

Canadian Life and  
Health Insurance  
OmbudService



Service de conciliation  
des assurances de  
personnes du Canada

CLHIO • SCAPC

CANADIAN LIFE AND HEALTH INSURANCE  
OMBUDSERVICE

2004-2005 ANNUAL REPORT

## ***The Canadian Life and Health Insurance OmbudService (CLHIO)***

The Canadian Life and Health Insurance OmbudService (CLHIO) is an independent organization that assists consumers with concerns or complaints about life and health insurance products and services. The CLHIO provides a forum for the impartial, prompt resolution of complaints for consumers who have completed the internal complaints-handling processes of their insurance companies.

The CLHIO is committed to providing service that is:

- Knowledgeable, fair and impartial
- Confidential
- Independent and objective
- Accessible
- Timely
- Courteous
- Clear
- Accurate
- Consistent

The CLHIO is governed by a Board of Directors, the majority of whom are independent of the life and health insurance industry. It is part of the Financial Services OmbudsNetwork (FSON), an industry-based integrated consumer assistance system launched in November 2002 to provide Canada's financial services consumers with single-window access to recourse when they have concerns or complaints. The FSON is an independent organization endorsed by financial services regulators and sponsored by the financial services industry. It is made up of three parts:

- company complaints-handling services;
- industry ombudsman services, such as the Canadian Life and Health Insurance OmbudService; and
- the Centre for the FSON (CFSON) that refers consumers to the right place to get help with their complaints, based on what their problems are, and also sets standards for the way complaints are handled by the financial services industry.

## TABLE OF CONTENTS

Message from the Chairman .....	1
Message from the General Manager .....	3
Members of the 2004-2005 Board of Directors.....	4
About the CLHIO complaints-handling process.....	5
Quick facts .....	7
Statistical review .....	8
Volume of enquiries/complaints .....	8
Who contacted the CLHIO? .....	9
Why did they contact the CLHIO? .....	10
Disposition of enquiries/complaints received by the CLHIO.....	11
Counsellor activity.....	12
Complaints by line of coverage.....	13
Disposition of complaints handled by Counsellors .....	14
OmbudService Officer activity .....	15
Senior Adjudicative Officer activity .....	16
Case studies .....	17
CLHIO Privacy Statement .....	22

## MESSAGE FROM THE CHAIRMAN



*Over the last year, the CLHIO has played an important role alongside other industry representatives in the development and restructuring of the financial services OmbudServices. I am pleased to report that we have made good progress to-date.*

*In 2004, a Network Coordinating Committee, comprising the OmbudsNetwork Chairs, was formed to create greater efficiencies in the OmbudsNetwork. Earlier this year, I was invited, along with the other OmbudService Chairs, to serve as a full Director on the Board of the Centre for the Financial Services OmbudsNetwork. This coordinated approach has been an excellent opportunity to reinforce our good relationship with the Network, and to foster greater harmonization and to work towards an even more efficient and cost-effective OmbudsNetwork.*

*Since we opened some two and one-half years ago, all of our activities have been guided by the principles and values of the Service Standards adopted by the Network. In March 2005, Independent Director, Mr. Bernard Bonin, joined the CFSON Standards Committee, and work is well underway to finalize implementation of appropriate indicators to measure our performance with the Standards.*

*In March of this year, the CLHIO was privileged to appear before the Standing Senate Committee on Banking, Trade and Commerce to contribute to their study of consumer issues arising in the financial services sector. We understand that the CLHIO's testimony was of significant interest to the Senators, and that the information provided was very useful to the Committee's deliberations.*

*Another key priority has been our operations in Québec. The CLHIO assists many consumers in Québec and the overall volume of consumers seeking our assistance now surpasses those received from the rest of Canada. The Autorité des marchés financiers is very aware of the important structures that have been established to deal with complaints from consumers in Québec, and that the CLHIO is a natural extension of the "industry-first" approach. The CLHIO continues to have an active role in the consultative process and will make any operational adjustments necessary as future developments unfold.*

*While more work remains to be done, the past 28 months has been a time of significant growth and development in keeping with the Board's vision of a high quality independent system by which Canadian life and health insurance consumers can seek redress. We owe our success to the diligence of our Board of Directors, and to the dedication of staff who are committed to assisting Canadians who may have a concern or a complaint about their life and health insurance product or the service they have received. It is thanks to their efforts that we have been able to effectively carry out our mandate and discharge our responsibilities.*

*Life is full of changes and as many of you know, I have made a difficult decision to step down as Chair of the CLHIO. I am proud to have been a part of the creation and development of an organization that provides a pivotal role in assisting consumers. I leave with the assurance that we have laid a strong foundation with which to provide consumers with an avenue of recourse and an effective alternative to the courts.*

*It has been my privilege to serve as Chairman for the Canadian Life and Health Insurance OmbudService. I would like to take this opportunity to extend my heartfelt appreciation to all Directors for their meticulous and thoughtful dedication to the CLHIO. And on behalf of the Board of Directors, I would also like to thank Barbara Waters, General Manager, and the CLHIO staff who worked tirelessly to make the CLHIO a success. Your professionalism and dedication have prepared us well for the future.*

*The Hon. Gilles Loiselle*

## MESSAGE FROM THE GENERAL MANAGER



*It is my pleasure to present the Annual Report of the Canadian Life and Health Insurance OmbudService (CLHIO) for the year ending March 31, 2005.*

*This is our third Annual Report, and we hope that it provides a picture of how our organization assists consumers across Canada who may have a concern or a complaint about life and health insurance products and/or services. We have also included a sampling of the kinds of problems that consumers bring to us and how we responded to them.*

*Consumers who call the CLHIO are immediately put in touch with a CLHIO Counsellor who has extensive knowledge of the life and health insurance industry. We see this as an important function of the CLHIO - to explain to people why they should first go to the company, to provide advice on how to approach the company, and to invite them to approach us again if they remain dissatisfied with the company's response to their complaint. Our experience has been that many complaints are quickly and satisfactorily resolved through an in-depth discussion with a Counsellor. If the matter requires a complaint investigation, the CLHIO OmbudService Officers are trained in informal conciliation and, where possible, will try to resolve the matter by finding some common ground between the consumer and the company. The CLHIO also has the capacity to issue a report with non-binding recommendations, although very few complaints require a review at our senior adjudicative phase.*

*Over the past 28 months, we have focused on providing a first-class dispute-resolution service that provides impartial and prompt resolution of complaints, based on fairness and good business practices in the life and health insurance sector. The entire process has been designed to ensure our impartiality and to maintain the integrity of the Ombuds process. Maintaining our independence, objectivity and confidentiality is essential for the professional resolution of disputes, and our stakeholders need to trust that those values have been respected. Consumers who have used our service tell us that they were heard and treated fairly, even when the outcome did not support their complaint. We are frequently able to explain things differently and in a way that a complainant can understand and accept, and we believe that we have often made a difference in people's lives.*

*We have worked very hard to ensure that our stakeholders are well served by the dispute-resolution services offered by the CLHIO. We believe that the system is working well, and that we are well equipped to meet any challenges that lie ahead.*

*I would like to take this opportunity to express my gratitude to Board Chair, the Hon. Gilles Loiselle, our Board Members for their wise counsel and support, and to our staff for their unfailing commitment to excellence.*

*Barbara Waters*

## MEMBERS OF THE 2004-2005 BOARD OF DIRECTORS

### Chairman

**Hon. Gilles Loiseau (Chair)**

*Former Federal Minister of Finance*

### Independent Directors

**Lea Algar**

*Former Ontario Insurance Ombudsman*

**Bernard Bonin**

*Former Senior Deputy Governor  
of the Bank of Canada*

**Yves Rabeau**

*Professor of Economics,  
Université du Québec à Montréal (UQAM)*

**Reginald Richard**

*Former Superintendent of Insurance  
for New Brunswick*

### Industry Directors

**Raymond Garneau**

*Chairman of the Board  
Industrial Alliance Insurance  
and Financial Services*

**Christopher McElvaine**

*Director, Foresters, and  
Former President of  
The Empire Life Insurance Company*

## **ABOUT THE CLHIO COMPLAINTS-HANDLING PROCESS**

The CLHIO helps consumers with concerns or complaints about life and health insurance products and services that they are not able to resolve by dealing directly with their insurance companies.

When a consumer contacts the CLHIO, they are immediately referred to an experienced Counsellor. Many complaints are quickly resolved simply by providing the consumer with general information about life and health insurance products and established industry practices. Consumers who have not fully appealed their complaint with their insurance company are counselled to contact the appropriate business area or Consumer Complaints Officer. Often, Counsellors provide consumers with tips on the best approach to use when appealing the disputed matter with their company and encourage them to call the CLHIO at anytime for guidance during the process of finalizing their appeal. Those consumers who have completed the internal complaints-handling process within the company and who wish to pursue the matter are asked to write to the CLHIO. If the Counsellor is unable to resolve the problem through informal discussions with the consumer and/or the company, or feels that the matter requires an investigation, the consumer will be referred to an OmbudService Officer specializing in informal conciliation.

After the OmbudService receives a signed authorization from a consumer, the OmbudService Officer speaks with the consumer and the insurance company and, if necessary, with other parties. The OmbudService Officer tries to solve the problem by finding some common ground between the consumer and the insurance company. Quite often, concerns and complaints are resolved to everyone's satisfaction through this process. If this does not occur, the CLHIO may make a written non-binding recommendation to the consumer and the insurance company.

Consumers can contact the CLHIO directly by phone, fax or e-mail. Service is available in English and French. Consumers can also visit the CLHIO website ([www.clhio.ca](http://www.clhio.ca)), which provides general information about the CLHIO, tips for using the complaint process, and contact information in both English and in French. Consumers are directed to their insurance company as the first recourse for dispute resolution, and the site has been designed to link consumers directly to their companies.

Consumers who are concerned that using the CLHIO could affect their legal rights in the future should get advice from their own lawyers before authorizing the CLHIO to contact their insurance companies. Consumers who believe they may have grounds for legal action against their insurance companies have a limited period of time in which to file claims. They may wish to get advice about the limitation period that applies to them before they contact the CLHIO.

## ABOUT THE CLHIO COMPLAINTS-HANDLING PROCESS

The CLHIO assists consumers in resolving concerns and complaints about life and health insurance products and services. These products include life insurance, retirement products such as annuities and RRSPs, disability insurance and supplementary health insurance plans.

Assistance is tailored to meet the specific needs of the individual who has contacted the CLHIO. The CLHIO will never refuse to talk to a consumer and always tries to assist. Depending on the situation at hand, the CLHIO's assistance to a consumer can include one or more of the following services:

- Providing clarification and information to consumers who have general concerns arising from the marketing and administration of life and health insurance products and industry practices;
- Assisting consumers who have not yet contacted the company with their complaint by advising them on how to get in touch with the right department or person in order to have their complaint addressed;
- Assisting consumers who have already pursued all avenues of recourse within their company but remain dissatisfied. For these consumers, the CLHIO provides proactive, informal conciliation between the consumer and the company with a view to arriving at a mutually agreeable outcome;

## QUICK FACTS

- The CLHIO is an independent corporation governed by a Board of Directors. The majority of these Directors are not associated in any way with the life and health insurance industry.
- The CLHIO continues to build upon and enhance the complaint resolution service first made available through the industry's Consumer Assistance Centre which has helped consumers of life and health insurance products for over 32 years. Its track record to date confirms the usefulness and importance of an impartial and independent complaint-resolution service for Canadian consumers of life and health insurance products.
- The CLHIO complaint-resolution service is provided free of charge.
- The CLHIO is committed to protecting consumers' privacy. Its standards require it to maintain the confidentiality of personal information provided to the CLHIO.
- The time it takes to handle a complaint depends on how complicated it is. The CLHIO's standards require it to respond to complainants promptly and inform them of any delays.
- The CLHIO endeavours to resolve disputes through informal conciliation. When this does not prove possible, the CLHIO can make non-binding recommendations.
- Consumers who do not agree with a recommendation may then pursue arbitration or legal action on their own.
- If an insurance company does not follow a recommendation made by a CLHIO Senior Adjudicative Officer, this fact will be made public.
- The CLHIO will never refuse to discuss a consumer's problem. However, its mandate does not permit it to deal with complaints that are already before the courts, have been taken to binding arbitration, or involve breaches of law.
- The CLHIO's OmbudService Officers have extensive knowledge of the life and health insurance industry and its products and services, as well as special training for investigating and resolving consumer complaints. Typically, they are retired life and health insurance company executives with experience in areas such as underwriting, marketing, and claims. OmbudService Officers do not work on complaints that involve an insurance company that has employed them in the past.

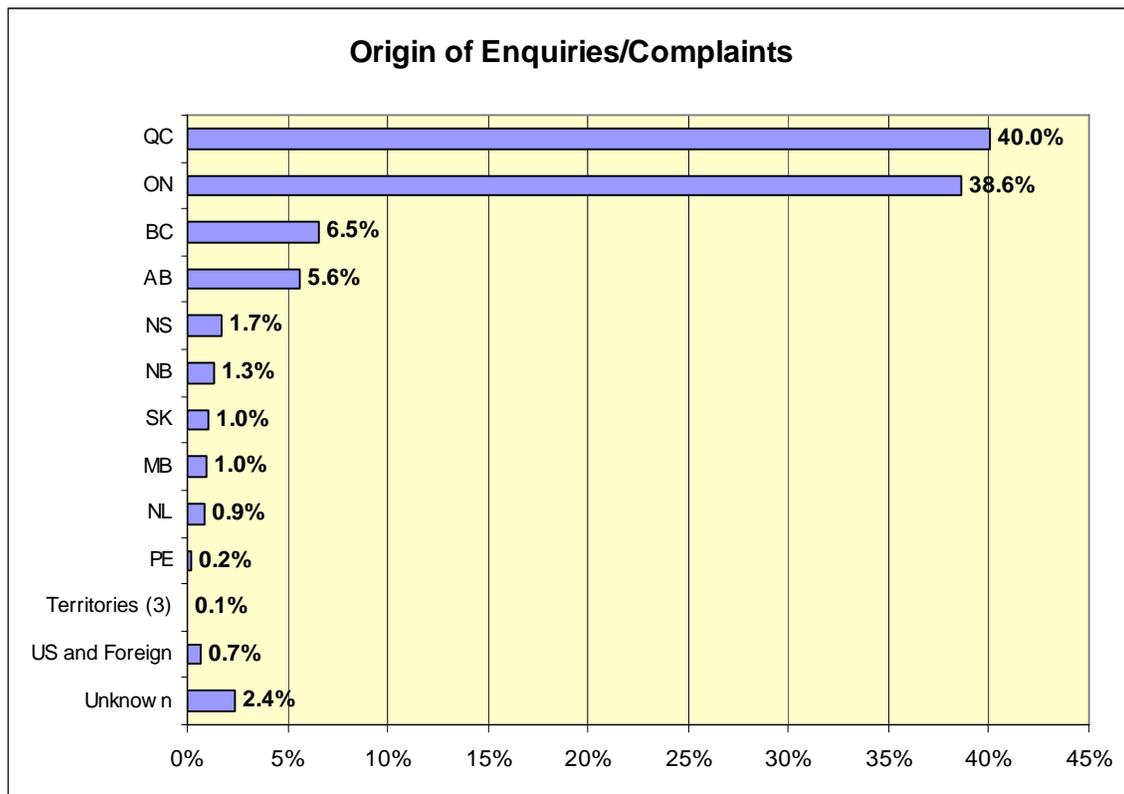
## STATISTICAL REVIEW

### Volume of enquiries/complaints

The CLHIO has been monitoring all forms of contact since the service commenced on November 29, 2002. Between that date and March 31, 2005, the CLHIO received 3,281 requests for assistance.

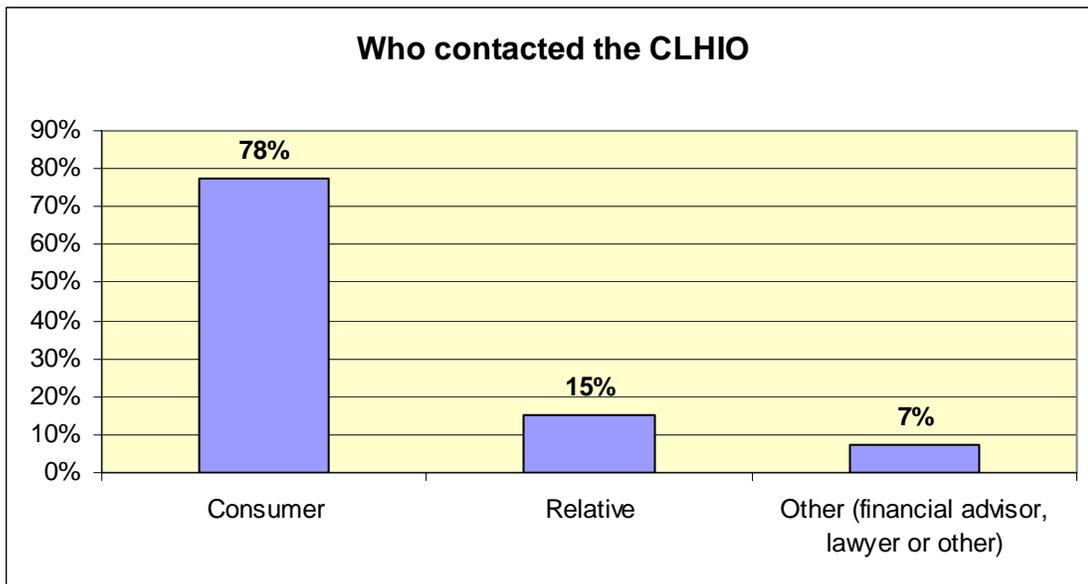
### Where did they call from?

As the following chart demonstrates, nearly 80 per cent of all requests for assistance originated in central Canada, that is, Ontario and Quebec. Overall, the geographical distribution of calls is roughly commensurate with the distribution of premium income across Canada with the exception of Quebec where the percentage of calls is far greater than that province's share of premium income. This is consistent with past experience of the life and health insurance industry's Consumer Assistance Centre. According to industry research, in 2003, Ontario accounted for 46.2 per cent of premium income; Quebec, 23.0 per cent; the prairie provinces 15.0 per cent; British Columbia 10.0 per cent; and Atlantic Canada 5.8 per cent.



### ***Who contacted the CLHIO***

Most requests for assistance, fully 78 per cent, were from consumers and another 15 per cent were from a relative or friend enquiring on behalf of a consumer. Professionals such as brokers, financial advisors, lawyers and union representatives calling on behalf of their consumer clients accounted for 7 per cent.



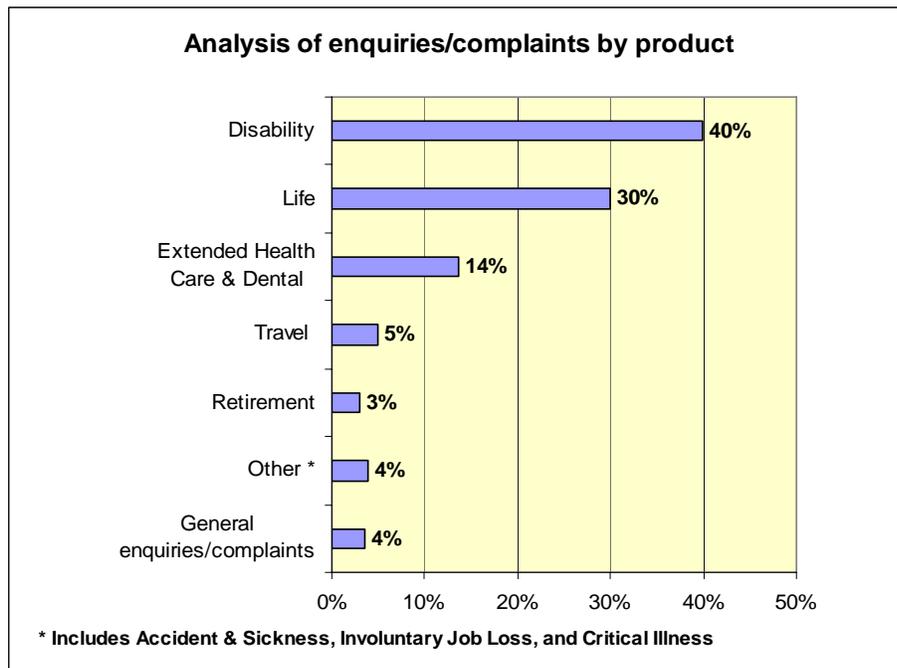
### ***How did they first contact the CLHIO?***

The predominant method of contact is by telephone and calls accounted for 87 per cent of all contacts with CLHIO. Traditional and electronic mail accounted for 5 per cent each, faxes, 2 per cent and 14 consumers (1 per cent) visited the CLHIO offices to discuss their concerns in person with a Counsellor.

### **Why did they contact the CLHIO?**

As the following chart shows, 40 per cent of all enquiries and complaints concerned disability insurance with claims-related issues involving the denial or discontinuation of benefits dominating this category.

Life insurance made up 30 per cent and tended to be evenly distributed over all company functions, that is, claims, marketing & sales, service, product and underwriting.



Most enquiries and complaints about extended health and dental coverage (14 per cent), travel insurance (5 per cent) and "other" products (4 per cent), which include accident and sickness insurance, critical illness and involuntary job loss, involved claims-related issues.

Retirement products such as annuities and segregated funds, at 3 per cent, involved service, and marketing and sales-related concerns.

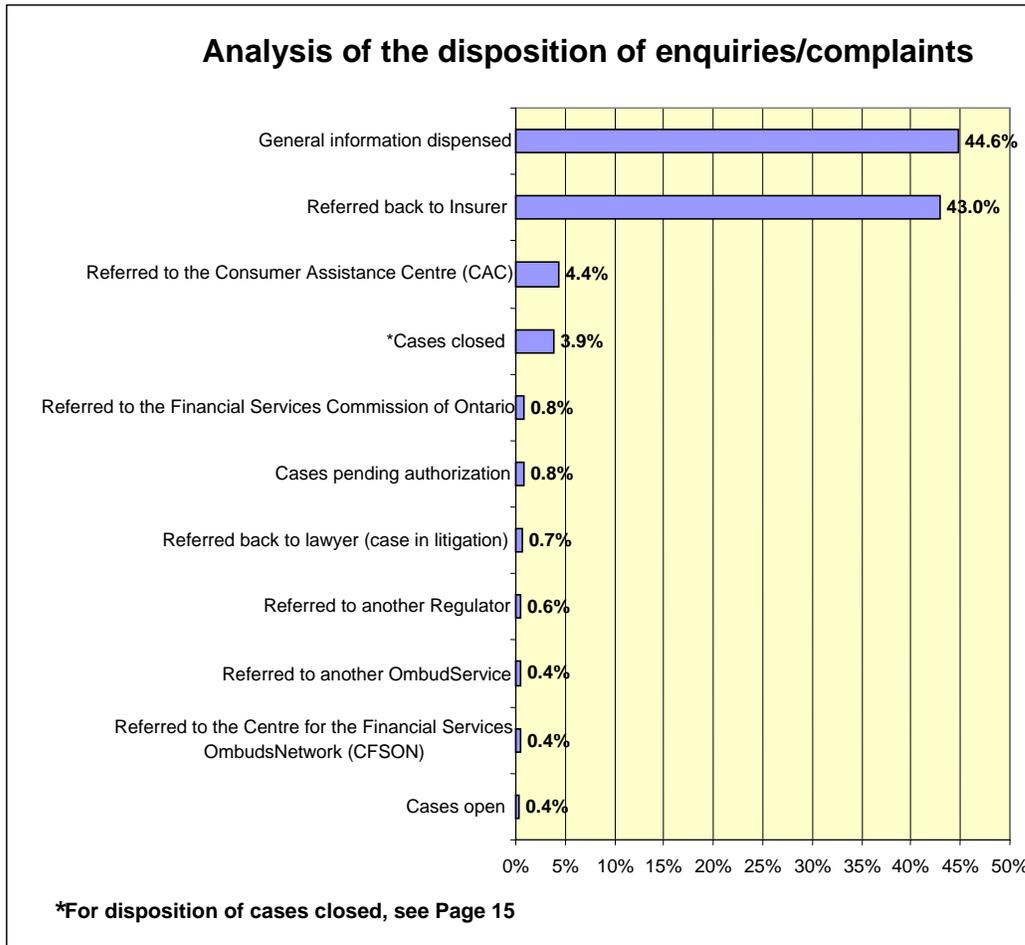
General enquiries and complaints which did not involve an identifiable product or required referral to another industry-level OmbudService because the subject product was outside the mandate of the CLHIO made up the balance of 4 per cent.

## STATISTICAL REVIEW

### *Disposition of enquiries/complaints received by the CLHIO*

As the following chart demonstrates, of the 3,281 enquiries or complaints, a total of almost 90 per cent of callers were either provided with general information on life and health insurance products and industry practices or were counselled to complete their company's internal complaints-handling process. When the CLHIO was unable to assist directly, it guided the consumer to other organizations such as the industry's Consumer Assistance Centre or another industry-level OmbudService.

Just over 4 per cent (140 consumers) were assigned to an OmbudService Officer for investigation and informal conciliation, and of these, 3.9 per cent (127 cases) were closed during the period under review. Just under 1 per cent involving 25 consumers were designated as complaints to be assigned to an OmbudService Officer for an in-depth review possibly but not necessarily leading to the issuance of a report with non-binding recommendations.



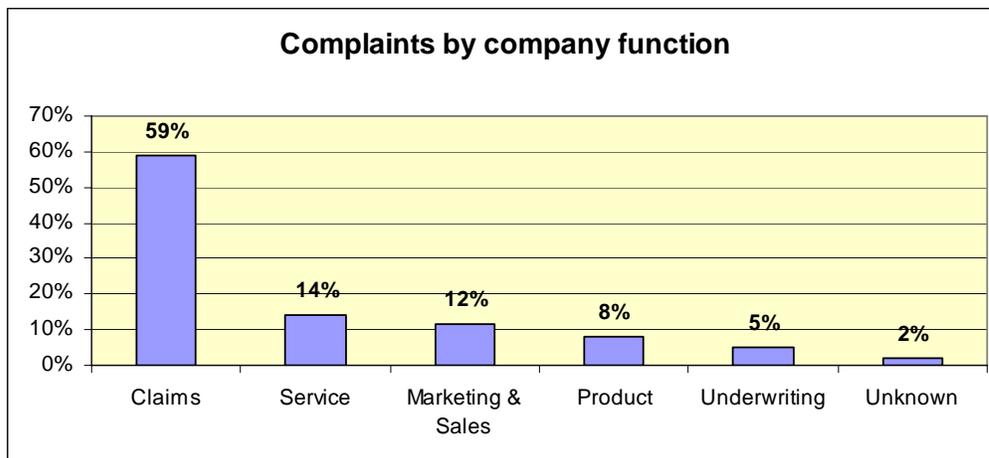
## Counsellor Activity – Informal complaint resolution

### General Statistics

On April 1, 2004, the complaint-handling functions of the life and health insurance industry's Consumer Assistance Centre (CAC) were amalgamated with the complaint-resolution services offered by the Canadian Life and Health Insurance OmbudService. Between April 1, 2004 and March 31, 2005, CLHIO Counsellors responded to a total of 2,685 enquiries and requests for assistance representing nearly 82 per cent of all contacts with the CLHIO since its inception. Of these, 1,997 were complaints and 688 were enquiries. The following is an analysis of complaints handled by Counsellors by company function, by line of coverage and by insurance category.

### Complaints by company function

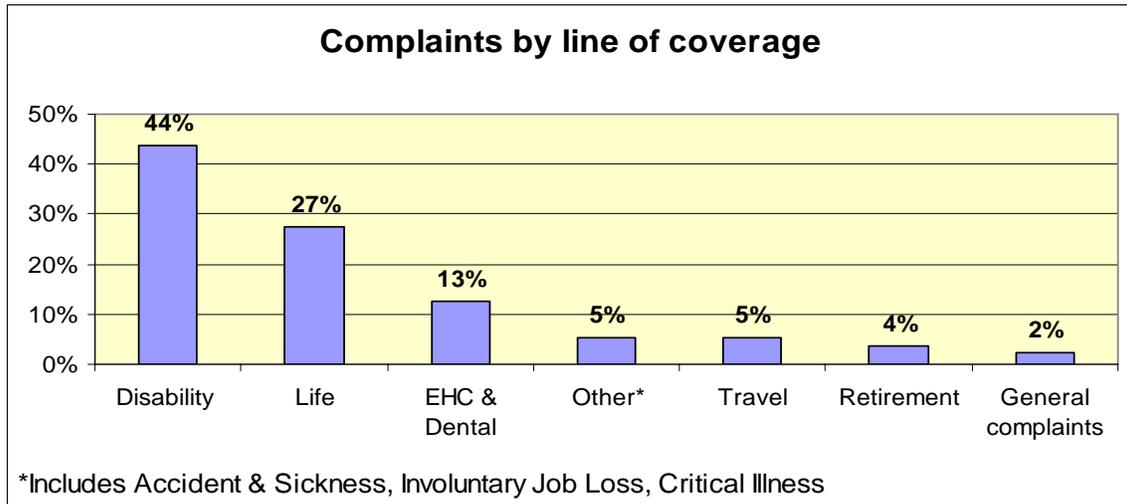
As the following chart demonstrates, 59 per cent of the 1,997 complaints involved claims-related issues. These included but were not limited to the denial of claims; the discontinuation of benefits; claims procedures; delays; and privacy-related issues. Service-related matters making up 14 per cent encompassed disputes arising from administrative problems; billings; tax receipts; delays; cancellations or surrenders; annual statements; and the alleged failure of the company to respond. At 12 per cent, marketing and sales related complaints involved problems concerning agent misconduct; alleged misleading statements or misrepresentations on the part of an agent; illustration of cost or return; replacements (comparison statements); and mass marketing. Product-related complaints at 8 per cent, involved disputes on investment returns; low early cash values; policy provisions or exclusions; premiums and product misunderstanding. Finally, underwriting complaints, at 5 per cent, typically involved problems arising from a decline or rating; policy issuance or underwriting delay; privacy issues; underwriting procedures and alleged discrimination.



## STATISTICAL REVIEW

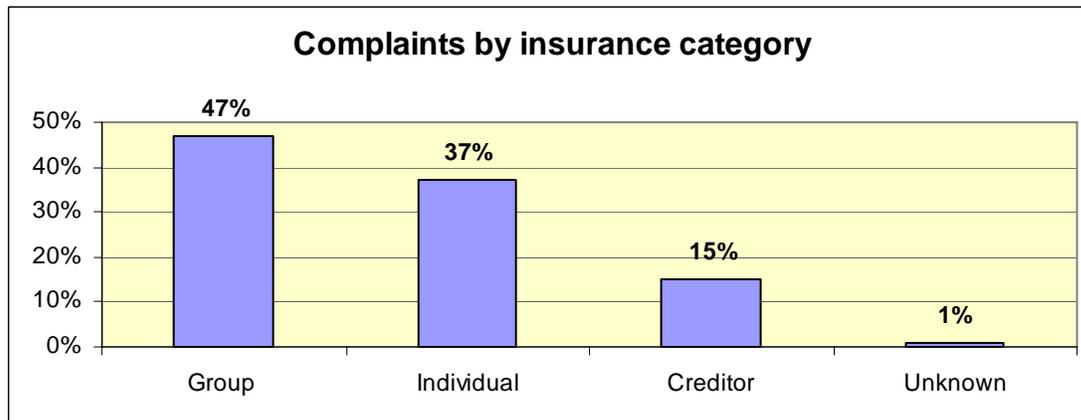
### Complaints by line of coverage

Most complaints (44 per cent) involved disability insurance, and life insurance products at 27 per cent.



### Complaints by insurance category

Fully 47 per cent of complaints involved group insurance and most of these concerned employer-sponsored disability and supplementary health and dental insurance plans. Life insurance products accounted for most individual insurance complaints.

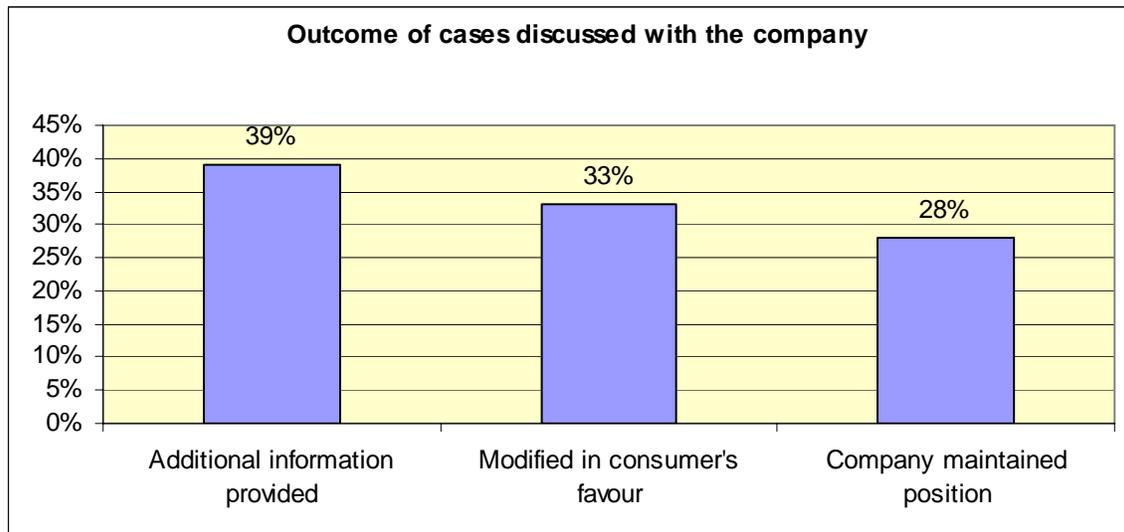


## STATISTICAL REVIEW

### *Disposition of complaints handled by Counsellors*

Of the 1,997 complaints received between April 1, 2004 and March 31, 2005, Counsellors were able to assist 1,874 of these consumers (94 per cent) directly without having to contact their insurance company on their behalf. Many of these cases, almost 17 per cent, involved extensive telephone discussions, an exchange of correspondence, and the provision of policy or claim documentation to the CLHIO for review by the Counsellor.

Of the remaining 6 per cent, Counsellors transferred 25 cases (1 per cent) to an OmbudService Officer for further investigation and contacted the insurance company on the consumer's behalf in 98 cases or 5 per cent. Of these 98 cases, the company modified its position in the consumer's favour in 33 per cent and in another 39 per cent provided additional information satisfactory to the consumer. In the remaining 28 per cent, the company maintained its position.



## STATISTICAL REVIEW

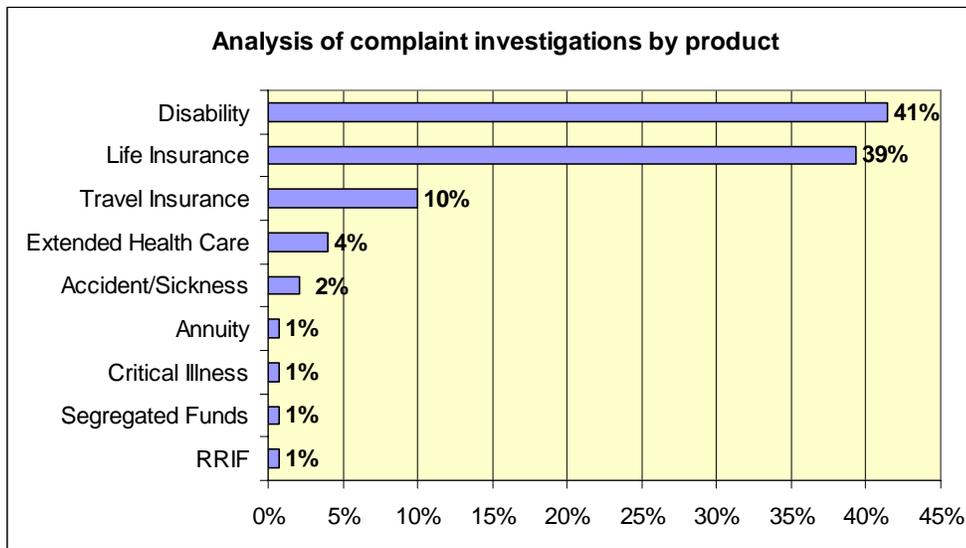
### OmbudService Officer Activity

If the CLHIO Counsellor is unable to resolve the problem, the consumer is sent a CLHIO Information Kit containing an Authorization and Agreement Form. Upon receipt of the signed Authorization and Agreement Form, an OmbudService Officer is assigned to deal with the complaint.

### General Statistics

During the CLHIO's first 28 months of operation, 193 consumers were provided with an OmbudService kit and, of these, 53 consumers elected not to pursue the matter. An OmbudService Officer was assigned to the remaining 140 cases which were the subject of a complaint investigation. The following is an analysis of these 140 complaint investigations by type of product.

A total of 80 per cent of all complaint investigations involved disability and life insurance products.



### Disposition of complaints handled by OmbudService Officers

Of these 140 complaint investigations, 13 cases remained open as of March 31, 2005. Of the 127 completed investigations, 92 cases (72 per cent) were closed with the insurer maintaining its position and, in all of these cases, the consumers declared their satisfaction with the additional explanation provided and elected not to pursue their complaint further with the CLHIO. Twenty-eight cases (22 per cent) were closed when the matter was resolved by the company in the consumer's favour; and 7 cases (6 per cent) were closed when the request for assistance was withdrawn by the consumer.

## STATISTICAL REVIEW

### Senior Adjudicative Officer Activity

#### *Reports issued with non-binding recommendations*

During the period April 1, 2004 to March 31, 2005, two cases were transferred to the Senior Adjudicative Officer for review and issuance of a non-binding report. One case related to a dispute regarding the policyowner's obligation to pay premiums under a life insurance policy, and a report was issued in favour of the company. The second case related to a dispute regarding discontinuation of long term disability benefits, and a report was issued in favour of the consumer. The company subsequently confirmed that they had followed the non-binding recommendation out of respect for the Ombuds process.

## CASE STUDIES

The following cases have been selected to illustrate the nature and disposition of complaints reviewed over the past year by CLHIO Counsellors and OmbudService Officers. In each case, the names have been altered to protect the privacy of the individuals and companies involved.

---

### ***Focusing on the client's best interest***

*Mr. and Mrs. P* requested the CLHIO's assistance in pursuing a complaint involving the replacement of two long-standing whole life policies with an annuity and two universal life insurance policies. Mr. and Mrs. P. stated that they had experienced a temporary downturn in their personal circumstances and had met with their financial advisor to discuss how best to sustain their life insurance. The financial advisor developed a plan by which their whole life policies would be surrendered and the cash value would be applied as a single premium to purchase a single life annuity, with the guaranteed annuity income to be used to partially fund two new universal life policies. In their complaint, Mr. and Mrs. P agreed that they had completed all of the documentation but admitted that, because they had complete trust in their advisor, they did not read all of the forms before signing. The CLHIO Counsellor contacted the company to ascertain precisely what had occurred and to gather additional information. After a series of discussions, the company maintained their position that the clients had been provided with full disclosure as to the nature and terms of the annuity and the universal life policies and that the sale of these products was appropriate to their needs at that time. The Counsellor continued to have concerns as to whether the replacement was in the clients' best interests and transferred the file to an OmbudService Officer for further review. In reaching this decision, the Counsellor considered that: the replacement resulted in a reduction in death benefits; there was a significant taxable consequence from surrendering the whole life policies; there was tax payable on the monthly annuity payments; the cash values at age 65 were reduced by almost 75%; and if the husband predeceased his wife, the annuity payments would cease, leaving his wife with the responsibility of continuing the premium payments at an amount almost double the premium formerly in effect under the surrendered policies.

The OmbudService Officer's review focused strictly on whether the replacement was in the best interests of the client. A comparative statement was compiled and forwarded to the company based on the information provided to the CLHIO and the Officer asked to be advised of any inaccuracies or alternatively, an understanding of how the replacement transactions had benefited the clients. The company's internal investigation with the advisor concluded with their decision not to support the sale of the annuity. The matter was resolved with the company's offer to reverse the sale of the annuity, reinstate the whole life policies, and reimburse the taxable gain incurred at the time of policy surrender.

## CASE STUDIES

### ***When it's not the consumer's fault***

*Ms. M* contacted the CLHIO regarding a problem with the transfer of her RSP from one insurance company to another. The Transferee (Company B) denied having received the funds so the consumer contacted the Transferor (Company A) who informed her they had sent a cheque for the surrendered policy together with the required forms to Company B several weeks earlier. Although Company A immediately issued a replacement cheque, the consumer lost about \$600 in investment income as a result of the delay.

Ms. M tried for many months to resolve the problem on her own. She unsuccessfully pursued her complaint with Company A's compliance department. She even enlisted the assistance of her agent who communicated with Company B on her behalf to no avail. Mention should also be made of the agent's offer to personally reimburse the consumer for the commission on the new investment policy, which the consumer refused.

Ms. M was asked to provide the CLHIO with copies of all correspondence and other relevant documents involving the dispute. This information was carefully reviewed by a Counsellor who made some preliminary enquires with one of the involved insurers in an attempt to find out which company was responsible for the problem. It soon became apparent that this could not be determined given that Company A was adamant the cheque had been sent on a specific date and Company B equally adamant that the cheque had not been received. The CLHIO Counsellor decided to take a different approach, and appealed to both companies to consider that the consumer was out-of-pocket through no fault of her own. Given that it was impossible to determine which company was responsible for the consumer's loss, the Counsellor explored whether each insurer might be prepared to reimburse the consumer 50 per cent of the disputed loss. Both insurers quickly agreed to the Counsellor's proposal, and the matter was resolved.

### ***Solving the information maze***

*Mr. L.* sought assistance from the CLHIO in obtaining the death benefit proceeds under his late wife's group insurance plan. Mr. L indicated that he had tried unsuccessfully to deal directly with the company on this matter for several years, and he was adamant that the company was trying to renege on their contractual obligation. In support of his claim, Mr. L provided the CLHIO with a copy of an application for insurance completed by his late wife in 1988. The OmbudService Officer discussed the matter with the complainant and with the insurer and learned that in 1988, the employer sent the company an application for life insurance along with medical evidence as the employee was a late entrant to the plan. Through discussions with the insurer, the OmbudService Officer was able to verify that the application and medical information had been received, but had subsequently been returned to the employer with the advice that, as their coverage had been replaced with a new carrier, the application should be sent to the new insurance provider. The OmbudService Officer subsequently spoke with the new carrier who reviewed their records retroactive to the effective date on which they commenced coverage, and confirmed that no application was ever received for the individual in question. The company also confirmed that premiums were never paid by the employer or the employee for the group life coverage.

## CASE STUDIES

Mr. L. was satisfied with the information provided by the OmbudService Officer, and it was agreed that he would need to pursue the matter with his wife's former employer and her union.

### *Help comes in many forms*

*Mr. G* called another OmbudService seeking help with delays involving a disability claim and was referred to the CLHIO. The CLHIO Counsellor who took his call spent a great deal of time going over the details of his claim and it was determined that there had been no unwarranted or unreasonable delays on the part of the insurer's claims department. The consumer was advised that he would receive a definitive decision shortly and to contact the CLHIO again if he encountered any further problems.

Mr. G soon contacted the CLHIO again after receiving a letter from the insurance company terminating benefits as of a date four months prior. The insurer's position was that his employer had provided him with light duties as of this date and, since the medical evidence indicated he could perform these alternate duties, he was no longer eligible for benefits under the terms of his plan. The CLHIO Counsellor reviewed these circumstances with the consumer and suggested that he write to the claims department and provide them with documentation from his employer which seemed to suggest that the subject light duties had not been made available until four months *after* the date his benefits had effectively been terminated.

Mr. G called the CLHIO less than a month later to say he had written to the claims department but had not as yet received a response. He also raised some additional issues including the fact that he had been provided with a copy of the results of an Independent Medical Evaluation (IME) the insurer had arranged which he felt supported his inability to perform even light duty work. Given the complexity of Mr. G's issues, the Counsellor asked him to fax copies of all relevant documents regarding the claim. After reviewing this information, the Counsellor called the consumer back to advise that he write another letter to the claims department to follow up on his original appeal letter and to ask that his latest issues be addressed as well. Since Mr. G admitted that he had difficulty writing letters, the CLHIO Counsellor helped him draft a letter outlining all of his questions and concerns.

Mr. G called the CLHIO shortly thereafter to report that the insurance company had reopened his claim and paid an additional four months of benefits and provided him with an explanation of all relevant contractual clauses to support its position. Mr. G expressed gratitude for the CLHIO's assistance.

## CASE STUDIES

### ***Turn to the CLHIO before seeking legal recourse***

*Mr. J* requested assistance from the CLHIO to further his appeal for reinstatement of long term disability benefits. The OmbudService Officer discussed the matter with Mr. J and learned that the company had discontinued long term disability benefits one year prior but had reinstated the benefits after Mr. J filed a legal action against the company in small claims court. Uncertain as to whether the CLHIO could handle the case given its prior settlement in the courts, the OmbudService Officer contacted the company who acknowledged that they had previously agreed to reinstate benefits as the means to settle a small claims court action filed by Mr. J. The company advised the OmbudService Officer of their interest in working with the CLHIO to achieve a satisfactory outcome. Following discussion with the OmbudService Officer, the complainant and the company, agreement was reached that Mr. J would meet with a claims officer at the company with a view to resolving the matter. Mr. J was advised that the meeting would occur at a specified date several weeks hence and, in the meantime, Mr. J was asked to advise the company what his expectations were to achieve a satisfactory outcome. Not having received a response, the OmbudService Officer followed-up with Mr. J and was advised that he had filed another action in small claims court. The OmbudService Officer advised Mr. J that the CLHIO could not deal with any matter that has been or is currently before the courts and a letter was subsequently sent with regrets that the CLHIO could not continue its service. The parties were appropriately notified that the CLHIO had closed its file.

### ***Negotiating a fair outcome for all***

*Mr. D* approached the CLHIO somewhat reluctantly having first attempted to resolve the matter directly with the insurance company, and subsequently through his legal advisor. Some months before, Mr. D's lawyer had entered into discussions with legal counsel at the company alleging misrepresentation by the agent. Discussions concluded with the company's offer to resolve the matter by way of three possible settlement options, each of which was designed to address the consumer's concerns. The consumer remained dissatisfied and authorized his lawyer to continue to negotiate with the company for an increased settlement offer. The company held firm with their offer and Mr. D was advised by his lawyer that his only recourse would be to commence litigation if he wished to pursue the matter. Unable to afford the mounting legal costs, the consumer terminated the services of his legal advisor and sought out the CLHIO to pursue financial redress.

At the outset, Mr. D was assured that the CLHIO provided a confidential, non-prejudicial process, and that the OmbudService Officer's role is to act as a conciliator, and to identify and reconcile any common ground between the parties with a view to determining if a solution satisfactory to both parties is possible. The OmbudService Officer spoke at length with Mr. D and with the insurer. Mr. D was adamant that he and his wife purchased a policy based on an illustration; that the illustration formed part of the contract; and that he expected the company to "honour their commitments." The insurer had conducted a very thorough investigation and, after learning that the illustration had been prepared using

## CASE STUDIES

### **Negotiating a fair outcome for all (continued)**

incorrect assumptions, offered to rescind the contract. It was the insurer's position that the "material misrepresentation" did not form part of the contract and that the appropriate remedy was rescission.

The company subsequently enhanced their settlement offer to allow for continuation of the coverage and indicated they would not entertain any additional offers.

Following a series of in-depth discussions with Mr. D and his financial advisor, the OmbudService Officer was able to bring about his acceptance that he had been dealt with fairly by the company. The consumer expressed confidence in the CLHIO's perspective that the offer was reasonable and fair and in accordance with industry practices in general. The consumer advised the OmbudService Officer that he was satisfied that the resolution was in his best interests and accepted the company's offer.

## CLHIO PRIVACY STATEMENT

The Canadian Life and Health Insurance OmbudService (CLHIO) is committed to protecting consumers' privacy. With the written authorization of the consumer that is making the complaint, the CLHIO will collect information from the consumer, the financial institution, and any relevant third parties, if applicable, to facilitate the investigation and resolution of complaints filed with the CLHIO. The CLHIO will only collect personal information, including medical information, to the extent necessary to investigate the complaint. Unless otherwise directed by the complainant, the CLHIO shall keep confidential any information that comes into its possession in the course of the complaint investigation. Any information collected during the course of the CLHIO review process will remain confidential and proprietary to the CLHIO. The files of the CLHIO, including any notes, or other written material, information, or evidence are confidential, and will not be provided directly or indirectly to the parties involved in the complaint process except to the extent required by law. Complaint files are retained in a secure facility, and can be accessed only by authorized CLHIO staff.

The CLHIO is a confidential process during which consumers entrust us with private information in return for our agreement that all information will be held secure. To ensure that there is no erosion of that trust, the CLHIO will not discuss a consumer's concern or complaint with any third-party except with the consumer's consent. The CLHIO will not discuss the consumer's concern or complaint with the media, even with the consent of the consumer.

The Canadian Life and Health Insurance OmbudService may use information for the purpose of statistical reporting. Any information collected for this purpose will be on an aggregate industry basis only, and will not identify the consumer or the insurer.

### Personal Information Protection and Electronic Documents Act

The Personal Information Protection and Electronic Documents Act (PIPEDA) protects the privacy of Canadians with respect to the collection, use and disclosure of personal information. The CLHIO abides by the ten principles developed for the protection of personal information as follows:

1. **Accountability:** the CLHIO is responsible for information provided to it, and has designated an individual who is accountable for compliance with the principles.
2. **Identifying Purpose:** the CLHIO will identify to the consumer the purpose of collecting information before or at the time the information is collected.
3. **Consent:** the collection, use and disclosure of personal information will only be done with the knowledge and consent of the consumer.
4. **Limiting Collection:** the collection of personal information will be limited to that which is necessary for the CLHIO to investigate the complaint.

## CLHIO PRIVACY STATEMENT

Ten principles developed for the protection of personal information (Continued)

5. **Limiting Use, Disclosure and Retention:** the CLHIO will only use or disclose personal information for the purpose for which it was collected. The CLHIO will only retain personal information for as long as it is necessary to fulfill that purpose.
6. **Accuracy:** personal information will be kept as accurate, complete and up-to-date as necessary for the purpose for which it is to be used.
7. **Safeguards:** personal information will be protected by security appropriate to the sensitivity of the information.
8. **Openness:** the CLHIO will make readily available to consumers specific information about policies and practices related to the CLHIO's management of personal information.
9. **Individual Access:** the CLHIO will, upon request, inform a consumer of the existence, use and disclosure of his or her personal information. A consumer will be given access to their personal information, and will be able to challenge its accuracy and completeness. However, as outlined in paragraph one, and in the CLHIO Authorization and Agreement form, a consumer will not have access to any information collected during the course of the CLHIO review process, and the files of the CLHIO, including any notes, or other written material, information, or evidence will remain confidential.
10. **Challenging Compliance:** a consumer will be able to challenge the compliance with the above principles with the CLHIO's designated individual.

Canadian Life and  
Health Insurance  
OmbudService



Service de conciliation  
des assurances de  
personnes du Canada

CLHIO • SCAPC

**CLHIO OFFICES:**

**TORONTO OFFICE**

1 Queen Street East  
Suite 1605A  
Toronto, Ontario  
M5C 2X9

Tel.: 416-777-9002  
Toll Free: 1-888-295-8112  
Fax: 416-777-9750

[www.clhio.ca](http://www.clhio.ca)

**MONTREAL OFFICE**

1445 Stanley Street  
Suite 1501  
Montreal, Québec  
H3A 3T1

Tel. : 514-282-2088  
Toll Free : 1-866-582-2088  
Fax : 514-282-2214

[www.scapc.ca](http://www.scapc.ca)