

Notes for Remarks

by Fiona Crean
Ombudsman of the City of Toronto

***Fairness: Our Rights and Responsibilities
for Accountable Government***

Good morning!

I have been told that, at this meeting, I would find a group which offers a total of over 3,500 years of experience in the life of the community, immeasurable amounts of rendered service, people interested in making Toronto a better place.

Sometimes we get bogged down in discounting potential and ability with increasing age but I see before me considerable wisdom and energy to be dedicated to our common future. Sometimes we get bogged down too in discounting the potential and ability of people who are “different” – and without doubt, Toronto is one of the most diverse cities in the world.

Many of those who will benefit from your service are people whose origins are in other countries, who are racially, culturally, religiously diverse. They join those like yourselves who have deep roots in Canada in a common goal of making a better life for our children and their grandchildren.

I'd like to talk to you this morning about how Toronto's Ombudsman fits into that equation, about my role in supplementing your work of service.

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. The Toronto Ombudsman is an independent officer of Toronto City Council, established under the *City of Toronto Act* and open for business since 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 residents and visitors.

In our first nine months of operation in 2009, we received 1,057 complaints. By the end of December, 958 of these cases had been resolved. In addition to dealing with individual complaints, I also look for trends and systemic issues.

Remedies which fit across the board will reduce frustration, demonstrate good governance and save money in the long run.

There was one overwhelming trend that came up frequently in 2009 – lack of access to responsible officials, and lack of clear communication from the public service.

We are assisting departments, agencies, boards and commissions to create or improve their own complaint-handling systems. You see, my office is a “place of last resort”, a place to come after attempts to have an agency deal with complaints have failed.

The only exception to this is the issue of delay. If there is no response from City government then we may take the complaint because that may constitute unfair administration.

For example, we dealt with a resident who had not had a bill for a year and when we enquired into it, the error was corrected. The resident was billed for over \$1,000 to be paid upon receipt. When we intervened a repayment plan was put in place.

The people of Toronto are demanding greater accountability, greater transparency in how decisions are made, and they deserve to know what its government's standards are. I'll give you an example of what I mean when I say "service standards" – those which are set for our own Ombudsman office and published.

- We return phone calls and e-mails within 24 hours.
- We are committed to giving the people of Toronto service which takes into account each person's needs and circumstances.
- We keep our complainants' informed about what is happening and why.
- We share our action plans with City Council and the public at the beginning of each year.
- Our policies, standards and procedures are published on our website.
- Our staff reflects the city's diversity.

That's the kind of standard-setting which I believe you are entitled to, and we hope those are the kind of standards which you will soon find across the board in Toronto's city government.

My experience is that, despite the highest of standards, the public understands that sometimes things just go wrong. Mistakes are made. What people don't understand is why it is so difficult to get mistakes admitted to and corrected.

The number of complaints an agency receives is not necessarily a sign of problems – in fact, it could be a good sign that the agency is receptive to hearing from its clients and remedying their concerns.

What is the true litmus test of good public service is whether mistakes are addressed and promptly corrected.

Let me tell you what happens when a member of the public contacts us.

Often we just provide information; or we make referrals to the right place to call – this is a valuable service for the people of Toronto to find their way through a large and complex public service.

If there is a complaint, our office makes a quick analysis as to its urgency, priority and complexity. We clarify the relevant issues, and we then engage in a series of interventions with the agency involved with a view to reaching a resolution that is acceptable to both the agency and the person bringing the complaint.

Most often, that is done within a short period of time, while matters of greater complexity, because of the facts will take longer, perhaps months, if a full investigation is required.

We have conducted a number of formal investigations to date. I can also conduct an investigation on my own initiative if there are repeated complaints, or issues of public interest that need pursuing. I have the legal authority to enter premises. I have access to documents and can require persons to give evidence under oath. I can issue reports and make recommendations.

Where we are unable to get agreement from an agency that my recommendations will be accepted, I can table a report with City Council and make the matter public, always protecting confidentiality of the complainant, of course.

That's as far as we can go – after that, I turn the matter over to the elected representatives of City Council to take action, and where needed, I rely upon the public to add pressure to have my recommendations implemented.

As Ombudsman, I also provide what you might call “prevention services”.

We consult with the Toronto Public Service to provide advice on how to ensure fairness in policies, processes and program delivery. Another part of my mandate as Ombudsman is keeping the public informed about its rights – and its responsibilities – in advancing a complaint: that's part of the reason I'm here with you today.

So enough of generalities – let me give you some examples.

Mr. B complained to the Ombudsman that he was being evicted by the Toronto Community Housing Corporation which said he had committed an illegal act. Mr. B said the agency had never conducted an investigation and had never provided any evidence. The question was whether the decision to evict had followed procedural fairness.

Our investigation revealed that there had been no proper investigation of the incident that led to the eviction notice. The agency had accepted allegations as being true without ever providing Mr. B with any notice of the allegations or an opportunity to respond. They failed to warn him that his conduct could lead to eviction and did not tell him the reason for the notice or answer his questions.

We made 12 recommendations to the Toronto Community Housing Corporation to ensure fair and thorough investigations when a complaint of serious misconduct is made against a tenant and that it acts fairly when issuing eviction notices.

I received a complaint from the partner of a man who died after waiting more than half an hour for paramedics to arrive. Toronto Emergency Medical Services, the body responsible for paramedics, asked the Ministry of Health & Long Term Care to investigate. I decided to put our investigation on hold and monitor the Ministry's investigation rather than duplicate efforts at public expense.

Prior to accepting the Ministry's investigation report, the City Manager received and accepted supplementary recommendations from me to spell out accountabilities and timelines for change.

Another case:

The TTC decided to replace its tokens with a new design. A TTC brochure said the old tokens would be good until January 31, 2007 and anyone with more than a hundred tokens was told to go to the TTC head office to exchange them.

Ms D went to turn in her 1,145 old tokens within the timeline and was told it had passed. Sorry about those 1,145 tokens, Ms D!

She wrote to her city councilor and went to a legal aid clinic with her complaint. They in turn referred the matter to my office. The Ombudsman staff contacted several officials at TTC. It seems TTC had changed the deadline, but only posted this on its website. After discussing the issue with the TTC, we were successful in obtaining Ms D her new tokens because she had relied on their public information.

One final example:

Ms P arrived home to see a brand-new fire hydrant right in the middle of her lawn – hmmm, wasn't there when I left, Ms B thought.

She contacted the City and said she wanted the hydrant moved. Sorry, the City said – there had been a public meeting, and a map showing the location of the hydrant was available in the City's Public Consultation Office.

If Ms P wanted the hydrant moved, no problem, however. She would just have to pay the costs – somewhere between \$5,000 and \$10,000. Ms P called our office.

After discussing the matter with us, the City agreed that the company contracted to do the work had failed to follow city policy for informing the public. The hydrant was moved at no cost to Ms P.

So that is how the Ombudsman concept works in practice. Our role is to provide that "check and balance" – to even the playing field between the citizen and their government. Our approach to this work is one of prevention, problem solving and conflict resolution.

It is about being accessible, adaptable and generally non-adversarial – far less expensive than pursuing litigation in court. Equally important is that by having the agencies involved fix the problems, they improve their standard of service which in turn affects hundreds and thousands of others.

I said at the outset, I would also remind you of your responsibilities to ensure that all people of Toronto receive fair and equitable treatment from the City.

That responsibility is vigilance – vigilance in protecting accountability officers such as the Ombudsman from political pressures; vigilance to ensure there are sufficient resources for the Ombudsman to do her work; vigilance to ensure the Ombudsman's recommendations are implemented. Vigilance in insisting that all of Toronto's people – not just yourselves – are being treated fairly and equitably when decisions are made.

I spoke at the outset of these remarks about the vast reservoir of experience I saw in you, about the immeasurable amounts of public service which you have given in making Toronto a better place.

I have no doubt about your capabilities and energies to take on this additional challenge. Thank you for listening.