



UNIVERSITY OF TORONTO

University of Toronto
Governing Council

Terms of Reference of the Office of the University Ombudsperson

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TERMS OF REFERENCE OF THE OFFICE OF THE OMBUDSPERSON

1. The Office of the Ombudsperson

The University of Toronto provides the services of an independent and impartial University Ombudsperson to assist the University: in protecting the rights of its students, faculty and staff; in fulfilling its obligations to its students, faculty and staff; and in achieving its mission to be an internationally leading public teaching and research university.

The Office of the Ombudsperson provides an impartial and confidential service to assist members of the University who have been unable to resolve their concerns about their treatment by University authorities. The work of the Office is devoted to ensuring procedural fairness and just and reasonable outcomes. While the Ombudsperson does not have the authority to over-rule decisions, she/he can consider complaints, make informal enquiries, carry out formal reviews, draw conclusions and recommend changes to decisions and to University policies and procedures.

2. Status

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.

3. Mandate: Consideration of Individual Complaints

3.1 Appropriate stage for consideration of a matter by the Ombudsperson. 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 Ombudsperson shall not consider complaints that are before the courts of law or are pending at or before any administrative tribunal outside the University.

3. **Mandate: Consideration of Individual Complaints** (cont'd)

3.2 Impartiality. In considering complaints, the Ombudsperson shall act in an impartial fashion, acting neither as an advocate for the individual members of the University nor as a defender of the University, but rather seeking procedural fairness and reasonable outcomes.

3.3 Confidentiality. The services of the Ombudsperson are provided on a confidential basis. The Ombudsperson's Office shall hold all initial consultations in strict confidence. Where a member of the University decides to ask that the Ombudsperson deal with a complaint, the name of the complainant and the substance of the complaint shall be disclosed only to those staff who need to know the name to respond, and those staff shall hold the matter in strictest confidence. Where the outcome of an individual complaint is a formal report, that report shall be regarded as confidential by the Ombudsperson and by all recipients, although any policy implications of the reports may be made public without disclosure of the complainant's name(s). Where, in special cases, the Ombudsperson reports on a matter that has become public, the Ombudsperson may, with the written permission of the affected persons, publicly disclose names and findings. In all cases, confidentiality is also subject to disclosure required by law or where, in urgent situations, absent disclosure there is a real risk to health and safety.

Complainants who have provided written consent to an investigation or inquiry are reminded of the importance of confidentiality and encouraged to respect it in the interest of fostering an effective process.

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.

3.5. Consideration of an individual matter at the request of a University Officer. A University Officer may request that the University Ombudsperson consider a matter. The Ombudsperson may do so provided: (a) that the matter has not already been brought to the Office as a complaint by an individual member of the University (in which case it will be dealt with in the usual manner); and (b) that the other party(ies) consent to the Ombudsperson's considering the matter.

3. Mandate: Consideration of Individual Complaints (cont'd)

3.6 Process for Consideration of Individual Complaints.

The normal process for the Ombudsperson's consideration of individual complaints is informal inquiry and fact-finding, proceeding if appropriate to further fact-finding and informal intervention, and thereafter if appropriate to a formal review and report.

The Ombudsperson shall have such access to all University files and University Officers as she/he deems necessary in the pursuit of official duties, and Officers are required to provide prompt and full responses to the Ombudsperson's enquiries.

In dealing with individual complaints, the Ombudsperson shall not seek to replace established legislative, judicial or administrative rules or procedures or to make a judgement that will replace University policy. The objective shall be to determine whether the established legislative, judicial or administrative rules or procedures have been carried out fairly and appropriately and to determine whether a University policy, in the case under review, had an unintended outcome that is unfair or unreasonable.

In considering individual complaints, the Ombudsperson may decline to proceed with a matter if she/he determines that the complaint is frivolous or vexatious.

If the consideration of an individual complaint proceeds to the stage of a formal review and report, a draft of the report will be provided in advance to the University Officer responsible for the matter, who will be invited to provide a formal written response. That response will be included in the final report, which is submitted to that Officer, to the senior officer to whom she/he reports, to the Vice-President responsible for the division, to the Secretary of the Governing Council, and to the Chair of the Governing Council or to the member of the Governing Council designated by the Chair as the Ombudsperson's liaison.

3.7. **Complainants not to be penalized for making complaint.** Persons who, acting in good faith, have filed a complaint or sought the assistance of the Office of the Ombudsperson or participated in an investigation/inquiry or made an effort to resolve a problem should be able to do so without fear of reprisal.

Accordingly, no supervisor or other person acting on behalf of the University shall:

- (a) dismiss or threaten to dismiss an employee;
 - (b) discipline or suspend, or threaten to discipline or suspend a student or an employee;
 - (c) impose any penalty upon a student or employee; and/or
 - (d) intimidate or coerce a student or employee
- because that person, acting *bona fide*, has filed a complaint with, or participated in an investigation or inquiry by, the Office of the University Ombudsperson.

4. Mandate: University Policies and Procedures

4.1 Ombudsperson's responsibility. In the course of considering complaints, the Ombudsperson may become aware of possible deficiencies in the University's policies or procedures. Where the Ombudsperson perceives such deficiencies, she/he shall expeditiously draw them to the attention of the appropriate University authorities. It shall be the special concern of the Ombudsperson to draw the following matters to the attention of the appropriate University authorities:

- (a) any situations where the rights and responsibilities of members of the University community are not adequately defined and publicized; and any situations where information on proper procedures for problem-resolution is not readily understandable and readily available;
- (b) any gaps and inadequacies in existing University policies and procedures that affect the ability of individuals to function as members of the University community or that might jeopardize their human rights and civil liberties;
- (c) any situations in which the problems of members of the University community are not addressed with reasonable promptness; and
- (d) any deficiencies in procedures used to reach decisions or in criteria and rules on which the decisions are based.

In carrying out this responsibility, the Ombudsperson shall not purport to make University policy or to replace established legislative, judicial or administrative rules or procedures. Rather the Ombudsperson shall draw problems to the attention of the appropriate University authorities and recommend a review of the policy or procedure. Where the Ombudsperson wishes to do so, she/he may recommend specific improvements.

While it is anticipated that the Ombudsperson will become aware of potential deficiencies in the University's policies or procedures or in their application as the result of complaints, it is recognized that such potential deficiencies may come to the attention of the Ombudsperson by other means. In such cases, the Ombudsperson may give consideration to the matter.

4. **Mandate: University Policies and Procedures** (cont'd)

4.2. **Process for consideration of possible deficiencies in the University's policies or procedures.**

The Ombudsperson shall have access to all University Officers as she/he deems necessary in the pursuit of official duties, and Officers are required to provide prompt and full responses to the Ombudsperson's enquiries.

If the consideration of a possible deficiency in a policy or procedure proceeds to the stage of a formal report and recommendation for review, a draft of the report will be provided in advance to the University Officer responsible for the matter, who will be invited to provide a formal written response. That response will be included in the final report, which is submitted to that Officer, to the senior officer to whom she/he reports, to the Vice-President responsible for the division, to the Secretary of the Governing Council, and to the Chair of the Governing Council or to the member of the Governing Council designated by the Chair as the Ombudsperson's liaison.

5. **Reporting**

5.1 Annual report. The Ombudsperson shall make a written annual report to the Governing Council, and through it to the University community, as well as such other special reports as may be required from time to time by the Governing Council.

5.2 Interim report to the Executive Committee. In addition, the Ombudsperson shall, early in the governance cycle, provide an interim written report to the Executive Committee of the Governing Council.

5.3 Protection of privacy in public reports. The Ombudsperson, in public reports to the Governing Council and the Executive Committee, shall protect the privacy of members of the University who use the services of the Office in accordance with the requirements of the *Freedom of Information and Protection of Privacy Act* <https://www.ontario.ca/laws/statute/90f31>.

6. **Files**

6.1. The Ombudsperson shall maintain suitable records of complaints, findings and recommendations, and these shall be accessible only to the Ombudsperson and members of the staff of the Office of the Ombudsperson who need those records to perform their official duties.

6. Files (cont'd)

- 6.2.** Each file and record will be maintained for a period of three years and one day from the date on which the Ombudsperson deems the case to be completed. At the end of the period of three years and one day, the file or record may be destroyed; however, no destruction of the file or record will take place while any proceedings are pending in the University, the Courts or any outside tribunal and until after all rights of appeal are exhausted or times of appeal have expired.
- 6.3.** Unless otherwise required by law, the Ombudsperson shall not release any information regarding personal and personnel records, unless written permission has been received from the affected persons for releasing the information.

7. Term / Review / Appointment

- 7.1 Term.** The normal term of the Ombudsperson should be for three to five years, with the possibility of reappointment.
- 7.2 Review.** The Office of the Ombudsperson shall be reviewed on a regular basis. At least eight months before the end of the term of the Ombudsperson, the Executive Committee of the Governing Council will commission a review, state its terms of reference and appoint its membership. The report of the review will be presented to the Governing Council through the Executive Committee, and the recommendations will be considered for approval by the Governing Council, upon their endorsement by the Executive Committee.
- 7.3 Search and Appointment.** The search for Ombudsperson shall be conducted in the light of the recommendations of the review of the Office, subject to their approval by the Governing Council and in the light of other guidance as provided by the review. The search committee, appointed by the Executive Committee of the Governing Council, shall be representative of the University community and shall include, among others, students and members of the teaching and administrative staff.
- 7.4 Mid-Term Review.** The Executive Committee of the Governing Council shall consider the appropriateness of a limited review of the operations of the Office of the Ombudsperson in the middle of the incumbent's term. If the Executive Committee determines that a review is appropriate, it will specify the manner in which the review is to be carried out. The Committee may also determine, in the light of the regular reports to the Committee, that a review is unnecessary.

Approved by Governing Council on December 14, 2006, replacing the policy approved on May 31, 2001

Revisions approved by Executive Committee on October 6, 2008

An addition to section 3.3 and the addition of a new section 3.7 approved by the Governing Council on January 21, 2010