

# The Record



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## Your Ombudsman

# I just want to say



In a commercial transaction, the aim is to make the customers happy so they continue to buy the product or service so that the owners (shareholders) benefit. The employees who provide the service are accountable to the owners. In the public service, the “customers” are also the owners. The public employees are thus accountable to the public.

These are not characteristics from which we can choose the ones we like and reject those we don't like. We can't choose not to have clean

## *accountability to the public*

We all want, expect, and deserve good customer service, whether we're getting water from a store or from a tap at home.

But the relationship you, as a member of the public, have with the public service has some significant differences from the one you, as a customer, have with a commercial service provider.

First, the City of Toronto has a monopoly on public services – a resident has nowhere else to go when the quality is not up to standard.

Second, government services affect our lives in fundamental ways. Public service is about features of life that we have come to take for granted, such as parks, libraries, policing, education, safe drinking water, protection of the public's health.

Governments provide services for everyone, not just some.

Third, unlike customers, the public is the ultimate controller of the city enterprise. The public decides the level of services we have, and pays for those services through taxes.

drinking water, for example. This is an integrated comprehensive arrangement that requires all these features to provide balance and fairness – in other words, to make the city work.

We expect service and accountability in our relationship.

The city's administration can learn much from the business community – how to be more efficient, how to innovate, how to provide better service. But businesses are not accountable to their customers – they need only provide a level of service that results in meeting their bottom line expectations.

Toronto residents are not really customers because the city is more than a business.

Fiona Crean  
Ombudsman

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# confidentiality

As the Ombudsman's office conducts more investigations at the City, we are finding that some individuals may not understand the importance of maintaining confidentiality and not talking to others while the investigation is ongoing.

It's not unusual for a witness in one of our investigations to be apprehensive at the start but the majority have no problem answering our questions. That's because we explain the process, reaffirm confidentiality and ask the witness not to talk to anyone about the information they gave the ombudsman investigator. We explain why.

The investigator's job is to collect the facts and assess the evidence. He/she does that through witness interviews, examination of documents and reviews of legislation, policy and practice. The investigator assesses the credibility of the witness. Does the testimony support the evidence collected from other sources? Is the witness forthcoming and providing useful context? Does the witness appear evasive? Is there a concern that he/she may have colluded with others?

The evidence obtained through witness interviews is an important part of any investigation and the more tampered it is, the less reliable it becomes. That is why witnesses are interviewed alone, generally out of the workplace.



## *preserving the integrity of the investigation*

They are instructed not to discuss the interview with anyone while the investigation is ongoing. This is done to preserve the integrity of the investigation.

Despite our precautions, there may be individuals sharing interview details with others, or refusing to answer questions. If the Ombudsman suspects this or believes that witnesses are answering in a less than complete manner, she can issue a subpoena and examine under oath, any witness believed to

have information relevant to the issue under investigation.



# whistleblowing



## *protecting City employees from reprisal*

At its June 2011 session, City Council adopted the Whistle Blower Protection Policy to provide protection from reprisal for city employees who report wrongdoing. The policy is being further strengthened by legislation.

A whistleblower is defined by the City as “an employee who in good faith reports wrongdoing to the appropriate authority.”

It takes courage for someone to complain but misconduct can be exposed and whistleblowers protected when there is a combination of strong leadership, the will to do it, legislation and sanctions against the person who took the reprisal action. This is an important step for the City and

acknowledges that whistleblowing increases the integrity and accountability of government.

The Auditor General investigates reprisal complaints from the Fraud & Waste Hotline, while the Ombudsman investigates reprisal complaints that come up from investigations of unfairness.

In Canada, this work is relatively recent for ombudsman. Where there is jurisdiction, Canadian ombudsman mostly have the power to investigate whistleblowing but it is generally another organization that investigates allegations of reprisal. This may weaken protection for employees. So, for example, in Manitoba reprisal protection is not within

the Ombudsman’s purview but rather that of the Labour Board. Saskatchewan however is worth following. Its model will have legislation resting with the Ombudsman that carries both the investigative function and the reprisal protections. That will be a first for a Canadian ombudsman.

The strength of the ombudsman route is that a test of meeting the wrongdoing threshold may fail but an ombudsman investigation of maladministration can proceed.

# out and about

## what we have been up to

The office has been continuing information sessions with the public service, individual stakeholders and the community at large. In May, the Ombudsman attended the biannual conference of the Forum of Canadian Ombudsmen and co-presented a workshop on serving residents with dementia and diminished capacity.



There have been many outreach information meetings with organizations as diverse as the Canadian Council on Aboriginal Business, the Anne Johnston

Health Station, the Toronto Region Immigrant Employment Council, the Ontario Council of Agencies Serving Immigrants, the Toronto Association of Business Improvement Areas, COSTI Immigrant Services and CARP, a national association for retired persons.

The Ombudsman's recent speaking engagements have included Transparency International on whistleblowing as a tool to fighting corruption; Osgoode Law School on the role of a municipal ombudsman; and the Centre for Equity in Health & Society to talk about the office's role in promoting equity.

Funded by the Federal Government and sponsored by the Institute of Public Administration Canada, the Ombudsman went to Lima, Peru to

assist the national Ombudsman there in strengthening the institution's capacity in planning and evaluating services through results-based management.

Most recently, the Ombudsman attended the East York Canada Day celebration in Stan Wadlow Park, met with the Social Planning Council of Toronto and community members in Thorncliffe Park. Plans for more outreach are underway!



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## about Toronto's Ombudsman

1. We are impartial investigators.
2. We are independent from the Toronto Public Service.
3. We advocate for fairness.
4. We are an office of "last resort."
5. We offer information sessions.
6. Our services are confidential and at no cost.