

mission

STATEMENT

In striving to achieve our Vision, Ombudsman Ontario is committed to the following goals for fairness and service:

- Investigate and resolve complaints efficiently
- Deliver relevant, timely, impartial and accessible services
- Foster objective standards of governmental administration
- Act as a resource to governmental organizations and the public to prevent future complaints
- Increase public awareness of Ombudsman Ontario's services
- Be ethical and accountable
- Encourage teamwork through consultation and communication
- Monitor and evaluate our organizational performance
- Realize individual potential through proactive human resource practices

Contact information

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 on this newsletter, or mailing
 address changes please call our
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Who We Are

Ombudsman Ontario helps people resolve problems by investigating complaints they have with provincial government ministries, agencies, boards, commissions and tribunals. The office cannot deal with matters regarding federal or municipal government, the courts, school boards and the private sector. Ombudsman Ontario is independent of the government and is a place of last resort when other approaches to resolve complaints have been tried. Services provided are confidential.

About our logo

This is the symbol for Ombudsman Ontario. The "O" stands for our name. Three sets of arms come together: one each for the public, the government and our office.





Connection

Reaffirming the Ombudsman's role

The following is an excerpt from the speech presented by Ombudsman Clare Lewis as part of a panel discussion at the 2001 Canadian Ombudsman Association Conference held in September in Quebec City.

“I suggest that the title of this panel - “Reaffirming the Ombudsman's Powers and Adapting Its Action,” with its use of the words “reaffirming” and “adapting,” posits that the traditional assumptions and interpretations of the enabling legislation of legislative Ombudsman can no longer suffice if we are to remain relevant and be useful to the public we serve and the governments whose administration we as legislative Ombudsman oversee. This topic may also serve as a prompt for non-legislative Ombudsman to re-evaluate the assumptions upon which they operate at a time in our society when the only certainty is change itself with demand upon all of us for appropriate action in response.

In meeting many of my colleagues nationally and internationally, and in considering papers presented by them or by others considering their work, I have become aware that there is a spectrum of approach to the work of the legislative Ombudsman which is not always driven by the enabling legislation, but often by the personality and bent of the individual Ombudsman or by the culture within which he or she functions. It may well be so for our non-legislative colleagues. This point is buttressed by the comments of Daniel Jacoby, former Ombudsman (Protecteur du Citoyen) of Québec, who stated in his paper, recently delivered before the 7th Conference of African Ombudsman and Mediators at its



Ombudsman Clare Lewis Q.C. listens to a visitor at the Ombudsman Ontario booth at the Rural Expo 2001 (International Plowing Match) held in Ottawa in September. The Ombudsman was on hand to participate in the Opening Day activities which included a parade through the tented city. The annual event attracted visitors from across the province. Other governmental officials included Premier Mike Harris, several provincial Ministers, MPs and MPPs. Ombudsman Representative Robin Bosworth (left) and Lira Hugh (right) answered inquiries and provided information during the week-long event.

meeting in the Seychelles:

“Actually, the Ombudsman is an institution that can adapt easily to changes. It is a mechanism for “soft” justice, which is both highly informal and accessible to all citizens. It is an institution capable of flexibility and multidisciplinary, able to stay at the leading edge of progress.

“I believe that [the Ombudsman] cannot remain passive when faced with repeated similar complaints. He must resolve them but, in addition, he must identify the source of the

problems and learn to prevent them.”

It does appear, however, that many hold firmly to the traditional Scandinavian model of dedication to the resolution of specific complaints of government maladministration, while others adopt, to varying degrees, a broader approach of using individual complaints as a springboard to, at a minimum, assessing and commenting on the management capacity and quality of certain government administration to, at the limit,

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determining and commenting on the impacts of certain government programs or overall policies.

There is much debate in the legislative Ombudsman community as to the extent of the institution's reach. If I may presume to judge, or at least assess my own instinctive approach throughout my rather varied career, I bring to the work of the Ombudsman the seeking of a moderate middle ground, neither cleaving to a formalistic, case-by-case resolution of complaints as defining my role, nor asserting an Ombudsman authority which may be perceived as representing a political response to the policies of the government of the day.

It is my respectful view that today no Ombudsman office of whatever authority—legislative or otherwise—can expect sufficient resources to consider and investigate fully each complaint received. The challenge is to interpret one's statutory or otherwise granted jurisdiction creatively, so that a broader public or, in the case of non-legislative Ombudsman, client group, can be served better in general by the government or

institution in question.

Contrary to the view of some legislative, traditionally minded Ombudsman, I do not believe that I can be most effective, relevant and useful by adhering to a status quo, investigation of complaint by complaint in isolation approach, nor do I accept a view which holds that the legislative Ombudsman, using a most liberal jurisdictional interpretation, may properly use complaint trends to challenge the fundamental policies of government. The generally accepted canon of legislative Ombudsman is perhaps best stated by the International Ombudsman Institute in its Year 2000 Communiqué as:

“ ... the role of Ombudsman [provides] a mechanism which can balance the fundamental requirements that government must be able to govern but with appropriate accountability.”

And so, how best to achieve that accountability while ensuring Ombudsman relevance? If it is accepted that to be effective any Ombudsman office must be relevant to the institution which created it and to the public whose complaints it receives, then it

must not only reaffirm but reassess its powers and adapt its action to current expectation. Individual complaint resolution must remain as the core Ombudsman responsibility, whether through informal enquiry, through alternative dispute mechanisms such as mediation or conciliation, or through investigation with findings and recommendations. Nonetheless, current realities of limited resources, rapid government and institutional restructuring and heightened, educated public demand and expectations require reassessment of our role and new approaches to effect accountability while being seen as continuing to enhance democratic principles or institutional integrity, and concurrently serving public need.

In the Conference organizers' instructions to this panel, we were asked to specify the extent of the Ombudsman's monitoring power; to determine when, why, and at what level the Ombudsman should intervene; and to explore new ways of using the powers of monitoring. Granted that no solutions for adapting to changes on all fronts are ever perfect given competing pressures, I do



Ontario's Ombudsman Clare Lewis (centre) was part of a panel discussion on "Reaffirming the Ombudsman's Powers and Adapting its Action" at the 2001 Canadian Ombudsman Association Conference in Quebec City in September. Deputy Ombudsman of Quebec Lucie Lavoie (left) introduced the panel that also included moderator Jennifer Stoddart, President of the Québec Commission d'accès à l'information (second from left) and Professor Daniel Mockle, Université du Québec à Montréal (right).

nonetheless suggest that monitoring of complaint trends, monitoring of implementation of government or institutional undertakings in response to earlier Ombudsman recommendations and monitoring of evolving government or institutional policies and their public impacts, all in conjunction with targetted complaint resolution offer the “best worst” means of wholly meeting our responsibilities and maintaining essential relevance.

Bluntly put, most of our job descriptions require that the Ombudsman investigate each complaint received. The Ombudsman is then to dismiss the complaint in one manner or another, such as determining it to be trivial, frivolous or vexatious, or made in bad faith; not filed within prescribed time limits; not requiring further investigation; unfounded; or if found to be valid to find in support with consequent recommendations. There is rarely stated authority for informal resolution of individual complaints and monitoring is not normally named as an Ombudsman power or strategy.

Certainly, legislative Ombudsman cannot cope with complaint numbers without creative approaches including informal, non-investigative resolution. I suspect that all of us here engaged in complaint resolution employ informal approaches which result in quick resolution of the majority of matters received and that we do so without reproach. If possible, it is clearly in the best interests of the public service or private body and of the person complaining to correct misunderstanding, settle matters of uncertainty and remedy error promptly, without time-consuming investigation. And yet, such informal processes can only occur and be effective if the Ombudsman is seen by the subject of complaint to be impartial, but also to have real power to investigate if necessary.

If we are to be effective, we must be able to dispose of most matters quickly and

informally so that we can choose those cases worthy of full investigation and conduct those enquiries expeditiously. It is indeed necessary to be sparing in our deployment of investigative resources, whatever our stated mandate. Protracted and often unfocussed and ineffective investigation can be the result of our undertaking more investigations than we can rationally handle. A lengthy investigation ending in dismissal of the complaint will be seen as without value by the complainant unless the complexity of the matter justifies the time taken. Too rarely is the time taken the result of the inherent needs

“We must quickly resolve or jettison the trifling and attend in depth to cases selected as important in themselves or reflective of a systemic or system-wide problem.”

of the case and it may be the result of overburden in caseload. It is not to be understood that careful investigative planning cannot be time-saving and have value. It is a necessity for proper, timely result. But taking on more cases for investigation than can be rationally handled will confound the most careful investigative planning.

Therefore, we must seek better understanding of our powers and better means of using them, or we risk foundering, becoming ineffective and irrelevant. We must maintain a precarious balance. Just as is a judge or a referee, we are entitled to be wrong. But if we dismiss too many valid complaints, we will be seen by all as mere enablers of the bad practices of our governments or our institutions. If we support too many invalid complaints, we will be seen by our legislators, public servants, or institution as incompetent or partisan or fools.

So what to do? We must sharpen our focus

and reduce our wasteful workloads to permit necessary, important investigations to be conducted well and with expedition. We must quickly resolve or jettison the trifling and attend in depth to cases selected as important in themselves or reflective of a systemic or system-wide problem. It is not how many times we turn the crank that counts, it is how many sausages come out the end of the machine. Our managers and our staff must share a corporate view that while all complainants are to be treated with respect, courtesy and understanding, nonetheless, all complaints are not created equal. We should reduce the number of cases afforded full investigation, attempting to select those in which there is some possibility, if not probability of as yet unresolved error, unfairness or malfeasance. Such an approach requires systems in which staff propose such cases and managers or the Ombudsman select. Even investigations which are underway should be reviewed by managers and perhaps the Ombudsman to determine if further investment in the case is warranted and, if so, what direction it might take. Conversely, it is necessary to conduct audits to ensure that cases worthy of investigation are not being cursorily dismissed by staff.

However, it is not sufficient to our mandate simply to conduct fewer, if better, investigations. We must consider other means of being of value. Again, I assert that the most promising means is to be found in monitoring our own complaint trends, government or institutional implementation of our recommendations, and government or institutional programs, policies and impacts. These will signal areas of needed concentration and may give rise to better deployment of resources. It is important for legislative Ombudsman to remember that most possess the authority to conduct an own motion investigation without complaint. It is monitoring of one form or another which will give rise to such important action.”

Institution not eligible for Ontario Student Assistance Program

In the 2000/2001 Ombudsman Ontario Annual Report tabled in June, 2001, a case involving 50 students who had not received funding from the Ontario Student Assistance Program (OSAP) was reported. In fact upon further review, these students were not eligible to apply for OSAP because the institution they were attending was not an approved institution for the purposes of OSAP. A student is eligible to apply for and receive OSAP funding only if he or she is enrolled in an approved course of studies at an approved institution.

At the time the students made their complaint to the Ombudsman, the institution was not approved for the purposes of OSAP because of outstanding issues arising out of a compliance audit of the institution's

administration of OSAP. At the time the Ombudsman reported on this case, the Ministry of Training, Colleges and Universities and the institution were engaged in negotiations to resolve the outstanding issues relating to the administration of OSAP by the facility. The negotiations were recently concluded successfully and the institution was approved by the Ministry for the purposes of OSAP.

The monitoring of an institution's administration of OSAP is an important accountability measure for the protection of students and taxpayers. As a result of this experience, the Ministry of Training, Colleges and Universities has made two significant

changes to its business practices to ensure that students enrolled in an institution that loses its approval for the purposes of OSAP are advised promptly. Instead of relying on an institution's financial aid office to inform students of any changes to a school's approval status, the Ministry will provide notice directly to any student from whom an OSAP application is received. In addition, the Ministry has changed its web application to prevent the system from accepting an application for an institution while it is not approved.

These measures will improve communication with students and help them better plan their education.

Legislature interns learn about Ombudsmanship



Eight Legislature Interns paid a visit to Ombudsman Ontario as part of their orientation. During their meeting with Ombudsman Clare Lewis the interns learned more about the role and responsibilities of the Office of the Ombudsman. Standing in the front row clockwise from the left are: Maria DiFabrizio, Nathan Fisher, James Cairns, Karim Bardeesu, Sara Lyons, Ombudsman Clare Lewis, Samantha Majic, Peter Hargreave and Lyndsey Saunders. Each year the Ontario Legislature Internship Program selects eight recent university graduates to work with backbench members of the Legislature. Intern selections are based on academic excellence, personal maturity and a demonstrated interest in parliamentary government.

Special Report on treatment of cancer patients

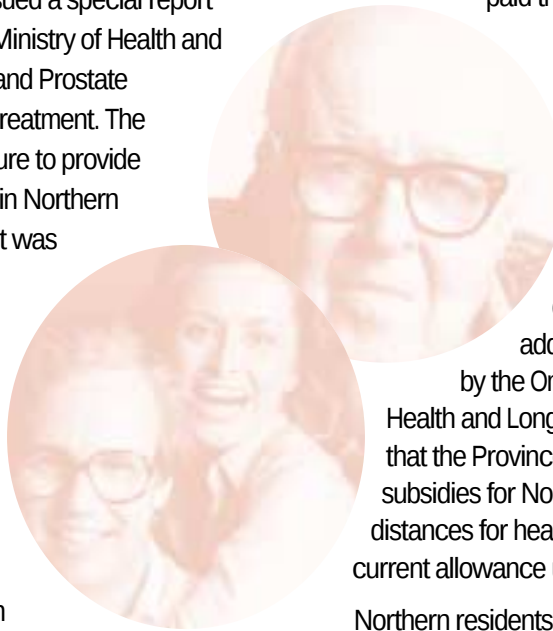
Last June, the Ontario Ombudsman issued a special report concerning an investigation into the Ministry of Health and Long-Term Care's funding for Breast and Prostate cancer patients who must travel for radiation treatment. The Ombudsman concluded that the Ministry's failure to provide equal funding for breast and prostate patients in Northern Ontario who must travel for radiation treatment was discriminatory and recommended that the Ministry provide equal funding for these patients.

The investigation found that when northern cancer patients travelled for treatment, the Province, under the Northern Health Travel Grant (NHTG) program, paid only half of their travel expenses and did not cover the cost of meals or hotel bills. But when Southern Ontario cancer patients travelled to Northern centres (under the Cancer Care Ontario Radiation Re-referral Policy) for treatment because of long waiting lists at home, the Province

paid the entire bill.

Although the government, in responding to the Ombudsman's report, has argued that the NHTG and the Cancer Care Ontario Radiation Re-referral Policy were separate programs with distinct purposes, objectives and criteria and as such not discriminatory, in early October it addressed some of the concerns highlighted by the Ombudsman. Specifically, the Minister of Health and Long-Term Care, Tony Clement, announced that the Province would be increasing provincial travel subsidies for Northern Ontarians who must travel long distances for health care by more than doubling the current allowance under the NHTG.

Northern residents will now be reimbursed 34.25 cents per kilometre for the round-trip, less 100 kilometres. They were previously paid only a one-way subsidy of 30.5 cents per kilometre for medical travel.



Ombudsman Ontario hosts international organizations



Marthese Johnson, Public Relations Officer for the Office of the Ombudsman of Malta (photo on the left) shares information about her office with Kwasi Frimpong, a Programmer Analyst with Ombudsman Ontario. Executive Director Fiona Crean (photo on the right), provides an organizational overview to seven delegates from Thailand's Federal Ombudsman office. Also accompanying the delegates was Deputy Ombudsman of British Columbia, Brent Parfitt (seated far right). Over the summer months representatives from the Control Yuan of the Taiwan Government, the Republic of Namibia and the Czech Republic also visited Ombudsman Ontario to learn about the investigative process and the Ombudsman's jurisdiction.

African investigators participate in IOI workshop

By Fiona Crean
Executive Director, Ombudsman Ontario

The cold winter chill of the capital city of Windhoek at night contrasts sharply with the heat of the Namib Desert by day. The physical extremes of this small Southern African nation of 1.8 million is a study in contrasts. But inside the venue for the “Role of Ombudsman in Overseeing Government Agencies;

an investigators’ training workshop, the International Ombudsman Institute (IOI) and the Commonwealth Secretariat put forward the monies to sponsor a three-day workshop. The planning for this initiative began with the Ombudsman from Tanzania, South Africa, Botswana, Namibia and Ontario. With support from the Ombudsman of Ontario Clare Lewis, the Alberta Ombudsman Scott Sutton and Lewis Klar, treasurer of the IOI and Dean of the University of Alberta’s Law

offices: Botswana, Namibia, South Africa, Malawi, Tanzania, Zambia, Lesotho and Zimbabwe. Namibia hosted the conference and Advocate Bience Gawanas, told participants in her opening remarks that they should be “constantly vigilant and to take bold decisions in investigating corruption without fearing the consequences.” They were powerful words and provided a vision for this group of dedicated individuals who were there to hone their investigative skills, gain



Conducting Effective Investigations Workshop participants with facilitators Fiona Crean, Executive Director of Ombudsman Ontario (front row, fifth from the right) and Anne-Marie Stewart, Director, Western Management Consultants (front row, second from the right). The Ombudsman of Namibia, Advocate Bience Gawanas is in the centre front row.

Windhoek, Namibia

Conducting Effective Investigations” workshop, the temperature was at a consistent high as the participants fought to pack as much learning as they could into this training opportunity.

After 18 months of seeking funds to hold

School, the event finally came to fruition. The success of the workshop was also due in part to the determination of the Namibia Ombudsman, Advocate Bience Gawanas.

The investigators who attended came from eight Southern African Ombudsman

new insights and learn from each other.

The goal of the workshop was to improve investigative practice and skills. The theme of professional ethics was also explored and discussed throughout. The workshop had

four goals:

- to look at the investigator's role within the larger context of the Ombudsman's accountability and mandate;
- to understand the responsibilities and functions of the investigator;
- to enhance investigative knowledge and skills;
- to learn from the experience of others, network and share knowledge in order to increase overall capacity.

The curriculum was based on interactive learning using local case studies interspersed with theory. It covered the entire Ombudsman process from intake through investigative planning, gathering evidence, analysis and report writing. We also spent a day examining the role of the investigator in the larger context of his/her community as well as issues of service delivery given the demographics of the countries in which they work. The case studies covered maladministration, human rights and corruption.

Workshop participants engaged at an incredible level of energy and commitment, challenging each other at every juncture. The commitment to learning and helping one another was palpable. The participants displayed great courage in challenging each other – but they did it in ways that were always very respectful. From a trainer's standpoint, it was an exhilarating learning experience and I have left the workshop with fresh insights. What was obvious was that it doesn't matter whether you are designing an investigation plan on maladministration, human rights or corruption or whether you are conducting the investigation in Windhoek or Toronto, the skills necessary to do an effective and thorough investigation remain the same.

There are many parallels and some differences between the Southern African Ombudsmans' powers and those of Ontario.

While they have the same or similar powers to summon, subpoena and investigate, their jurisdiction is generally more extensive and includes areas such as corruption and oversight of politicians' conduct. The decision to go forward with any such investigation is, by any stretch of the imagination, a profound one. There are investigations that can be politically challenging and may also be

fraught with personal risk.

To many, Ombudsmanship is about upholding democratic principles. That concept is considered very new among those countries that are themselves emerging democracies. At the end of the day, what was developed is a curriculum that if accepted by the IOI could become available for use in Ombudsman offices around the globe.

In brief

Upcoming Ombudsman Ontario Intake clinic

An Ombudsman Representative will visit Bracebridge, Ontario on November 23 to help members of the public with any complaints they might have about Ontario Government organizations. Danielle Barbeau-Rodrique will meet with members of the Bracebridge community from 10 a.m. to 2 p.m. at the Town of Bracebridge Council Chambers, 23 Dominion Street. For further information call 1-800-263-1830.

GTA Community Education Project

Aone-year community education pilot project has been launched by Ombudsman Ontario specifically targeting communities within the Greater Toronto Area. The project will be directed towards people in communities who are known to experience socio-economic disadvantage and exclusion and who may be in need of our services but not be aware of them. The objectives and activities of the program are designed to give people complete and accurate information about the services provided by Ombudsman Ontario while developing a training strategy to keep pace with the changing demands of Ontario's public.

Ombudsman Ontario re-designed web site has a fresh new look

The Ombudsman Ontario web site has a new look. The re-design, developed by Digital Rain Inc., is more open and welcoming and provides a simple user-focused way of navigating. The search function offers quick access to specific information on the site and special highlights include the use of enhanced features to accommodate users with visual and physical disabilities. Members of the public will also find it easier to send in complaints and comments from the web site with the newly designed forms. The Ombudsman Ontario web site address is: www.ombudsman.on.ca