

Notes for Remarks

by Fiona Crean
Ombudsman of the City of Toronto

***Holding the Toronto Public Service Accountable: Fairness,
Access and Equity***

“I’d like to talk to you this morning about what your Toronto Ombudsman does, what my view of fairness is and how we fit into the scheme of holding local government to account.

But first let me place the ombudsman role in context. It is a Swedish word that means “representative of the people.”

The modern context of an ombudsman is derived from Sweden, in 1809, when it was established in its constitution and charged with the responsibility of protecting the people from maladministration by the government.

The ombudsman concept however is a very old one. It finds its roots alternately in First Nations communities and the 7th Ming Dynasty.

In ancient times, Muslims had the Mohtasib who had the authority to reverse official orders and make sure customers in the market place were not cheated.

Suffice it to say the ombudsman is not an invention of the colonial era!

It has deep roots of resolving conflicts in an impartial way around the world.

Let’s turn now to Toronto in 2010!

The role of an Ombudsman is to provide that ‘check and balance’ – to even the playing field between the resident and their government.

The ombudsman concept involves the public, on the one hand – and the civil service on the other hand.

We are squarely in the middle – impartial – with no vested interest in the outcome of a complaint except that the public was treated fairly by the City’s civil service.

I am an independent officer of Toronto City Council, established under the City of Toronto Act.

We opened our doors for business in April 2009.

My legislated mandate is to address complaints and issues related to fairness in the city’s administration.

We do this on behalf of all Torontonians. We are here as a place of last resort for residents to turn to when all else has failed, when people have tried to resolve complaints with the City and have been left dissatisfied with their results.

The complainant must be personally affected by the problem. This means that you cannot complain on behalf of a neighbour for example. But an individual or a group demonstrating they have been adversely affected may bring a complaint forward.

There is no financial cost to the complainant. All matters brought to us are kept completely confidential. We are exempt from the Municipal Freedom of Information and Protection of Privacy Act.

At the outset of a complaint, we must decide if the decision being complained about is an administrative one or a political decision by Council.

If it is administrative, we have jurisdiction. If it is a political decision, it is the people who have to maintain accountability through the electoral process. There are always differing perspectives on a problem and it is often complex to reach agreement. Our approach is to work it through until we can agree on what is in the public's best interest.

As Ombudsman, I have broad powers of investigation to uncover the facts. I can enter facilities, obtain documents, interview officials. We use these powers carefully and judiciously. I know from experience that the decisions an ombudsman makes always have a human impact – on both the service deliverers and the complainants.

Municipal government has a responsibility to provide services that are accessible, fair and equitable to all of its communities.

Mistakes happen in large organizations.

Sometimes systems or policies are wrong and need looking at.

Sometimes there are systemic barriers keeping whole communities from accessing services in equitable ways.

Sometimes public administration has policies and practices in place that can serve to alienate or exclude those of us unable to exercise our rights in ways that will be heard or acted upon.

Some of us may have difficulty in being heard by a large bureaucracy. My office pays particular attention to those who are vulnerable or marginalized to ensure the playing field is evened and access to City services is equitable.

And that brings me to talk about our lens on fairness.

Everyone has their own view of fairness.

It can be based on a deeply felt conviction or an intuitive understanding of what is unfair. Who hasn't at some time said or heard "but that's not fair"? Fairness depends on the circumstances and means different things to different people at different times.

Fairness, in the context of public servants' duties and obligations, is much more than just a fair hearing or a provision of service. It is about providing information that is easily found, accessed and understood.

It is about treating the public with dignity and respect and providing an open, accountable and timely service. Last but not least, it is about providing well-reasoned decisions to the public about the actions taken by public servants.

I look at three aspects of fairness: substantive, procedural and equitable.

Substantive fairness concerns the fairness of the decision itself.

Procedural fairness concerns how the decision was made – the steps to follow before, during and after a decision is made.

It is about the processes that are followed leading up to a decision being made.

Equitable fairness has to do with how we treat parties to a complaint.

It is about ensuring that people are treated fairly, not necessarily identically.

Equitable fairness explicitly takes into account the member of the public's social location.

That means factors such as education, literacy level, ethnicity, creed, culture, language, geographic location, family status, gender, sexual orientation, socio-economic status and disability.

And so when the system does not respond, that is where you and I come in.

When we see a bureaucracy gone astray, an error happen that has negative, sometimes untold consequences on an individual or group, that is when we must act.

Your responsibility is to first try and address the complaint with the organization. If all else fails then call us.

My commitment to all of you is that we will be fair, impartial, transparent, tenacious and thorough in our fact-finding, decision-making and recommendations."