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Office of the
OMBUDSMAN
CITY OF TORONTO

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In our last newsletter, we talked about the types of fairness an ombudsman deals with: substantive, procedural and equitable fairness.

This time let's take a closer look at substantive and procedural fairness.

Equitable fairness – which is more complicated – will be tackled in a later issue.

Substantive fairness is about the fairness of the decision itself.

Procedural fairness is about the *process* that led to the decision.

So what do these terms actually mean?

When this office looks at the substance of a decision we ask: *was there legal authority to make the decision? Was the decision based on relevant information? Was the decision maker biased?* This makes up the substance of a decision.

It's very important that only information that's relevant to the decision is collected and used. It's also important that *all* relevant information is made available.

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MEDIA CORNER

As reporters know, the Ombudsman's office is keen to have a good working relationship with the media.

We rely on you to help inform the public about what is going on at the City. We welcome questions from reporters about the office, its mandate, and next month the Office will be releasing its six-month update to Council. We look forward to talking to you about this update, copies of which will be made available to you electronically and in hard copy.

I JUST WANT TO SAY...



I am often asked why I only have the power to make recommendations to City Council.

Why can't I issue decisions that have to be followed?

Some would say the office has no teeth and indeed, the headline for a recent newspaper article said: "*Ombudsman's bark needs bite.*"

So I wanted to examine this issue with you, so that you can have a better understanding of my role.

As Ombudsman I have a number of powers. I can investigate, make findings and draw conclusions. I can enter premises, subpoena documents and interview witnesses. I can also make recommendations to the organization involved, and make them public.

When I make recommendations to the Toronto Public Service, I give them the opportunity to review the findings and adopt my recommendations first. I don't always make them public but I can and do report to City Council in cases where my recommendations have not been adopted. It is the legislators at City Council who are responsible for holding the public service accountable.

This office is working hard to be open and transparent with the public and the media, so that you can inform yourselves about public service and how it should serve you. Then it's your job – in a democracy it's up to the people who elect the politicians to demand change.

The media is critical in reporting and exposing the light the Ombudsman is shining in those dark corners. And City Council plays a pivotal role in ensuring this office has the resources to do this job, and supporting the implementation of my recommendations.

If you have questions about this role, I welcome your comments.

Fiona Crean

**Get in touch with the Ombudsman
ombuds@toronto.ca or call
416-392-7062, TTY 416-392-7100. The
Office treats all communications in
confidence.**





Fair or Foul? Cont...

Another very important element is procedural fairness - the decision-making process.

Here we ask ourselves; *was the complainant given enough information? Was the complainant given an opportunity to make his or her case? Did the decision maker give reasons? Is there a policy or process for making decisions?*

Anyone personally affected by the decision should be able to present their point of view and respond to facts, presented by others, which will be considered by the decision-maker.

EXAMPLE – A resident relies on advice from the City when preparing an application for a City home improvement grant. He is subsequently declared ineligible by the City. In defending its decision to disqualify the applicant, the City only looked at the program criteria. It did not consider the role staff may have played by providing incorrect information to the resident. In other words, it didn't look at *all* the relevant information before reaching a decision.

Time can be important in the decision making process. Sometimes even the postponement of a decision may be considered administratively unfair.

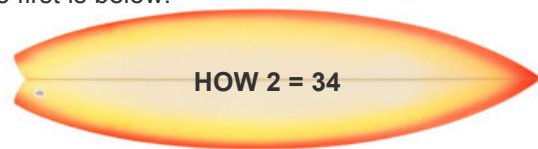
For example, if a member of the public challenges a By-law application in order to avoid being personally and financially affected, a decision about that application is only really fair if it comes **BEFORE** that impact happens. In these cases, delays have to be explained.

Timeliness is also one of the things that we consider when a resident initiates a complaint with us.

That is why we don't always operate on a 'first come first serve' basis. Want to more about how we prioritize complaints? Details are coming online later this year.

NEWS FROM HERE AND THERE

The Toronto Ombudsman receives and reviews stories about bureaucratic boondoggles from around the world. Sometimes the newsletter will include these stories. The first is below.



Between the weather and the city strike, a lot of kids in Toronto probably thought they had a less than stellar summer this year.

It could be worse, they could be living in San Bernardino County, California.

The local school district in San Bernardino inadvertently had a five-minute shortfall for each of the instructional days last year. In total, the shortfall amounted to two days of instruction time for the whole year. But because of a quirk in the regulation, the schools had to be kept in session for an extra THIRTY-FOUR days this summer to avoid losing millions in funding.

"We made an error on the minimum days of about five minutes," said one school principal. "Realistically, that's our accounting mistake as adults. We're unfortunately making the children pay for it by making them give up their summer."

STAFF STUFF

WHO NEEDS A COMPLAINTS SYSTEM?

Most people don't like hearing complaints.

But complaints can be very helpful for improving services and understanding potential problems from the perspective of the customer.

This is where having a good internal complaints system can work for you. So what are the benefits?

At their most basic, complaints are an easily accessible way to resolve disputes, misunderstandings and mistakes. Complaints can alert you to problem areas, allowing you to fix them before they become public relations problems.

If this kind of system is structured, it can increase productivity, so that the right people know who is accountable for what. It is also a great evaluation tool.

Getting complaints is not the measure. It's how quickly and fairly we *manage* our complaints that's the benchmark. Or how successful resolution can then



lead to a fix that then results in fewer repeat complaints.

Some parts of the Toronto Public Service have complaints systems, others do not.

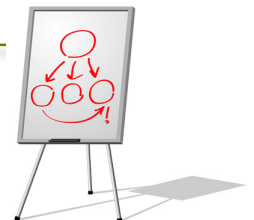
Some of the complaints systems are widely known and understood by staff and public alike, others are not. Some are evaluated routinely to benchmark performance, others are not.

We can learn from one another and avoid reinventing the wheel – in developing an effective complaints system publicizing it and evaluating our results.

Have a comment? Want to tell the Ombudsman about your system and what works best? Drop us a line at ombuds@toronto.ca.



OMBUDSMAN INFORMATION SESSIONS



The Ombudsman's Office led introductory sessions about its mandate in the Spring. We ran 11 sessions and 125 attended. There are many thousands of staff we have not yet met.

After opening in April and getting through our first six months of business, we are ready to continue these sessions.

We want to make sure that TPS managers understand what we're after when we call so that we can work effectively together to deal with complaints we receive.

We want to focus on managers for a couple of reasons. One is that they are responsible for programs and staff. We can't reach everyone, so we are counting on managers to pass on relevant information at their own staff meetings. Secondly, it's the managers who are the accountable link between our offices.

WE'LL COME TO YOU

We know this is a busy time of year, so we want to make it easier for you. We can tailor our sessions to fit your needs and schedules; we can come to you if that's easier. Just let us know at ombudstoronto.ca.

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