

**Report of the Committee on  
the Office of the University Ombudsperson  
2006**

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### **Summary of Recommendations**

1. THAT the Governing Council reaffirm the importance of the role of an independent and impartial University Ombudsperson in assisting the University in protecting the rights of its students, faculty and staff, in fulfilling the University's obligations to its students, faculty and staff, and in achieving its mission to be an internationally leading public teaching and research university that provides an outstanding experience for its students.
2. THAT the Ombudsperson, in work to assist members of the University, concentrate her/his personal efforts (a) on complex cases and (b) on reviewing the effect of University policies and procedures and their implementation, making recommendations for review of those policies and procedures where appropriate.
3. THAT the President (or his designate) and the Secretary of the Governing Council develop a staffing and budget plan for the Office of the Ombudsperson for presentation to the Executive Committee of the Governing Council and that this plan inform the search for a new Ombudsperson.

That plan will enable the Ombudsperson's Office to engage a case officer to provide information and referrals, and in that way enable the Ombudsperson to carry out recommendation 2 above.

That plan will also ensure that the services of the Office of the Ombudsperson are available on each campus of the University on a reasonable basis.

4. To facilitate the work of the Ombudsperson, especially her/his work in recommending the timely review of policies and procedures,

THAT in addition to the Annual Report and such other special reports as may be required from time to time by the Executive Committee on behalf of the Governing Council, the Ombudsperson make a general written interim report to the Executive Committee in the early part of the annual governance cycle.

5. (a) THAT, in consultation with the Deputy Provost and Vice-Provost, Students, the Vice-President, Human Resources and Equity, and appropriate faculty, staff and student leaders, the Ombudsperson (i) develop a plan for enhancing the awareness of members of the University of the availability of the services of the Ombudsperson's Office and (ii) monitor the effectiveness of that plan on an on-going basis and take any appropriate steps to improve it.
- (b) THAT, in consultation with the Vice-President and Principal of the University of Toronto at Mississauga, the Vice-President and Principal of the University of Toronto at Scarborough (or their designates), and in consultation

with appropriate faculty, staff and student leaders on those campuses, the Ombudsperson: (i) develop a plan to improve the visibility of the services of the Ombudsperson's Office at the University of Toronto at Mississauga and at the University of Toronto at Scarborough, and (ii) monitor the effectiveness of that plan on an on-going basis and take any appropriate steps to improve it.

(c) THAT, to enhance the awareness of members of the University of the availability of the Ombudsperson's Office, the President (or his designate) seek to identify a new, more central and visible location for the Office of the Ombudsperson.

6. THAT the Vice-President and Provost, the Vice-President, Human Resources and Equity, the Deputy Provost and Vice-Provost, Students or their designates and the Ombudsperson develop a plan to improve access and utilization of the information available to members of the University on how to pursue concerns they might have with respect to their treatment by University authorities before they involve the Office of the Ombudsperson.
7. THAT the proposed revised Terms of Reference for the Office of the University Ombudsperson be approved in principle, subject to further consultation and consideration, particularly with respect to s. 6 (files); and

THAT the Executive Committee be authorized to approve amendments to that section as well as minor amendments to the other sections that are consistent with their overall direction.

8. THAT, based on the recommendations above, including the revised Terms of Reference for the Office of the University Ombudsperson, the Committee commence the next phase of its work: the search for the University Ombudsperson. As the search continues it will be informed by the staffing and budget plan that will be developed.

## **Part I. Background and Context**

The Office of the University Ombudsperson was established in 1975 as part of the University's commitment to ensure that the rights of its individual members would be protected – a special challenge in so large and complex a University. Since that time, the University has supported an increasing range of services for members of its community who have special needs. The group of offices dealing partly or wholly with equity issues currently includes: the AccessAbility Resource Centre at the University of Toronto at Mississauga (UTM), AccessAbility Services at the University of Toronto at Scarborough (UTSC), Accessibility Services on the St. George Campus, the Anti-Racism and Cultural Diversity Office, the Community Safety Co-ordinator, the Employment Equity Officer (Ontarians with Disabilities Act Officer), the Special Advisor to the Principal on Equity Issues at UTSC, the Director of Faculty Renewal in the Provost's Office, the Family Care Office, the Health and Well-Being Programs and Services Office, the Quality of Work Life Advisor, the Office of Lesbian, Gay, Bisexual, Transgender, Queer Resources and Programs, the Status of Women Office, and the Sexual Harassment Education, Counselling and Complaint Office. While not an equity office, First Nations House provides programs and support for members of the Aboriginal Community. Similarly, the scope and professionalism of student-service and human-resources operations in the academic divisions has grown steadily over the years. Because of these improved central and divisional services, the number of requests for intervention by the Ombudsperson has not increased to the same degree as the University's enrolment.

Notwithstanding the availability of other avenues to address issues, reviews of the Office of the Ombudsperson in 1998 and 2001 reaffirmed the importance of the mandate. The 1998 review recommended that the main focus of the Office should remain active involvement in cases where existing administrative means for addressing problems had been exhausted. The 2001 Review included a number of procedural recommendations, including that the term of the Ombudsperson would be 5 years, renewable upon review.

At its meeting of March 9, 2006, the Executive Committee of the Governing Council established the Review Committee with the following mandate:

- To review the Terms of Reference for the Office of the Ombudsperson and, taking into account experience of the past five years and assessing the changing institutional context within which the Office of the Ombudsperson operates, consider whether any revisions are required;
- To review the effectiveness of the Office's operations; and
- To recommend directions and priorities for the Office of the Ombudsperson for the next five years.

The membership of the review committee consisted of the following members of the Governing Council:

Mr. John F. (Jack) Petch, Vice-Chair of the Governing Council (Chair)  
Mr. Brian Davis (administrative staff)  
Ms Susan Eng (alumna)  
Dr. Claude Davis (Lieutenant Governor-in-Council appointee)  
Professor Ian McDonald (teaching staff)  
Mr. Mahadeo Sukhai (graduate student), and  
Mr. Husain Aboghodieh (undergraduate student)

Following the appointment of Professor Ian McDonald as Interim University Ombudsperson on November 2, 2006, Professor Glen Jones became the teaching-staff member of the Committee. Professor Angela Hildyard, Vice-President, Human Resources and Equity, served as a non-voting assessor. Mr. Neil Dobbs, Deputy Secretary of the Governing Council, served as Secretary to the Committee.

The Committee invited submissions from members of the Governing Council and its Boards; from Principals, Deans, Academic Directors and Chairs; from professional, managerial and confidential administrative staff; from the Faculty Association; from employee unions; from the representative student governments; and from the University of Toronto Alumni Association and the President's International Alumni Council. By means of advertisements in the campus press and a posting on the University's home page, it also invited submissions generally from all members of the University. It received a number of helpful submissions. The Committee held six meetings. It met with Ms Mary Ward (the Ombudsperson), Mr. Louis Charpentier (the Secretary of the Governing Council), Professor David Farrar (the Deputy Provost and Vice-Provost, Students), Professor Edith Hillan (the Vice-Provost, Academic), Ms Susan Addario (the Director of Student Affairs), and Dr. Anthony Gray (the Judicial Affairs Officer). Members of the Committee also hosted town hall meetings at all three campuses, which were attended by small numbers of faculty members, students and administrative staff members, who were well informed and provided valuable advice.

It should be stated immediately that the Committee agreed on the importance of the Office of the University Ombudsperson in assisting the University in supporting the rights of its students, faculty and staff. An effective Ombudsperson will have a unique view of the operations of the University's policies and procedures and a key role in pointing out weaknesses and the need for review. An effective Office can play an important role in the University's work to improve the experience of its students and to be an employer of choice.

### ***RECOMMENDATION 1***

***THAT the Governing Council reaffirm the importance of the role of an independent and impartial University Ombudsperson in assisting the***

*University in protecting the rights of its students, faculty and staff, in fulfilling the University's obligations to its students, faculty and staff, and in achieving its mission to be an internationally leading public teaching and research university that provides an outstanding experience for its students.*

The Committee noted that the Ombudsperson works along with several University officers whose role is to promote equity for particular groups of members of the University. The Ombudsperson, however, plays a special role in this area in that she/he may assist members of the University who have complaints about the actions of one of those officers, and she/he may monitor the effects of the equity policies administered by those officers.

This report includes a number of recommendations intended to enhance the effectiveness of the Office. The first part of the report focuses on assessing the effectiveness of the Ombudsperson's Office operations and proposing general directions for the future. The second part of the report includes consideration of the Office's Terms of Reference.

In considering the more general matter of the Office's effectiveness and directions for the future, the Committee considered first the Ombudsperson's work on behalf of individual members of the University (casework) and then the Ombudsperson's work on behalf of the University as a whole (monitoring the effects on individuals and the general effectiveness of the University's policies and procedures and recommending policy review, where appropriate).

## **Part II. Serving Individual Members of the University: The Ombudsperson's Office Casework**

Members of the University may approach the Ombudsperson at various stages in their attempts to resolve issues. They might approach the Ombudsperson at a very early stage, before accessing the usual channels of redress. The Ombudsperson's assistance in such cases may be simply to provide information or to refer the individual to the appropriate office. The Ombudsperson's annual reports for four of the past five years state that more than half of all cases were concluded by the Ombudsperson's providing information or referrals.

At the other extreme, a member of the University might approach the Ombudsperson after all usual procedures are exhausted and when no other alternative appears to be available. In such cases, the Ombudsperson might be able to provide little or no additional help. For example, a student might well have followed all of the steps to request special consideration in an academic matter: a written petition, an appeal to the Faculty's Appeals Committee, and an appeal to the Governing Council's Academic Appeals Committee. In such a case, the Ombudsperson might well be able to provide little more than a sympathetic ear. However, even in such a case, the Ombudsperson could and should act if she/he concludes either (a) that there had been procedural unfairness, or (b) that the academic regulation from which the student

sought relief had not been applied in a reasonable manner. In such cases, the Ombudsperson could and should draw the matter to the attention of a senior officer in the academic division, or if necessary the Provost's Office, or if ultimately necessary, the Governing Council.

In the view of the Committee, almost all of the case work handled by the Ombudsperson her/himself should lie between the extremes of an office of first resort (for information provision and referral) and an office of last resort, and much closer to the latter pole than the former. The Ombudsperson personally should not be providing information and referrals. Rather, as a senior and highly respected member of the University community, she/he should focus primarily on complex casework and reviewing the effects of the University's policies and their implementation. The Ombudsperson should establish strong working relationships within the University so that informal interventions could bring about the timely and effective resolution of the problems that appear. Where necessary, the Ombudsperson would use formal means to draw problems and recommendations to the attention of the University's most senior officers and of governance

With the Ombudsperson focusing on more complex issues, the provision of information and referrals should be carried out by a more junior staff member in the Office, who would serve as a case officer. He/She can assist members of the University community in identifying the most appropriate means of redress for the issues and/or assist those who might reasonably have difficulty in following the usual channels because of special circumstances.

### **Part III. Serving the University as a Whole: the Ombudsperson's Recommendations Concerning Policy Implementation and Policy Review**

The Ombudsperson is well situated to identify potential problems in the University's policies and procedures. The Ombudsperson should be able to discern trends in the complaints being made, indicating the need for reexamination of the implementation of a particular policy or procedure. The Ombudsperson might see a significant number of cases where members of the University are concerned about a particular policy or procedure itself even when it is being applied precisely as it should be. One of the key responsibilities of the Ombudsperson is to identify, and to bring to the attention of the appropriate authorities, weaknesses both in the application of the rules and in the rules themselves. Notwithstanding that the most recent Report of the Ombudsperson (for 2004-05) noted that the administration was "increasingly aware of issues involving procedural fairness, and very responsive in terms of acting promptly to remedy any defects in process that come to light," the Committee recommends that the unique perspective of the Ombudsperson continue to be used to monitor and report on matters where both University policies and their implementation might be improved. Specifically, as a senior and highly respected member of the University community, the Ombudsperson should encourage the

timely and effective review of policies and procedures. Where necessary, the Ombudsperson would use formal reports to draw problems and recommendations to the attention of the University's most senior officers and of governance.

It is anticipated that the Ombudsperson's recommendations will usually arise from cases, but the Ombudsperson might become aware of a weakness in the University's policies and procedures through some means other than a formal complaint, and she/he would serve the University well by looking into the matter.

## ***RECOMMENDATION 2***

***THAT the Ombudsperson, in work to assist members of the University, concentrate her/his personal efforts on complex cases, and on reviewing the effects of University policies and procedures and making recommendations for review of those policies and procedures where appropriate.***

## **Part IV. Staffing and Budget Plan**

The establishment of a full range of offices with expertise in equity related matters has led to a change, over time, in the role of the Ombudsperson. The Committee is therefore recommending a change in the emphasis of the personal work of the Ombudsperson and the addition of a case officer, knowledgeable about University policies and procedures, to provide initial interviews, information, advice and referrals.

While additional resources would be welcome, given the University's existing financial constraints, the Committee understands that this revised staffing model may need to be supported through the existing complement of 1.5fte. In developing this new staffing model, attention should be paid to the need for the Office to serve three campuses.

The Committee proposes that the President (or his designate) and the Secretary of the Governing Council proceed to consider options for a staffing and budget plan for the consideration of the Executive Committee of the Governing Council. This staffing and budget plan will inform the Committee in its search for the Ombudsperson.

## ***RECOMMENDATION 3***

***THAT, the President (or his designate) and the Secretary of the Governing Council develop a staffing and budget plan for the Office of the Ombudsperson for presentation to the Executive Committee of the Governing Council and that this plan inform the search for the new Ombudsperson.***



*That plan will enable the Ombudsperson's Office to engage a case officer to provide information and referrals, and in that way the plan will enable the Ombudsperson to carry out recommendation 2 above.*

*That plan will also ensure that the services of the Office of the Ombudsperson are available on each campus of the University on a reasonable basis.*

## **Part V. Reporting to the Governing Council**

The Ombudsperson's existing terms of reference provide for "an annual report to the University community through the Governing Council, and such other special reports as may be required from time to time by the Governing Council." The Committee recommends that this annual reporting requirement be retained, and that the report be submitted towards the end of the annual Governance cycle. In addition, it is proposed that a general interim report be submitted to the Executive Committee in the early part of the governance cycle. The submission of an interim report would enable the Ombudsperson to identify any new or emerging issues, to consult with relevant members of the senior administration as the interim report is prepared and to receive comments from the Executive Committee on such issues as appropriate.

### **RECOMMENDATION 4**

*To facilitate the work of the Ombudsperson, especially her/his work in recommending the timely review of policies and procedures,*

*THAT, in addition to the Annual Report, and such special reports that may be required from time to time by the Executive Committee on behalf of the Governing Council, the Ombudsperson make a general written interim report in the early part of the annual governance cycle, to the Executive Committee.*

## **Part VI. Visibility and Access**

A number of submissions to the Review Committee noted that many members of the University were unaware of the Office or of the assistance it could provide. While this view was expressed most strongly in the town-hall meetings at the Mississauga and Scarborough campuses, it was also expressed with respect to the St. George Campus.

While it is inappropriate for the Office to solicit business, the availability of the Office should be known to the members of the University who have need of its services. The Committee received several suggestions for consideration by the Ombudsperson:

- **Annual formal communication** through principals, deans, academic directors and chairs, to remind faculty and staff of their divisions and, through

them, students, of the service. That communication might well include the distribution of the Ombudsperson's annual report.

- **Posters, calendar entries, and divisional website references.** A review of best practice across University divisions may identify additional ways of ensuring that information about the availability of the Ombudsperson's services is readily accessible to students, staff and faculty. That could include posters in registrars' and departmental offices, information in calendar entries containing academic regulations (a virtually universal practice now) and postings on websites used for information about rules and regulations for students, staff and faculty.

The desire to enhance awareness of the Office was particularly strong on the Mississauga and Scarborough Campuses, and the Committee proposes that the Ombudsperson undertake a number of special initiatives to make the service better known at both UTM and UTSC. Such special initiatives might include: (a) visits to UTM and UTSC, meetings with groups of administrators, governance bodies, student societies, student services, equity staff, and others specifically to build the Office's profile, and (b) classroom visits to a few large first-year classes, lasting only a few minutes, some time into the term, which would reach a substantial proportion of the student population. The Ombudsperson and the case officer should also continue to be available on those campuses by appointment, and as appropriate.

The Committee also heard concerns about the location of the current office in the Fields Institute for Mathematical Sciences, a building near the periphery of campus. The Office is not identified on the sign on the outside of the building, and even within the building, the Office is not in a prominent location. That location is not without its advantages for those members of the University who wish to visit the Ombudsperson, and not be seen to be doing so. On balance, however, the Committee was persuaded by the frequency of statements from members of the University that the Office would benefit from a more prominent location, and it recommends that the needs of the Office be considered as capital projects are brought forward.

#### **RECOMMENDATION 5**

- (a) ***THAT, in consultation with the Deputy Provost and Vice-Provost, Students, the Vice-President, Human Resources and Equity, and appropriate faculty, staff and student leaders, the Ombudsperson:***
  - (i) *develop, a plan for enhancing the awareness of members of the University of the availability of the services of the Ombudsperson's Office and*
  - (ii) *monitor the effectiveness of that plan on an on-going basis and take appropriate steps to improve it.*
- (b) ***THAT, in consultation with the Vice-President and Principal of the University of Toronto at Mississauga, the Vice-President and Principal of the University of Toronto at Scarborough (or their designates), and in***

*consultation with appropriate faculty, staff and student leaders on those campuses, the Ombudsperson: (i) develop a plan to improve the visibility of the services of the Ombudsperson's Office at the University of Toronto at Mississauga and at the University of Toronto at Scarborough, and (ii) monitor the effectiveness of that plan on an on-going basis and take appropriate steps to improve it.*

- (c) *THAT, to enhance the awareness of members of the University of the availability of the Ombudsperson's Office, the President (or his designate) seek to identify a new, more central and visible location for the Office of the Ombudsperson.*

## **Part VII. Information about Prior Avenues of Redress**

The University currently provides multiple avenues of redress to members of the University who have complaints. The Ombudsperson has a role to play in assisting the University in ensuring that information regarding such avenues is readily accessible. It would also reduce the load of the Ombudsperson's office in cases where members of the University should really begin their quest for redress elsewhere. Among the suggestions that the Committee deems worthy of consideration are the following.

- **Information and referral services in the academic and service divisions.** Front-line staff in the academic and administrative-service divisions, and other staff in those divisions that provide services to members of the University, should be in a position to provide up-to-date information and referral services to members. The availability of accessible, comprehensive and comprehensible reference material, perhaps web-based would assist staff in this task.
- **Written and web-based referral information for members of the University.** As a result of the 1996 review of the Ombudsperson's office, a very valuable set of booklets entitled "The System Working / Working the System" were developed to assist students with information on such matters as requesting special consideration with academic work and dealing with accusations of academic misconduct. The Committee suggests that those booklets be updated and made widely available. The new student portal provides an opportunity to provide information to students on how to seek redress for their concerns. The Ombudsperson's website now contains valuable information of that nature, and it would be appropriate for the relevant University authorities and the Ombudsperson to collaborate on providing improved web-based information that would be accessible from several sites.

## **RECOMMENDATION 6**

*THAT the Vice-President and Provost, the Vice-President, Human Resources and Equity, the Deputy Provost and Vice-Provost, Students or their designates and the Ombudsperson develop a plan to improve the access and utilization of information available to members of the University on how to pursue concerns they might have with respect to their treatment by University authorities before they involve the Office of the Ombudsperson.*

## **Part VIII. Terms of Reference for the Office of the University Ombudsperson**

The Committee was charged to “review the Terms of Reference for the Office of the Ombudsperson (2001) and, taking into account experience of the past five years and assessing the changing institutional context within which the Office of the Ombudsperson operates, consider whether any revisions are required.” The Committee proposes revisions to the Terms of Reference to take into account the recommendations we have made above and to deal with a number of particular matters that came to our attention.

### **(a) General Statement of the Office’s Role**

The current terms of reference provide a detailed statement of the Office’s mandate. Your Committee concluded, however, that it would be desirable to begin the terms of reference with a more general statement. That statement would affirm the University’s commitment to providing the service of an Ombudsperson (reflecting Recommendation 1 above) and it would provide a statement of the Office’s overall role as seen from the point of view of potential users.

#### **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. 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.*

**(b) Status / Authority**

The current Terms of Reference state the “status/authority” of the Ombudsperson: The Committee considers that this statement remains entirely appropriate.

**2. Status and Authority**

*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.*

**(c) Mandate: General<sup>1</sup>**

The Committee has in this report stressed two key elements of the Ombudsperson’s mandate: dealing with individual complaints and, arising primarily from that casework, monitoring the operation of the University’s policies and procedures for weaknesses and gaps. To stress both of these aspects of the Ombudsperson’s role, it is proposed that the mandate of the office be stated in two sections.

**(d) Mandate: Individual Complaints**

The Committee’s first objective in defining the Ombudsperson’s mandate with respect to individual casework is to emphasize the recommended shift in the

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<sup>1</sup> The mandate is stated in the current terms of reference as follows:

The Ombudsperson investigates, in an impartial fashion, complaints that may arise against the University or against anyone in the University exercising authority. It shall be the special concern of the Ombudsperson that:

- a. the rights and responsibilities of members of the University community are adequately defined and publicized;
- 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 which might jeopardize their human rights and civil liberties be brought to the attention of the proper authority;
- c. the problems of members of the University community are addressed with reasonable promptness;
- d. procedures used to reach decisions are adequate and that the criteria and rules on which the decisions in question are based are appropriate and adequately publicized.

general thrust of the Ombudsperson's case work from the early-stage provision of information and referrals to later stage cases that require more active interventions.

### **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.*

#### **(e) Mandate: Impartiality**

The current terms of reference state on two occasions that the Ombudsperson acts in an impartial fashion. In current section 2, "Mandate," the Ombudsperson is to "investigate, in an impartial fashion, complaints that may arise . . ." In section 5, under "Investigations," the Ombudsperson is to "act in an impartial fashion." Therefore, the Committee recommends that the terms of reference of the Ombudsperson continue to specify impartiality.

**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 assisting the University to adhere to procedural fairness and to achieve reasonable outcomes.*

In developing this recommendation, the Committee also noted that other organizations might more properly play the role of advocate: for example, unions/associations on the part of employees, graduate and undergraduate associations on the part of students, as well as legal support for students from the Faculty of Law's legal aid service called Downtown Legal Services.

**(f) Mandate: Confidentiality**

The current terms of reference deal with the confidentiality of the process in a somewhat indirect manner,<sup>2</sup> apparently requiring complainants to take the initiative to request anonymity and requiring the Ombudsperson only to maintain the confidentiality of “personal and personnel records.” Your Committee proposes to strengthen the language (a) to give members of the University an assurance that they may consult with the Ombudsperson on a confidential basis, and also (b) to bind respondents and recipients of the Ombudsperson’s reports (as well as the Ombudsperson) to confidentiality. In all cases, however, it should be understood that confidentiality is subject to disclosure required by law, or in urgent situations where, absent disclosure, there is a real risk to health and safety.

**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 strict 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, or in urgent situations, absent disclosure there is a real risk to health and safety.*

**(g) Mandate: Eligibility to Use the Services of the Ombudsperson**

A part of section 3 of the current terms of reference, under “Investigations,” defines the community the Ombudsperson may serve: “Complaints may be made by any member of the University community (students and members of the teaching or administrative staffs) or by former members of the teaching or administrative staffs or student body (in respect of matters arising out of their former University employment or student status).”

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<sup>2</sup> Section 7, reads, “even though wide latitude has been granted in making public any findings and recommendations, the Ombudsperson shall not set aside the request of complainants that their anonymity be preserved.” Section 16, which deals with records, states that “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.”

The question of eligibility for the services of the Ombudsperson arose in a number of ways. For example, should the mandate of the Ombudsperson include everything that happens at the University, and should anyone - including members of the public - be able to use the services of the Ombudsperson to seek assistance with respect to any action taken by the University or its officers? Or should the Ombudsperson's role be limited to serving members of the University in their dealings with their institution?

In addition to this general question, a number of questions arose concerning the eligibility of certain specific groups of members of the University to make use of the services of the Ombudsperson. For example, the Retired Academics and Librarians at the University of Toronto (RALUT), asked that the Ombudsperson be available to deal with complaints from retirees concerning their pensions and benefits. The Committee also considered the eligibility of post-doctoral fellows, graduate students working in laboratories located in the affiliated teaching hospitals, and medical residents with respect to their academic work.

After some considerable discussion, the Committee concluded that the Office of the Ombudsperson is a limited resource, and that its services should be restricted to current members of the University and, as in the previous Terms of Reference, to former members of the teaching or administrative staffs or students only in respect of matters arising out of and crystallizing during their former University employment or student status.

With respect to post-doctoral fellows engaged at the University, notwithstanding that they are not employees and are engaged in training opportunities as a step in their independent academic careers, the Committee views their connection with ongoing research at the University as sufficiently close as to merit access to the Ombudsperson during their University-based engagement.

With respect to graduate students working in hospital settings, they already have access to the Ombudsperson regarding their University academic activities. Their hospital-based non-academic activities are properly matters for the hospital, and should remain outside the purview of the Ombudsperson.

Finally, post-graduate MD trainees are enrolled in a University post-graduate program, and should have access to the Ombudsperson with respect to issues arising in the program.

**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.*

#### **(h) Process for Consideration of Individual Complaints**

Several items of the current terms of reference deal with how the Ombudsperson responds to complaints. They fall under the sections headed “Investigations,” “Findings and Reports” and “Relationship with Other University Activities and Services.”<sup>3</sup>

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<sup>3</sup> These items currently read as follows.

##### **Investigations**

4. The Ombudsperson may decline to initiate an investigation on the grounds that it is frivolous or vexatious.
6. The role of the Ombudsperson shall include:
  - a. ensuring that information on proper University procedures for problem resolution is provided and distributed as broadly as possible throughout the University community, and that clients understand their routes of access to this information;
  - b. informing clients about appropriate processes available to them within the context of specific complaints, and providing information on the appropriate kind of supporting documentation;
  - c. expediting the process toward conflict resolution;
  - d. investigating only after attempts at resolution through existing administrative channels have been concluded.

##### **Findings/Reports**

8. After conducting an investigation, the Ombudsperson may draw conclusions about the complaint investigated and make findings and recommendations concerning its resolution, particularly in relation to the mandate of the Office as set out in 2 above.
9. In drawing conclusions and making recommendations, the Ombudsperson shall not make University policy or replace established legislative, judicial or administrative rules or procedures, although any or all of these may be investigated or questioned and such recommendations made as appropriate for their improvement and efficient functioning.
10. The Ombudsperson shall bring findings and recommendations to the attention of those in authority by the most expeditious means possible, and to the University community at large to the extent that is appropriate.

The current terms of reference make it appear that the Ombudsperson proceeds directly to an investigation of every matter, whereas the Ombudsperson tells us that, in fact “formal investigation is an avenue of last recourse.” The actual practice is entirely appropriate: initial consideration; informal enquiry; further fact-finding and informal intervention; and formal review and report.

In other words, the process stresses: beginning with informal enquiry and fact-finding, if appropriate proceeding to further fact-finding and informal intervention, and if appropriate proceeding to a formal review and report. It is anticipated that the Ombudsperson will be able to resolve most matters – assisting in the achievement of procedural fairness and a reasonable outcome – through informal intervention. It might, however, be necessary to proceed to a formal review and report in some cases, and in those cases, the written report, along with the response of the Officer responsible for the matter, is sent to that Officer, the senior Officer to whom she/he reports, the appropriate Vice-President and to the Secretary and Chair of the Governing Council.

### **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.*

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## **Relationship with Other University Activities and Services**

12. The Ombudsperson shall have access to such official files and information as is required to fulfill the function of the Office. Requests by the Ombudsperson for information must receive priority from every member of the University community.
13. Where means exist in other University offices for the resolution of complaints or the provision of information the Ombudsperson shall direct enquirers to such offices and emphasize their responsibility for initiating the appropriate actions and for returning to the Ombudsperson if not satisfied with the results. The Ombudsperson shall cooperate with other offices that are particularly concerned with the provision of information to the University community on policies and procedures.

*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.*

*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.*

**(i) Mandate: University Policies and Procedures**

The responsibility for reporting with respect to specific policy matters is included in the current terms of reference in sections 9 and 10 under “Findings/Reports.”<sup>4</sup> The Committee has recommended that the Ombudsperson give increased attention to the effects of the University’s policies and procedures on the University community and its members, and, where appropriate, making recommendations for review of those policies and procedures. It is therefore proposed that this be reflected in a separate section of the terms of reference.

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<sup>4</sup> Those sections read as follows.

9. In drawing conclusions and making recommendations, the Ombudsperson shall not make University policy or replace established legislative, judicial or administrative rules or procedures, although any or all of these may be investigated or questioned and such recommendations made as appropriate for their improvement and efficient functioning.
10. The Ombudsperson shall bring findings and recommendations to the attention of those in authority by the most expeditious means possible, and to the University community at large to the extent that is appropriate.

One very specific concern about the current terms of reference was brought to the attention of the Committee. This is a semantic problem, but an important one. Section 2a of the terms of reference states that “it shall be the special concern of the Ombudsperson that (a) the rights and responsibilities of members of the University community are adequately defined and publicized.” Section 2d states similarly that it shall be the special concern of the Ombudsperson that “procedures used to reach decisions are adequate and that the criteria and rules on which the decisions in question are based are appropriate and adequately publicized.” Section 6a, under “Investigations,” states that the role of the Ombudsperson shall include “ensuring that information on proper University procedures for problem resolution is provided and distributed as broadly as possible throughout the University community, and that clients understand their routes of access to this information.” All of those statements could be read to mean that the Ombudsperson’s office itself is responsible for the definition and publication of those rights and responsibilities and the establishment and publicity of rules and procedures. It is clearly the intention that the responsibility of the Ombudsperson is only to make University authorities aware when there is need to remedy deficiencies in the definition and publication of rights and responsibilities and in the University’s rules and procedures. That intention is reflected in the proposed, revised terms of reference.

#### ***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 of 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.*

#### **4.2 Access to University Officers and Dissemination of Reports**

*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.*

#### **(j) Reporting**

The proposed Terms of Reference have suggested how the Ombudsperson would, if necessary after an informal process, make formal reports on individual cases and on proposals for the review of policies and procedures. In addition to case reporting, there is more general reporting to the Governing Council. Section 1 of the current Terms of Reference provide for "an annual report to the University community through the Governing Council, and such other special reports as may be required from time to time by the Governing Council." The Committee has recommended above that the Ombudsperson provide an interim report to the Executive Committee in addition to the Annual report.

## **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 annual 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.*

### **(k) Files**

The current terms of reference contain a number of provisions concerning the Ombudsperson's records: requiring that records be kept, requiring that they be retained for seven years, and requiring that they be confidential.<sup>5</sup>

It is clear that the question of the Ombudsperson's files requires further examination. The Ombudsperson has advised that the current seven-year term of record retention has been very helpful to her in two particularly complex investigations. She notes, however, that other Ombudspersons would disagree. She notes that some,

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<sup>5</sup> 14. 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.

15. Each file and record will be maintained for a period of seven years and one day from the date on which the Ombudsperson deems the case to be completed. At the end of the period of seven 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.

16. 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.

particularly in the United States, do not even keep any files; others do, but for much shorter periods of time for example, for a year or two. Her major concern is whether Ombudsperson Office records are considered University records in relation to requests for access by individuals, legal counsel, and the courts. She notes that there is special need for legal advice with respect to the matter in the light of the Freedom of Information and Protection of Privacy Act, to which the universities became subject on June 10, 2006. Your Committee has requested advice with respect to this matter. It proposes (a) to maintain the current provisions pending receipt of that advice, and (b) to have a delegation of authority to the Executive Committee to approve a revision to these provisions on the basis of that advice.

### **(I) Term / Review / Appointment**

The current terms of reference provide for a five-year term for the Ombudsperson with the possibility of renewal, for reviews at the end of term and for a broadly representative search committee.<sup>6</sup>

The Committee proposes that the Terms of Reference be somewhat more specific about the end-of-term review, with the completion of the review and the approval of its recommendations to take place prior to the commencement of a search for the Ombudsperson. It also proposes that the mid-term review be at the discretion of the Executive Committee. The Committee also proposes that the term be 3-5 years, to provide for greater flexibility in view of the more specific expectation of the senior role within the Ombudsperson's Office.

### **7. Term / Review / Appointment**

**7.1 Term.** *The normal term of the Ombudsperson should be 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, specify the terms of reference of the review committee and appoint its membership. The report on the review will be presented to the Governing Council through the Executive Committee, and the recommendations will be considered for approval by the*

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<sup>6</sup> 17. The Office of the Ombudsperson shall be reviewed on a regular basis, in the middle of the incumbent's term as well as coincident with the end of the incumbent's term, in a manner to be determined by the Executive Committee of the Governing Council. The normal term of the Ombudsperson should be for five years, with the possibility of reappointment. Candidates for the Office shall be identified by a search committee highly representative of the University community and including students and members of the teaching and administrative staff.

*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, 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.*

## **RECOMMENDATION 7**

***THAT the proposed revised Terms of Reference for the Office of the University Ombudsperson be approved in principle, subject to further consultation and consideration particularly with respect to s. 6 (Files); and***

***THAT the Executive Committee be authorized to approve amendments to section 6 as well as minor amendments to the other sections that are consistent with their overall direction.***

## **Part IX. Search for the Ombudsperson**

Subject to your approval of the recommendations contained in this report, including the revised terms of reference, and subject to its receipt of a new staffing and budget plan, your Committee proposes to commence the second part of its mandate, the search process for the University Ombudsperson. As the search continues it will be informed by the staffing and budget plan that will be developed.

## **RECOMMENDATION 8**

***THAT, based on the recommendations above, including the revised Terms of Reference for the Office of the University Ombudsperson, the Committee commence the next phase of its work: the search for the University Ombudsperson. As the search continues, it will be informed by the staffing and budget plan that will be developed.***



**Proposed Revised  
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.

- 3.2 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.
- 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.

### **3.6 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.

**Proposed Revised Terms of Reference of the Office of the Ombudsperson (Cont'd)**

**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 of 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.

**4.2. 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.

**Proposed Revised Terms of Reference of the Office of the Ombudsperson (Cont'd)**

**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.
- 6.2.** Each file and record will be maintained for a period of seven years and one day from the date on which the Ombudsperson deems the case to be completed. At the end of the period of seven 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.** 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.