



UNIVERSITY OF
TORONTO

**Report of the Committee to Review the Office of the
University Ombudsperson**

April 2015

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Executive Summary

A review of the Office of the University Ombudsperson has occurred regularly at the end of each term of the office-holder since the position was established in 1975. The 2015 review was atypical of such reviews as it coincided with the retirement of the incumbent University Ombudsperson from that role and the selection of a successor.

As a result, the 2015 Review Committee was given a dual mandate to review the Office as well as to interview, select and recommend a successor to the Office. The Final Report of the 2015 Review of the Office of the University Ombudsperson contains more detail than reports of previous reviews, as the Review Committee's consultations process and deliberations were intended, in part, to help inform the Review Committee's selection of candidates.

The consultations undertaken by the 2015 Review Committee included discussions with representatives of all university estates (teaching staff, administrative staff, students, and community members), including senior university administrators and student government leaders. Key themes that emerged from the consultations included:

- Perceptions regarding the impartiality and independence of the Office;
 - The balance between localized complaint resolution mechanisms and senior-level intervention by the University Ombudsperson;
 - The daily caseload management of the Office;
 - The University Ombudsperson's unique role in recommending system-level improvements to the University's policies and processes;
 - University-wide communications and awareness of the Office and its services; and
 - Tri-campus accessibility to the services that the Office provides for members of all estates within the university community.
- As part of its deliberations, the Review Committee examined potential implications for the Office and the University arising from recent provincial legislation extending the jurisdiction of the Ontario Ombudsman to the university sector. This was of particular importance given that the University of Toronto has possessed its own University Ombudsperson for four decades, and that the Office has functioned very effectively since its establishment.
- This report concludes with a series of recommendations, the full text of which can be found on Pages 15 and 16 of this report. The recommendations focus on the accountability of the Office, its communications and visibility, and its delivery of services. The Review Committee's recommendations are intended to accomplish the following:
- Affirm the independence and impartiality of the Office;
 - Urge continued collaboration with the University's strategic communications professionals to communicate the existence, mandate, and services of the University Ombudsperson to the university community;
 - Suggest annual meetings of the University Ombudsperson with the Executive Committee as well as annual presentations to the Campus Councils;
 - Encourage inclusion of the Office in tri-campus events, including training and orientation events, in order to help raise its profile and promote awareness of its mandate and services;
 - Endorse the inclusion of referral-providing officers and administrators into the Office's annual outreach and communications efforts; and
 - Recognize and affirm the existing best practice of deferring to localized dispute-resolution mechanisms, as deemed appropriate, when assessing whether to intervene in a case or to refer a complainant to the appropriate administrative authority for follow-up. ■

Background

Mandate of the Office

The University of Toronto's Office of the University Ombudsperson is an independent and impartial resource to assist the University in fulfilling its obligations to its students, faculty and staff, as part of the University's broader mission of excellence as a leading international teaching and research university. The impartiality of the Office and its organizational independence from the University Administration are affirmed in the Office's [Terms of Reference](#), which state:

“The Ombudsperson is appointed by the Governing Council on the recommendation of the President; is accountable to the Governing Council and has unrestricted access to all University authorities. The Office of the Ombudsperson is independent of all existing administrative structures of the University.”¹

The Office of the University Ombudsperson accomplishes its mandate by providing impartial and confidential services designed to help members of the University community who have been unable to resolve concerns with University authorities. This includes ensuring that procedural fairness had been observed and that University policies and procedures had resulted in just and reasonable outcomes. As such, the Ombudsperson is empowered to hear complaints, undertake investigations where warranted, conduct formal reviews, recommend changes to decisions, and recommend improvements to established University policies and procedures. While the Ombudsperson does not possess the authority to over-rule decisions, he/she plays a key role in helping the University to identify and address cases where there may have been a system failure on the part of the University with regard to its policies and processes or in the application thereof.

Services provided by the Office are available to any member of the University of Toronto whose relation-

¹ The Office's Terms of Reference are available at the following internet link: <http://uoft.me/OmbudsToR>

ship with the University falls under the jurisdiction of the Governing Council and where resolution of the member's complaint rests within the authority of the Governing Council. This includes students, members of the teaching staff, members of the administrative staff, as well as former students and former teaching and administrative staff members, but only with respect to matters arising from their former status at the University. The services of the Ombudsperson are not available to applicants for admission to the University or to members of the public with complaints about the actions of University authorities.

History of the Office

The University of Toronto's Office of the University Ombudsperson was established in 1975. The office-holders and their terms of service are listed below:

- Eric McKee 1975-1985
- Liz Hoffman 1985-1996
- Irene Birrell (Interim) 1996-1998
- Mary Ward 1998-2006
- Ian McDonald (Interim) 2006-2007
- Joan Foley 2007-2015

The Terms of Reference for the Office of the University Ombudsperson call for a review of the Office at the end of each incumbent's term, in a manner determined by the Executive Committee of the Governing Council. The recommendations arising from periodic reviews have resulted in a number of changes to the Office over the years, including changes in the Office's budget, staffing, annual reporting requirements, and the support available to the Ombudsperson in carrying out the day-to-day work of the Office.

Notable developments that have had an impact on the Office of the University Ombudsperson since its establishment include:

March 1982: The Terms of Reference of the Office were amended to make the Ombudsperson accountable exclusively to the Governing Council.

April 2001: A review of the Office recommended that the Ombudsperson be restored to full-time status, that the normal term of the Ombudsperson be set at five years with the option to re-appoint for two additional

terms to a maximum of fifteen years, and that enhanced statistical summaries be included with the Ombudsperson's annual report, to include service targets (i.e. time to appointment, time to resolution, etc.).

November 2006: A review of the Office recommended development of a staffing and budget plan that would enable the Ombudsperson to focus his/her work on complex cases and systemic issues, and on proposing recommendations for review of policies and procedures where appropriate, and allowing the addition of a case officer to provide information and referrals to clients. The review also recommended that the Ombudsperson engage senior members of the University Administration to develop a plan to enhance awareness of the Office and the services that it provided to the University community.

January 2010: A review of the Office recommended the amendment of the Office's Terms of Reference to include a "whistleblower clause" explicitly forbidding the penalization of complainants for making a complaint (section 3.7), as well as an amendment affirming that complainants who had provided written consent to an investigation or inquiry were expected and encouraged to respect the importance of confidentiality in the interest of fostering an effective process (section 3.3).

April 2013: A review of the Office affirmed the rationale for the existing structure of the Office, which enabled the Ombudsperson to focus on systemic issues while upholding the responsiveness of the Office to day-to-day inquiries and ongoing case management. The review also recommended the development of a communications strategy and annual communications plan with the assistance of University communications professionals.

2015 Review of the Office

At its [October 22, 2014 meeting](#), the Executive Committee of the Governing Council established a committee of members of the Governing Council to review the Office of the University Ombudsperson, tasked with the following mandate:

(a) to review the status and progress of the Office of the Ombudsperson in the light of the recommendations of the Report of the Committee to Review the Office of the University Ombudsperson, 2012-2013, approved by the Governing Council on April 9, 2013, in particular: the effectiveness of the operations of the Office of the University Ombudsperson; the awareness of the Office by members of the University community across the three campuses; and, the communication of its services;

(b) to make recommendations concerning the appointment of an Ombudsperson.

The membership of the Review Committee, representative of all the University's estates, consisted of the following members of the Governing Council:

- Alexis Archbold (Administrative staff governor)
- Ben Coleman (Student governor)
- Jeff Collins (Lieutenant-Governor-in-Council governor), Chair of the Review Committee
- Harvey Botting (Alumni governor)
- Andrea Sass-Kortsak (Teaching Staff governor)

Professor Angela Hildyard, Vice-President, Human Resources and Equity, served as the administrative advisor on the committee. Ms Sheree Drummond, Deputy Secretary of the Governing Council, served as Secretary to the Committee, assisted by Mr. Lee Hamilton, Acting Assistant Secretary of the Governing Council.

Work Plan

The Review Committee met five times between January and April 2015, during which time it conducted in-person and technology-assisted consultations, received and discussed on-line and written submissions, and considered potential candidates for the position of University Ombudsperson.

The Committee met separately with the outgoing University Ombudsperson, Professor Emeritus Joan Foley. The Committee also met with: the Assistant Ombudsperson, Mr. Garvin Du Four; Mr. Louis Charpentier, Secretary of the Governing Council; Professor Jill Matus, Vice-Provost, Students and First Entry Divi-

sions; and with Professor Sioban Nelson, Vice-Provost, Faculty and Academic Life and Vice-Provost, Academic Programs.

The Review Committee also met with student government leaders, namely the Association of Part-Time Undergraduate Students (APUS), the University of Toronto Graduate Student Union (UTGSU), the University of Toronto Mississauga Students' Union (UTM-SU), and the University of Toronto Students' Union (UTSU). The Scarborough Campus Students' Union (SCSU) was invited to meet with the Committee, but declined to do so.

Finally, the Committee met with Professor Amy Mullin, Dean and Vice-Principal, Academic, UTM, on behalf of Professor Deep Saini, Vice-President and Principal, UTM, as well as Professor Luc de Nil, Vice-Dean, Students, School of Graduate Studies. Professor Bruce Kidd, Vice-President and Principal, UTSC was unable to meet with the Committee in person but provided a written submission.

Summary of Consultations

The Review Committee received diverse input during its consultations, through in-person and video/teleconference interviews, as well as through on-line and written submissions to the Committee. The consultations were invaluable to the Committee's review process and to discussions informing the Committee's final recommendations. As noted above, the Committee met with the outgoing University Ombudsperson, the Assistant Ombudsperson, senior members of the University Administration from all three campuses, and student government leaders. The Review Committee also benefited from the insight of its membership, representative of all University estates, some of whom had either participated on, or been directly involved in, the work of previous Review Committees. The University of Toronto Faculty Association (UTFA) did not respond to the Committee's invitation to meet with the Committee, and the Scarborough Campus Students' Union (SCSU) declined to meet.

The following summary of the consultations outlines key themes that emerged from the Committee's review process, without attribution, and describes what was

heard by the Committee. As can be expected from such wide-ranging consultations, some of the input provided to the Committee fell outside of the scope of the review process, or reflected a lack of familiarity with the complementary but distinct roles of other offices within the University, or conflated the governance and administrative dimensions of the University. This input was nevertheless included in the following summary for information purposes, and also for the insight it can provide in the development of future strategies to communicate more effectively about the role, mandate and services of the Office and its unique place within the University.

Accountability of the Office

The Office of the University Ombudsperson is an independent office within the University of Toronto, accountable to the Governing Council. It is mandated to report to the Governing Council annually, and through it to the University Community, as well as to provide other such special reports as may be required by the Governing Council. In making these reports, the Office is required to respect the privacy of members of the University who use the services of the Office in accordance with the requirements of its Terms of Reference and applicable legislation. The Office's annual reports to the Governing Council are made publicly available on the University of Toronto website in two locations: on the website of the [Office of the University Ombudsperson](#) and on the Governing Council Secretariat website cataloguing all Governing Council [Meeting Agendas and Reports](#).

During its consultations, the Review Committee observed that there was a need for ongoing explanation of the independence and impartiality of the Office in the context of a large and complex organization like the University of Toronto, and of the regular reporting that was undertaken by the Office. The Review Committee provided clarification during its consultations, explaining that the Office was accountable to the Governing Council in the fulfillment of its mandate and the discharge of its duties, not to the University Administration. Some student leaders suggested that the impartiality of the Office might be enhanced through the adoption of a shared funding and accountability model with student societies. However, the Committee felt that this view arose in part as

a result of the misapprehension that the Office of the University Ombudsperson was a component of the University Administration or, conversely, the perception that the Office and/or the Governing Council was partial to the University Administration.

Since the Office is accountable to the Governing Council, the University's governing body established by the *University of Toronto Act, 1971*, which is representative of all the University's constituent estates as mandated by the legislation, it was the view of the Committee that a shared funding and/or accountability model for the Office in conjunction with a separately incorporated organization representing any one estate of the university would, in fact, compromise the impartiality of the Office, rather than enhance it. Therefore, the Review Committee affirmed that the current accountability and funding structure was the appropriate one for an independent Office within the University of Toronto.

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While the annual reports to the Governing Council produced by the Office of the University Ombudsperson were discussed in Open Session and were made publicly available on the university website, there seemed to be low awareness of the existence of these reports. When informed of the existence of the reports and apprised of their content, some respondents expressed the desire to see the visibility of such reports enhanced.

Communications and Visibility

A number of activities were regularly undertaken by the Office of the University Ombudsperson to increase the visibility of the Office and raise awareness of the services that it provided to the University community.

The Review Committee heard that, with regard to the student estate, these awareness-raising activities tended to occur at the beginning of each academic

year, coinciding with annual orientation activities. While these efforts were successful in achieving general awareness of the existence of the Office at the outset of each academic year, they were insufficient to maintain ongoing awareness of the Office over the course of an academic year, when students were more likely to require its services, or to impart more in-depth knowledge of the activities and processes of the Office.

However, as had been noted in the previous review (2013), the Office possessed limited capacity to undertake extensive and sustained tri-campus strategic communications efforts. For this reason, the 2013 review had recommended that the Office develop annual strategic communications plans with the support of University communications professionals. As a result of this recommendation, Strategic Communications and Marketing (University Relations) had developed a communications plan in collaboration with the Office, which had been partially implemented when the 2015 Review Committee began meeting, and which had made important progress in raising the profile of the Office.² The Review Committee affirmed that this collaborative effort should continue into the future, and that it be incorporated into the activities of the University's restructured central strategic communications apparatus under the leadership of the new Vice-President, Communications.

During its consultations, the Review Committee heard a variety of opinions and suggestions on how to raise awareness of the Office. These included use of an enhanced web presence, participation of the Office in various campus events such as town hall meetings and street fairs, the use of social media, development of video presentations, resumption of regular drop-in office hours at UTM and UTSC, greater use of posters and information literature in locations where students congregate to access services, and the use of networked technology to enable anonymous real-time remote interaction with the Office.

² For examples, see the following articles about the Office published in *The Bulletin*:

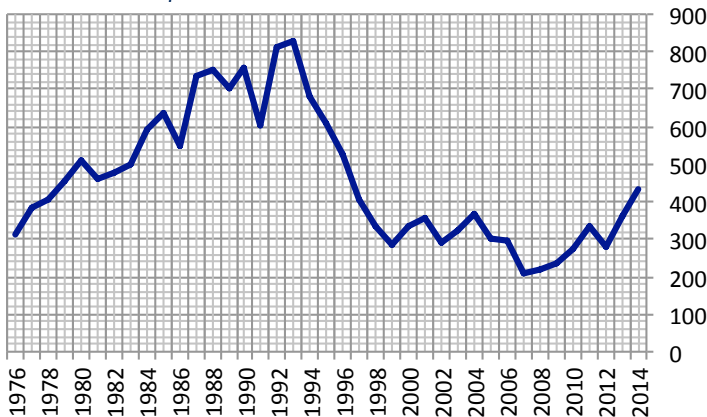
- a profile of the Ombudsperson and her role: <http://news.utoronto.ca/joan-foley-looking-back-50-years-u-t>
- a news story on the Ombudsperson's annual report: <http://news.utoronto.ca/bicycles-fees-and-term-tests-year-life-university-ombudsperson>

While the Office did not make direct use of social media in its awareness-building efforts, the Review Committee expressed some cautionary observations about the appropriateness of social media in this context. Specifically, the Review Committee affirmed the importance of upholding public confidence in the impartiality of the Office, the confidentiality of its services, and the diligence of its processes. As a result, given the content, tone and perceptions that are typically generated by social media, direct use of social media by the Office should be approached with caution.

On the question of the resumption of in-person office hours at UTM and UTSC, the Committee heard that when such office hours had previously been in place, uptake by students, faculty, and staff had been extremely low, and that therefore the practice had not represented the best use of the Ombudsperson's time and resources. In addition, while the Ombudsperson was available to travel to UTM and UTSC for scheduled meetings, the Committee heard that there was a notable preference on the part of many clients to interact with the Office through email, web-form, or by telephone as the method of first contact, prior to meeting in person. This preference can be attributed to the anonymity offered by these modes of communication. The most recent Annual Report of the Office (2013-2014) noted that this pattern had remained consistent over the years, with requests for assistance most often initiated by email or the Office's web-based Request For Assistance form in 70% of contacts in 2013-2014, and by telephone in 24% of contacts.

Total Caseload 1975 - 2014

The chart below illustrates the total caseload of the Office of the University Ombudsperson since its establishment in 1975. The Caseload peaked in 1992-1993 at 828 cases. The subsequent sharp decline was part of a general trend seen at Canadian universities, attributable to the widespread establishment of Equity Offices and other units with complementary functions and mandates to address complaints and assist in the resolution of problems.



This initial anonymous contact would then subsequently be followed-up by arrangements for in-person meetings at a campus of the client's choosing. In 41% of all cases, the client's initial contact with the Office was followed-up with one or more in-person meetings, with 64% of these follow-up meetings occurring on the same or the following day as the initial contact, and 90% occurring within one week of the initial contact.

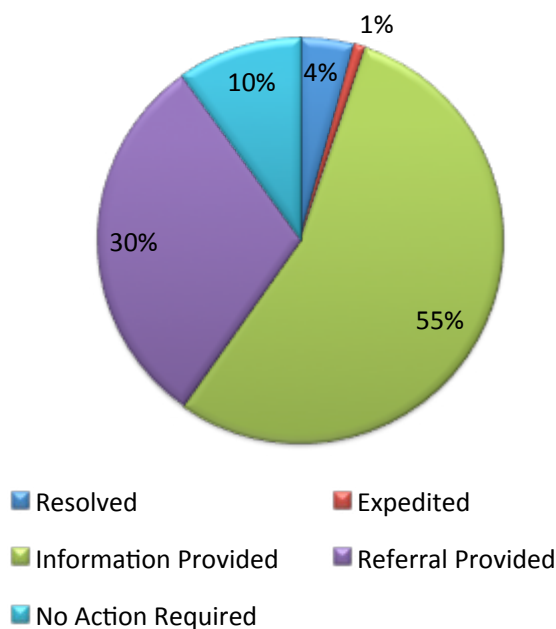
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As a result, the Review Committee found little to indicate that the keeping of regular on-site office hours at UTM and UTSC by the University Ombudsperson would constitute the most effective means of increasing the awareness and accessibility of the Office, given the options that are available.

However, the Committee's consultations indicated that the visibility of the Office could be enhanced by more frequent on-site participation in periodic campus events that occurred throughout the academic year, and which see a high student turnout. Additional options to increase the tri-campus profile of the Office might include annual presentations by the University Ombudsperson to the UTM and UTSC Campus Councils.

During its consultations the Review Committee learned that an important, proven and highly effective channel for communicating the existence and services of the Office, and for making contact with clients, was through individuals within the University community who were positioned to provide referrals to the Office in response to interactions with students, staff or faculty. In the case of students, this “strategic contact” might be a student society coordinator responsible for equity or human rights issues; in the case of faculty or staff, this might be a member of a faculty association or a human resources officer. These strategic contacts were the people to whom members of the University community appropriately turned as a

2013 - 2014 Caseload: Outcomes



first resort when they needed assistance, and who were well-positioned to inform complainants of the resources available to them as members of the University community including, where appropriate, informing them of the services of the University Ombudsperson.

The Review Committee wished to encourage the Office of the University Ombudsperson to identify and include these referral-providing strategic contacts into the Office's outreach efforts in a systematic way, engaging them in a manner appropriate to their particular position and context, in order to help inform them of the existence, purpose and activities of the Office, and to provide clarity on appropriate referral scenarios. The Review Committee was confident in the Office's ability to undertake such outreach without appearing to be "shopping for business" and while remaining aware of, and sensitive to, the distinct roles and services provided by other offices across the University.

Service Delivery

Caseload for the Office in 2013-2014 was 434 cases, and in the vast majority of cases the Office was able to respond quickly to requests for assistance. This rapid response was facilitated by the internal organization of the Office, whereby the presence of a part-time administrative support position enabled the Assistant Ombudsperson to focus predominantly

Snapshot of a typical year:

In 2013-14 the Office of the University Ombudsperson handed a total of 434 cases. Of these, 15 were carried over from the previous year, and 419 were new cases. Two cases were closed because they fell outside of the Office's mandate, and seven were still in progress at the time of the Office's 2014 Report to Governing Council. The pie chart on the left represents the 425 cases that were closed and that dealt with matters within jurisdiction of the Office. In the majority of these, the Office provided information (232) and referrals (129) to clients. Forty-two (42) required no action, as a result of either the withdrawal of a complaint by a complainant, its resolution elsewhere, the failure on the part of a complainant to provide necessary information, or failure of the complainant to show up for an appointment. Four (4) cases were "expedited", meaning intervention by the Office had resulted in rapid response to an emergency situation or the unblocking of a delay in process. Eighteen (18) cases were "resolved", meaning that intervention and mediation by the Office had resulted in outcomes that were acceptable to all parties, although the outcomes may not have been what the complainant had originally sought.

on daily case management and the Ombudsperson to focus on complex and systemic issues. The Review Committee heard that the workload of the Office was manageable at its existing capacity, assuming that the caseload remained stable in the future, but that there was no redundancy in the Office. The Review Committee also heard that the Office might benefit from a modest increase in the administrative support available to it.

“The most recent Annual Report of the University Ombudsperson records that the Office was able to respond to 72% of contacts on the same day and to 95% by the following day.”

Day-to-day management of the caseload of the Office was conducted in a timely manner, and the Committee heard positive feedback on the responsiveness of the Office and the overall sense on the part of clients that the Office had listened thoroughly to what they had to say. The most recent Annual Report of the University Ombudsperson recorded that the Office was able to respond to 72% of contacts on the same day and 95% by the following day. Even though the Ombudsperson's Terms of Reference may preclude intervention in some of these cases, the Office nevertheless often provided assistance in the form of referrals or information that resided in the public domain.

The Committee heard that, in a complaints-driven environment, the resolution of difficult issues could sometimes result in frustration felt by all parties and that, while many cases had measurable outcomes and could be addressed and resolved relatively quickly, some cases could be much more nuanced and therefore require more time to investigate and resolve.

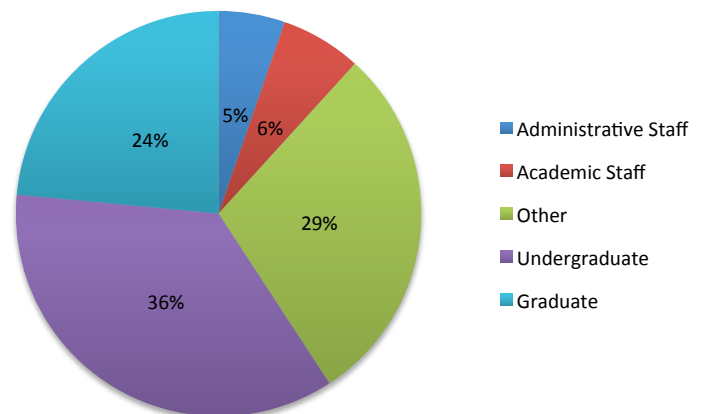
University Administration

The Review Committee learned that both the Office of the University Ombudsperson, and the Ombudsperson herself, were held in high regard by the University Administration. The Committee took note of the appreciation of senior administrators for the challenges of the role of University Ombudsperson, recognition of the complexity of the issues that Office must navigate, and respect for the purview of the Office to undertake investigations with the full cooperation of, and access to, University authorities. One long-serving senior administrator and member of the president's executive team with experience dealing with several University Ombudspersons had informed the Committee that the Office "*...serves an extremely important role at the University of Toronto, ensuring and helping administrators create and implement comprehensive, thoughtful, effective and equitable policies and procedures, while contributing to a culture of administrative fairness and transparency among all estates.*"

Given the University Ombudsperson's organizational independence from the University Administration, its mandate to investigate and help resolve complaints by members of the University community, and its access to senior administrators, the University Ombudsperson functions effectively to ensure the betterment of the University's policies, procedures and outcomes. As such, the Review Committee heard that senior administrators were highly responsive to requests from the University Ombudsperson during the conduct of an investigation; the Committee also heard that discussions between the University Ombudsperson and senior administrators, though respectful, could be difficult for senior administrators in some contexts, and the Committee regarded this reality as a positive indication that the oversight dimension of the role had been exercised effectively and was functioning as it should. The occurrence of occasional "organizational friction"

could, in these contexts, be regarded as a constructive by-product of the much larger process of ongoing improvement of the University's policies, procedures, and outcomes.

The Office's *Terms of Reference* outline the appropriate stage for consideration of a matter by the Office. During its consultations, the Review Committee heard about the importance of allowing a problem or complaint to progress as far as it could towards resolution by the appropriate local administrative authority prior to intervention by the Office. The Committee heard summarizing descriptions of some instances in which complainants had resorted to the Office before there had been an attempt to initiate a resolution locally. This scenario could arise as a result of a complainant seeking resolution of an issue through multiple chan-



2014 Caseload by campus estate Total = 434 cases

Note: "Other" denotes a heterogeneous group that includes:

- post-doctoral fellows supervised by a University appointee but whose own fellowships are administered by another organization, such as a hospital or research institute;
- employees of separately incorporated organizations operating within the orbit of the University (e.g., a student union, an affiliated or federated institution);
- students from another university taking courses here on a letter of permission;
- persons receiving services from a unit operated by an academic division as a training venue for students;
- former members of the University with concerns that did not arise out of their period of active participation as a member, and parents of students, applicants for admission, and other members of the public.

Even though the Ombudsperson's *Terms of Reference* may preclude intervention in some of these cases, the Office often provided assistance in the form of referrals and/or information in the public domain.

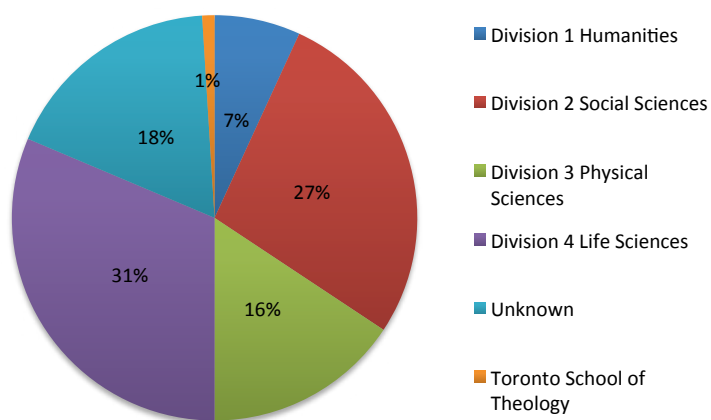
nels simultaneously, either due to impatience with existing processes, lack of clarity on the processes available to them, or through a self-interested decision to “shop around” for the most favourable answer to a given problem. Such a scenario could result in the emergence of parallel processes, which in turn could generate confusion and unnecessary complications in the resolution of an issue. As outlined in the Office’s Terms of Reference (3.1):

“The Ombudsperson considers complaints from members of the University (a) when they have been unable to resolve their concerns through the usual processes; or (b) when they have encountered unreasonable delays in the consideration of their concerns through the usual processes; or (c) when they are unable, because of other factors that are reasonable in the circumstances, to determine or to follow the usual processes. The Ombudsperson shall not normally consider complaints that are in the process of being dealt with through established processes, or that could reasonably be dealt with through established processes, apart from (a) situations of unreasonable delay or (b) situations where, given special circumstances, additional assistance is warranted...”

The use of the term “usual processes” in the *Terms of Reference*, while necessarily general in nature in order to include within its scope the variety and complexity of processes at the University, should not, in the opinion of the Review Committee, preclude at least one attempt to elevate and resolve an issue locally with the appropriate administrative authority, prior to intervention by the Office. Where a resolution mechanism exists at the local level, it should be activated and allowed to run its course, and where such local in-built resolution mechanisms are unclear or not present, service and academic units are encouraged to address this lack on their own recognizance with reference to the appropriate policies and administrative authorities.

As a result, the Review Committee wished to affirm the Office’s efforts to ascertain if local resolution mechanisms had been activated and had progressed to the furthest extent possible, and within a reasonable timeframe, prior to intervening in a case. Where

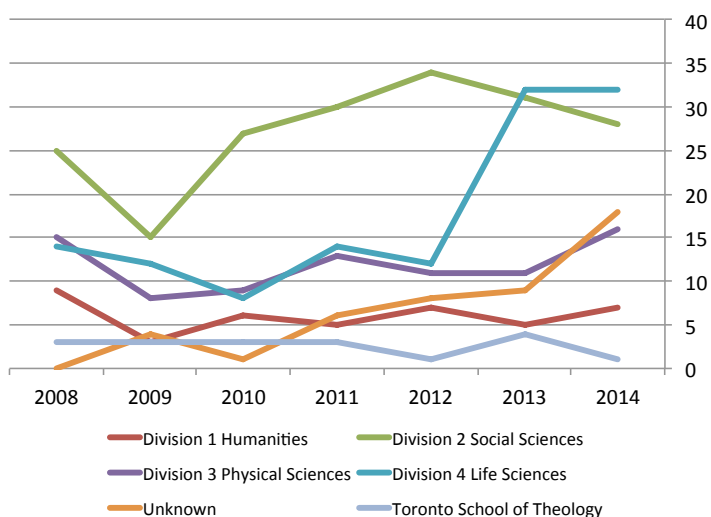
2013 - 2014 Graduate Student Caseload by Division



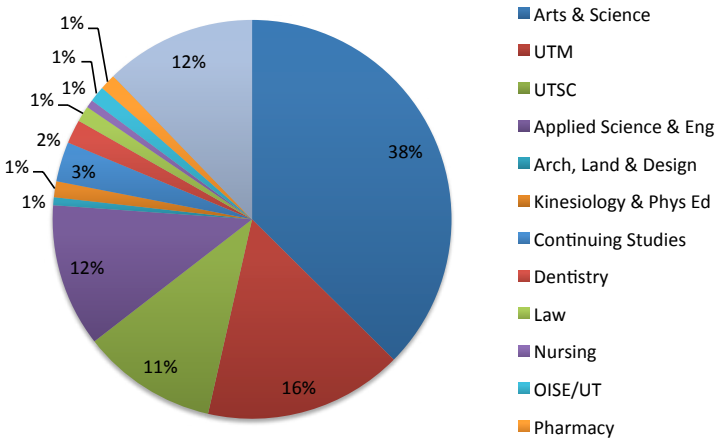
local processes had not been activated, or were still in motion, the Office was encouraged to continue exercising its discretion to redirect complainants to the appropriate administrative authority for follow-up. The Committee appreciated the Office’s commitment to the principle of confidentiality, and recognized that this placed constraints on the scope of the Office to approach academic and administrative units regarding specific complaints, particularly with regard to cases in which complainants had withheld consent for the Office to do so. Clarity around local resolution mechanisms and their procedural steps could help in this area.

The Committee heard with appreciation that the Office’s annual reports to the Governing Council, and the issues that they raised, were read with interest by members of the University Administration. Feedback received by the Committee included the salient observation that recommendations on system-level changes to policies and processes arising from a com-

2008 - 2014 Graduate Student Caseload by Division



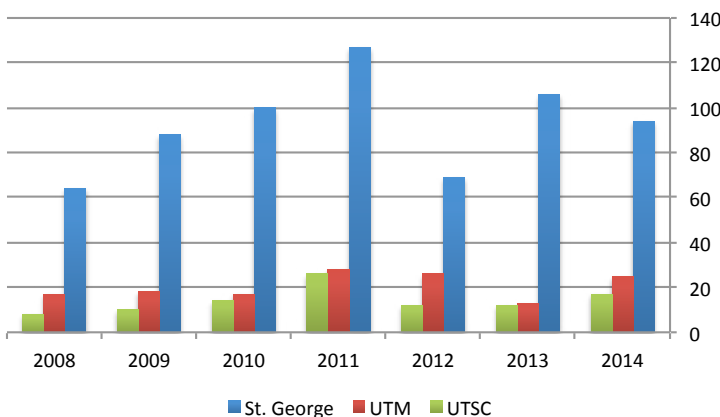
2013 - 2014 Undergraduate Caseload by Program
(UTM and UTSC included as separate entries)



plaintiffs-driven process could inherently overweight unsatisfactory outcomes, and that processes in a large and complex institution like the University inevitably included a small error rate, as all processes did. As a result, caution was required when recommending changes to largely successful policies and processes based on complaints arising from a relatively small number of exceptional cases, as this could potentially lead to an even larger number of poorer outcomes down the road.

The Review Committee was able to confirm, based on feedback from senior university administrators and from the outgoing Ombudsperson, that the Office possessed the appropriate degree of access to senior members of the University Administration, and also received the appropriate level of support from the Secretary of the Governing Council. The Committee noted that, based on its discussions with senior administrators, the Ombudsperson had been effective in exercising her prerogatives in this regard when under-

Undergraduate Caseload by campus 2008 - 2014



taking investigations. The Committee believed this could be attributed in large part to the University Ombudsperson’s extensive institutional knowledge and experience, her credibility as both a scholar and as a former university administrator, and to the professionalism of university administrators in observing the key role that the Ombudsperson played at the University.

For these reasons, the Committee concluded that an important prerequisite for the role of University Ombudsperson was that the office-holder be in possession of the appropriate degree of credibility in order to deal effectively with both senior administrators and academics at the University in the fulfillment of his/her mandate. This point is reprised below, in this report’s discussion of the desired characteristics in a successor to the Office.

“Where a resolution mechanism exists at the local level, it should be activated and allowed to run its course, and where such local in-built resolution mechanisms are unclear or not present, service and academic units are encouraged to address this lack on their own recognizance with reference to the appropriate policies and administrative authorities.”

Relations with Students

Student leaders of the GSU, UTSU, UTMSU and APUS met with the Review Committee, and the Committee heard constructive and generally positive feedback regarding student interactions with the Office. Student leaders also conveyed the results of surveys and discussions with students about the Office, and outlined anecdotal examples which they felt were illustrative of student experiences with the Office. A common theme of the Review Committee’s discussions with student leaders, as well in the online feedback provided to the Committee, was the challenge of communicating the existence and role of the Office to the student body. This was explored further in the previous section on *Communications and Visibility*.

A notable challenge in raising awareness of the office among the student estate resided in the cyclical turnover of the student body. Awareness efforts directed

towards students needed to be “evergreen” and cannot assume cumulative impact from year to year. The Committee heard that the Office was effective in achieving visibility to students as a result of its engagement activities during student orientation, but that these efforts were insufficient in themselves to maintain awareness over the academic year. The Committee was cognizant, however, that cultivating ongoing awareness over the course of a student’s academic career at the University was a challenge that could not be addressed by the Office alone given the Office’s small size and its focus on fulfilling its core mandate. For this reason, the Committee affirmed that the Office should continue to benefit from ongoing assistance by the University’s strategic communications professionals in order to elevate awareness of the office among University of Toronto students at all three campuses, a practice that had emerged from a recommendation of the previous review committee.

The Committee noted that, as detailed in the University Ombudsperson’s 2013-2014 Report, graduate students were proportionally more likely to use the Office’s services than undergraduate students, and asked student leaders if they had any insight to contribute concerning possible explanations for this trend.

The Committee learned that graduate students were most likely to be referred to the University Ombudsperson by the Graduate Students’ Union in response to complaints regarding instructors and graduate student supervision, as well as in response to complaints arising from issues and barriers encountered by international students, a large number of whom were graduate students. The Committee observed that possible explanations for this pattern included the greater and more long-term investment of graduate students in their academic relationships with their instructors, relative to undergraduate students, as well as to the collaborative professional relationships that can arise between graduate students and their supervisors (for example, joint publication of research output, etc.). Student leaders suggested that this pattern might require a more targeted approach tailored to graduate students, possibly including dedicated personnel to respond to the specialized needs of graduate and undergraduate students.

The Committee heard positive feedback regarding the Office’s approach to case management and stu-

dent interactions with the Assistant Ombudsperson. It was abundantly clear to the Review Committee that the capacity of the Office to have a dedicated case manager in the person of the Assistant Ombudsperson, and the approach of the incumbent in that role, had been greatly appreciated by the students who had used the services of the Office. As a result, the Committee was pleased to affirm the finding of the previous review committee in this regard, which upheld the rationale for the existing organization of the Office and its distribution of responsibilities.

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Members of the UTMSU expressed concern about the Office’s lack of a physical presence at UTM. As noted above, the Office had implemented drop-in hours previously at the UTM and UTSC campuses, but the practice had been discontinued due to lack of demand. The Committee noted that the Ombudsperson had nevertheless made herself available to meet with clients at UTM and UTSC on request. UTMSU also suggested that the inclusion of the Office in campus events could help raise the profile of the Office and the services that it provided, and suggested the “town hall” meetings organized by the UTM Administration as a possible venue. When asked for suggestions regarding other ways by which the Office could exert a presence on campus, students described the implementation of a sign-in live-chat function on library computers stations, which would enable remote and anonymous interaction with the Office by students, in addition to email, web-form and telephone contact.

Student leaders provided the Review Committee with insight into perceptions of the Office by the student estate. According to some student leaders, there existed in some quarters a perception that the Office was biased in favour of the University Administration,

and a perception that the Office was accountable to the University Administration and therefore could not be truly impartial. The Committee noted an apparent tendency to conflate the mandate of the Office with that of other offices and resources available at the University. With these insights in mind, the Committee suggested that an updated strategic communications plan for the Office might include measures to assist in dispelling misperceptions and in clarifying the basis for the Office's impartiality and independence from the University Administration.

One student leader called the Committee's attention to an apparent lack of clarity in the Office's Terms of Reference regarding the Office's jurisdiction to investigate complaints brought to the Office by student societies. The Committee found that, as student societies are separately incorporated entities that do not fall under the jurisdiction of the Governing Council, they are not encompassed within the University Ombudsperson's mandate. As noted in the Office's Terms of Reference (Section 3.4 *Eligibility*):

“The services of the Ombudsperson shall be available to any member of the University whose relationship with the University is under the jurisdiction of the Governing Council of the University and where resolution of the member's complaint is within the authority of the Governing Council. These individuals include: students, members of the teaching staff, and members of the administrative staff and former students and former members of the teaching and administrative staffs, but only in respect of matters arising out of and crystallizing during their former student or employment status. The services of the Ombudsperson shall not be available to applicants for admission to the University or to members of the public with complaints about the actions of University authorities.”

The Review Committee affirmed that the Terms of Reference provided the University Ombudsperson with sufficient jurisdictional scope to fulfill the fundamental purpose and mandate of the Office to help resolve individual complaints against University authorities brought by members of the University community.

Provincial Landscape

In December 2014, the Legislative Assembly of Ontario passed amendments to the *Ombudsman Act*, extending the authority of the Ontario Ombudsman to municipalities, universities, school boards, and hospitals. The changes were part of a suite of amendments to provincial Acts encompassed by *Bill 8*,³ with various implications for the Broader Public Sector, including universities.

The Government of Ontario had consulted with the Council of Ontario Universities (COU) during preparation of the legislation and the COU, responding to the concerns of the province's university sector, had advocated strongly against the inclusion of universities under the proposed legislative changes. The decision of the provincial government to proceed with the changes made Ontario the third Canadian province, after British Columbia and Newfoundland and Labrador, to place universities under the jurisdiction of the corresponding provincial Office, known as the Office of the Ombudsperson in British Columbia and the Office of the Citizens' Representative in Newfoundland and Labrador.

While all Ontario universities have dispute mechanisms in place under autonomous governance structures, thirteen Ontario universities possessed an institutional ombudsperson as of early 2015 (and U of T since 1975). The provincial government's responsiveness to the Ontario Ombudsman's call for expanded jurisdiction may be interpreted, in part, as a response to the lack of such offices at slightly less than half of the province's universities. However, the University of Toronto has possessed its own Office of the University Ombudsperson for four decades. Throughout that time, the Office has reported publicly on its work on an annual basis, and it has also undergone regular reviews and updating of its Terms of Reference which have upheld the effectiveness of the Office.

At the time of the Review Committee's Final Report, the full ramifications of the legislative changes were unclear, as the changes were awaiting implementation

³ *Bill 8* received Royal Assent on December 11, 2014. Full name: *An Act to promote public sector and MPP accountability and transparency by enacting the Broader Public Sector Executive Compensation Act, 2014 and amending various Acts.*

and, additionally, were subject to further modification without the need for additional legislative amendments in order to address “transitional matters” that arose during implementation.⁴

Based on the Ontario Ombudsman’s previous reports and statements, his office received roughly forty to fifty complaints involving Ontario universities each year, and these complaints often concerned issues around fees and refunds, course requirements, marks, expulsions, decisions of internal academic appeals committees, and university policies. It is unknown how many or what proportion of these annual complaints typically involve the University of Toronto.

The Ontario Ombudsman had advised the COU of his intention to abstain from intervening in cases involving universities where institutional processes were in motion⁵ and to redirect complainants to the appropriate institutional authorities in such cases. The Review Committee noted that the amended *Ombudsman Act* identifies university presidents as the primary institutional interlocutor with the provincial Office. The legislation also details the Ontario Ombudsman’s discretion to consult with a university president when undertaking an investigation, as well as the prerogative of a university president to request such consultation during an investigation involving the university and before the Ontario Ombudsman forms a final opinion arising from that investigation.⁶

The expansion of the jurisdiction of the Ontario Ombudsman to the university sector, once fully implemented, will inevitably have implications for the

⁴ The legislation includes a provision enabling the Government to address transitional matters arising from the legislative changes through additional regulations made by the Lieutenant Governor in Council (i.e. the Premier and Cabinet) without the requirement for further legislative amendments. These regulations would take precedence over the *Ombudsman Act*.

⁵ This course is included as a discretionary prerogative of the Ontario Ombudsman in the *Ombudsman Act* [17.(1)]:

“If, in the course of the investigation of any complaint within his or her jurisdiction, it appears to the Ombudsman,

(a) that under the law or existing administrative practice there is an adequate remedy for the complainant, whether or not the complainant has availed himself, herself, or itself of it; or

(b) that, having regard to all the circumstances of the case, any further investigation is unnecessary,

the Ombudsman may in his or her discretion refuse to investigate the matter further...”

⁶ The *Ombudsman Act* (4)(5)(5.3)

Office of the University Ombudsperson. It is likely that the provincial office will be regarded by complainants as a further avenue of appeal in the event that they are dissatisfied with the outcome of university processes, and that the provincial office will become a recourse for complainants from outside the University community who do not fall within the University Ombudsperson’s jurisdiction.

For these reasons, the Review Committee believed that it had become a requirement of the role of University Ombudsperson to be aware of the scope of the provincial office, the circumstances under which the Ontario Ombudsman may investigate cases involving the University, and the limitations and obligations contained in the *Ombudsman Act* upon such interventions.

“Put more succinctly, expansion of the Ontario Ombudsman’s jurisdiction to the university sector provides the University of Toronto with the opportunity to communicate more effectively what it has already been doing extremely well since 1975: the effective and pro-active resolution of disputes leading to fair, just and reasonable outcomes through the services of its own independent and impartial University Ombudsperson.”

Moreover, as a result of these developments, the Committee felt that the Office’s reporting and communications activities would assume renewed importance as tools in the demonstration of the University’s competence to mediate its own disputes, signalling its effectiveness in this regard not only to the University Community but also to interested observers outside the University.

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Profile of the Position

The Review Committee's consideration of required and desirable qualities, competencies and experience for the role of University Ombudsperson was informed in large part by the example established by the outgoing University Ombudsperson, Professor Emeritus Joan Foley. A scholar and an academic administrator, Professor Foley has served the University of Toronto in many capacities since first joining the University as a special lecturer in Psychology in 1963. She was UTSC's fifth Principal (1977-1984, at the time called Scarborough College and then Scarborough Campus) and the first female Principal of a University of Toronto college, and has also served the University with great distinction in the roles of Chair of the Department of Psychology, Chair of the Division of Life Sciences, Associate Dean of Arts and Science, and Vice-President and Provost of the University. She has also been a member of the Governing Council.

As a result, Professor Foley was able to bring a wealth of knowledge, experience, insight and credibility to her role as University Ombudsperson. The Review Committee recognized Professor Foley's tremendous contribution to the University of Toronto and to the University community, and appreciated that Professor Foley had set a high standard for future incumbents in the position of University Ombudsperson.

“An incumbent in the role of University Ombudsperson must be in possession of the requisite professional credibility in order to effectively deal with both academics and senior university administrators...”

A strong candidate for the position of University Ombudsperson must be fundamentally interested in the work that the Ombudsperson does. Specifically, given the small size of the Office, the incumbent must be willing, on occasion, to conduct routine case work in addition to the system-level work of the position, including direct interaction with complainants. In doing so, he/she must be able to imagine him/herself in the place of others, be able to interact with members of the University community at any level within the organization, be able to identify underlying issues, and

also be able to keep those underlying issues in sight even though some complainants can be disagreeable, frustrated, or angry in their approach to the Office.

Concerning the key role of the University Ombudsperson in identifying and helping to correct system-level problems, the incumbent should possess a strong background analyzing complex and nuanced issues that intersect the various policies and jurisdictions that characterize the University. They should be aware of the role that local, discrete resolution mechanisms can play in helping to resolve rare or exceptional cases, and be mindful of the possibility for unintended consequences that can arise when system-level changes to established policies and practices are introduced.

An incumbent in the role of University Ombudsperson must be in possession of the requisite professional credibility in order to effectively deal with both academics and senior university administrators. For this reason, it is highly desirable that candidates for the position of University Ombudsperson possess both scholarly experience and academic administrative experience. Experience in University governance is also desirable.

The incumbent should also be aware of broader issues that have an impact on members of the University community and of the wide array of policies, services and resources that are available at the University, so that they may respond to, provide referrals for, or redirect complainants in an appropriate manner. This includes, for example, awareness of the network of tri-campus Equity Offices, initiatives and resources in the area of student mental health, and university policies, procedures and services in such areas as conflict of interest, freedom of information and privacy, harassment, and sexual violence.

The University Ombudsperson should possess the ability to communicate effectively and contribute to ongoing efforts to raise awareness of the Office and its services, and to provide ongoing clarity to the University community regarding the independence and impartiality of the Office. They should also have an appreciation for the difference between an “advocate” and an “ombudsperson”, that is, an impartial facilitator who ensures procedural fairness and reasonable outcomes.

Looking Ahead: Ongoing Issues

The incoming University Ombudsperson can expect to encounter a number of recurring or ongoing issues, which require the incumbent to be familiar with current University policies, procedures, initiatives, resources and services in a variety of areas, so that they can explain the role of the Office to clients and provide appropriate guidance and referrals. These recurring issues may involve such disparate areas as academic integrity, mental health, sexual violence, and workplace harassment.

Some ongoing concerns that were highlighted during the Review Committee's consultations were a perceived unevenness in the handling of academic offenses across the University, issues around graduate student supervision in various areas of the University, and issues arising from the current iteration of the Student Code of Conduct.

As explained in the section above, *Provincial Landscape*, the new University Ombudsperson will need to be cognizant of the recently expanded jurisdiction of the Ontario Ombudsman, and the parameters and obligations which the amended legislation has placed upon the provincial office when it seeks to undertake an investigation of a complaint involving a university.

Varying levels of awareness of the Office and its services within the University community is an ongoing issue which the office-holder will be called upon to address in collaboration with the University's central strategic communications capacity. Imparting awareness includes explaining the impartiality of the office, the confidentiality of its processes, its structural independence from the University Administration, and its accountability to Governing Council as the representative governing body of the University, inclusive of all university estates, as set out in *The University of Toronto Act, 1971*.

As Canada's largest university, with three campuses spanning the country's most populous and diverse metropolitan region, the University of Toronto community is one of the most diverse academic communities in the world. As such, the University Ombudsperson needs to be aware of the issues and challenges faced by members of the University community, and uphold the accessibility of the Office to all members

of the community.

“Since the Office is accountable to the Governing Council, the University's governing body established by the University of Toronto Act, 1971, which is representative of all the University's constituent estates as mandated by the legislation, it was the view of the Committee that a shared funding and/or accountability model for the Office in conjunction with a separately incorporated organization representing any one estate of the university would, in fact, compromise the impartiality of the Office, rather than enhance it.”

- From Recommendation #1 of the 2015 Review of the Office of the University Ombudsperson.

Findings

The 2015 Committee to Review the Office of the University Ombudsperson found that the Office was a responsive and effective resource for the impartial resolution of complaints and an invaluable source of highly credible advice on the improvement of the University's policies, processes, and outcomes. The Committee wished to affirm the progress that had been made on recommendations arising from the report of the previous review committee, and to encourage the continuation and ongoing enhancement of those efforts.

Recommendations

The 2015 Review Committee put forward the following recommendations:

Accountability

1. The Review Committee affirmed that the current accountability and funding structure for the Office of the University Ombudsperson is the appropriate one for an independent Office within the University of Toronto. Since the Office is accountable to

the Governing Council, the University's governing body established by the [University of Toronto Act, 1971](#), which is representative of all the University's constituent estates as mandated by the legislation, it was the view of the Committee that a shared funding and/or accountability model for the Office in conjunction with a separately incorporated organization representing any one estate of the university would, in fact, compromise the impartiality of the Office, rather than enhance it.

2. That the Executive Committee consider inviting the University Ombudsperson to meet with the Committee in order to update the Committee and take questions, complementary to the University Ombudsperson's annual reports to the Governing Council.

Communications and Visibility

3. That the Office of the University Ombudsperson continue to work with, and receive support from, the University's central strategic communications capacity in order to raise tri-campus awareness of the Office, including the continued development and implementation of annual strategic communications plans. The Committee wished to affirm the renewed importance of communicating the existence, mandate and services of the Office to the University community, in a manner accessible to the University community and to the broader public, in light of the recent expansion of the provincial office's mandate into the university sector.
4. The Office is encouraged to consider attending campus events during the academic year, at its discretion and as it deems appropriate, in addition to orientation-related events, in order to help raise the profile of the Office with the student estate.
5. That the University Ombudsperson be included in tri-campus training and orientation sessions, where appropriate, for the purpose of increasing awareness of the Office's services and to better enable members of the University community to benefit from the Office as a source for referrals and procedural advice.

6. The UTSC and UTM Campus Councils may wish to consider extending annual invitations to the University Ombudsperson to present and take questions from members, complementary to the University Ombudsperson's regular annual reports to Governing Council.

Service Delivery

7. That the Office consider including, as part of its systematic outreach efforts within the University community, a network of strategic contacts comprised of members of the University community occupying positions that typically provide information about, and referrals to, other offices during the course of their work, including to the Office of the University Ombudsperson.
8. That the Office continue, as a best practice, to seek to confirm that local resolution mechanisms had been attempted to the extent possible, and within a reasonable timeframe, in the early stages of a case. The Review Committee appreciated the Office's commitment to the principle of confidentiality and the constraints that this placed upon the Office in its contacts with academic and administrative units regarding specific cases. In cases where it was apparent that local resolution processes had not been activated, or where they were still ongoing, the Office should continue to refer complainants to the appropriate local administrative authority. The Committee understands that, in many cases, this practice has been observed and has worked very well. ■