OLHI’s credibility and obligation of independence and impartiality. This is an ongoing priority for OLHI.*

✓ **RECOMMENDATION #7**

“...CLHIA consider consulting with the Chair of the Board as to the Board's needs and referring to the skills matrix when selecting candidates for appointment as industry directors.”

Comment: *The Board Chair will meet with the Chair of CLHIA to discuss an appointment approach that refers to OLHI's skills matrix for the selection of future industry directors.*

✓ **RECOMMENDATION #8**

“...OLHI consider adopting a term limit, such as two consecutive three year terms, for directors, and that terms be staggered.”

Comment: *As part of the board governance reforms that are highlighted in the report, the Board considered term limits. It was concluded that implementing rigorous processes for evaluating Board performance and recruiting independent directors was a more flexible and effective option to achieve the key governance objectives of Board renewal and succession planning. The turnover in independent directors and the quality of the new directors shows that the new processes have been effective in achieving Board renewal and succession planning.*