



## Consulting an Ombudsman with the right expectations

One knows, in principle, that an Ombudsman is an independent, confidential, objective and neutral person who works to resolve conflicts in an informal way, avoiding litigation. In reality, what is often expected of the Office of the Ombudsman goes well beyond its mandate.

### When a resolution is not reached

Parties in a dispute frequently respond well to effective mediation and negotiation, and this can lead to a fair and equitable outcome for all concerned and thereby restore harmony in the workplace. But what happens when it has not been possible to attain an informal resolution?

Often, the role of the Ombudsman is misunderstood, as he/she cannot advocate for any side. This does not suggest that the Ombudsman would not raise, objectively, areas of concern where unfair or prejudicial treatment seems to be evident. Indeed, as required and in strict accordance with measures to protect confidentiality, the Ombudsman will bring issues to the attention of the highest levels of management, making recommendations as to how an equitable solution may be achieved.

### When a resolution takes a long time

In some cases, it becomes difficult to bring about speedy action and a resolution can take a long time. The recommendation of the Ombudsman may not be considered promptly or the involved party may delay action. As the issue holder keenly awaits a result, this lack of response directly and negatively affects the progress of the informal process. The Ombudsman will invest resources in the follow-up process in order to bring about an equitable outcome; but unfortunately, it is not uncommon for the Ombudsman to be expected to demand an answer and ultimately to be held responsible for any such delays.

### When an outcome is unfavourable

It is a great misconception that the Ombudsman should be expected to become somewhat more formal and have the authority to dictate an outcome or give a ruling on an issue. Where there is a contested management decision, for example, the Ombudsman helps the parties in the dispute to reach a common and fair resolution but would not be in a position to make or reverse the decision. In some cases, the outcome may not fulfil the wish of the visitor and may lead the person to condemn or reject

the informal mechanism in its entirety. There are many instances where there may be a conflict between the 'letter' and the 'spirit' of a rule, and where management decides to act in accordance with the letter. In such circumstances, it is not always possible for the Ombudsperson to assist in the emergence of a decision which satisfies all parties, and in which both the letter and spirit are observed.

### **When retaliation is perceived**

The Ombudsperson functions in a non-threatening way; nevertheless, in some cases, it is perceived that the intervention of the Ombudsperson has brought about retaliation leading to a negative outcome. Retaliation is an issue that is always viewed and dealt with very seriously. However, where there is an unfavourable outcome, one should carefully consider whether retaliation has in fact taken place. A conclusion reached otherwise would be misleading and would not reflect the true significance of the issue. Moreover, as always, staff members should be encouraged to explore all informal avenues thoroughly, after which the Ombudsperson would advise them on pertinent ways to direct their case to formal bodies.

### **In a nutshell...**

In addition to working with individual grievances, the Ombudsperson can be a major instrument for systemic change in the organization, mainly through the identification of trends and anomalies causing disputes and unfair treatment. In the annual report of the Ombudsperson, there is an analysis of the major issues which have emerged in the previous year, and arising from the analysis there are

recommendations for changes in regulations and procedures. While many issues continue to be resolved informally at their earliest onset, it is important to continue to empower staff to be well informed so that they can address conflicts effectively; in this respect, the Ombuds function can be a useful mechanism for staff to find out the options available to them in addressing grievances. However, it is equally important for visitors to have the right information on what the Ombudsperson can do for them. For more information on this role, please visit the office website or contact us.