

## THE ORGANIZATIONAL OMBUDS

by

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and

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*EDITOR'S NOTE: The rise of the ombuds<sup>3</sup> as part of American corporate life has been marked, and often remarked upon. The creation and growth of the Ombudsman Association has provided the movement with an even higher profile and has been responsible for the promulgation of clear standards for the profession. A few companies have ombuds offices for non-employment matters (such as McDonald's ombuds office for disputes with franchisees); more have organizational ombuds who do deal with employment matters. Mary Rowe's and Wilbur Hicks' essay gives an insight into the delicate and intricate workings of the organizational ombuds.*

Many American organizations have implemented ombuds programs to help manage and resolve workplace related conflict. Often developed as a result of a crisis (either as an aftermath or a pre-emption), ombuds programs are now considered by many to be an essential part of a conflict management system, and a part of the way business is conducted.

An ombuds program represents a huge departure from the traditional ways that many corporations have handled workplace related conflict. Ombuds programs have proliferated over the years despite the fact that they operate in some ways that run counter to the traditional hierarchical, command and control culture that once characterized much of American corporate

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<sup>3</sup> The term "ombuds" is used throughout this volume to refer to the office or capability of the ombuds, without reference to the sex of the person performing the role.

culture. Ombuds programs operate in addition to the standard rights-based grievance processes employed by many organizations, and the customary decision making of managers. Operating informally, these programs adhere to the principles of neutrality, confidentiality and independence. Operating inside a relatively formal corporate culture that is, by contrast, used to advocacy, transparency, and hierarchy, ombuds might provoke a culture clash; yet, this is not usually the case. For the most part, ombuds programs are spreading comfortably in the corporate, academic and government culture.

### **Principles of Operation**

#### **Neutrality**

The organizational ombuds is a designated neutral. The ombuds does not take sides in a dispute between a manager and an employee, a manager and another manager, or an employee and another employee. Though appointed by management, the ombuds is not an advocate for management. The ombuds' role is to listen and assist, if possible, in the prevention or resolution of conflict, and in systems improvements.

Any person in the organization may call on the ombuds to assist with the resolution of a problem. The ombuds can be a valuable vehicle through which all parties can express concerns, exchange perspectives and seek understanding. The ombuds can assist all parties in hearing each other, appreciating the other's perspective and moving to collaborative problem solving where that is appropriate. For example, the ombuds office can provide a neutral setting in which the employee can engage the manager constructively and at the same time hear what is important to the manager. The manager, on the other hand, may be able to use the ombuds' assistance to

convey management expectations in a manner that is clear to the employee, while listening to the employee's concerns as well.

The ombuds does not conduct formal investigations or make findings on behalf of any party. The ombuds may seek information from others within the organization to assist the ombuds in working a matter. However, it is not the role of the ombuds to render a judgment, draw a conclusion, or render a management decision.

Neutrality also affords the ombuds an opportunity to provide information to management from all points of view. As a repository of organizational culture data, the ombuds is in a unique position to paint a picture of what life is like in the organization at any given moment. In this role, the ombuds is ideally situated to alert executive leadership to prospective challenges, to issues that may need focused attention, or to trends that may be helpful in strategic planning.

The neutral role of the ombuds also determines where the office sits, literally and figuratively. The ombuds office should not be located next door to senior management, but rather somewhere that says "neutral." Many organizations have placed the office in a place that is accessible but not in the public eye. Where the office "sits" on the organization chart is important, as well. Standards of practice recommend that the ombuds report to the highest official, such as the President. The ombuds must be perceived as not beholden to any group or groups within the organization. Often there is access to the Board of Directors.

Finally, the role of a neutral precludes the ombuds from serving on any committee that develops or enforces policy, or deals with recruitment or promotion or discipline of a specific person. The ombuds must be neutral -- as to those who are affected by the policy as well as those who are charged with enforcing the policy.

## **Confidentiality**

Many believe that confidentiality is the linchpin of the ombuds function. Everyone in the organization must have access to the ombuds office -- and also the ability to communicate in confidence to the ombuds. Most problems can be dealt with quite expeditiously if employees feel that they can be heard in a "safe" place, even anonymously if preferred. This safe harbor can be especially important for very serious problems. Confidentiality assures that issues can be raised without fear of loss of privacy, loss of relationships, or reprisal.

The decision to establish an ombuds function is a strategic determination that it is better to extend near absolute confidentiality than not to know of certain problems at all. The assurance of confidentiality encourages reporting concerns about violations of policy, ethical lapses, and criminal behavior. Without a safe place within the company, an individual may sit on a problem, with disastrous consequences to the organization, or seek assistance outside, thereby depriving the organization of the opportunity to resolve the matter internally.

Confidentiality is broad but not absolute. Many states require the reporting of child and elderly abuse, no matter how this information surfaces. Also, ombuds professional standards permit the ombuds to report concerns that involve "imminent risk of serious harm."

## **Independence**

The ombuds is and must be independent of ordinary line and staff management, for several reasons. First, the ombuds, as a designated neutral, must be able to report information that finds disfavor with senior management without the risk of being dismissed, discredited or disrespected. The organization must perceive the ombuds as beholden only to the "whole community" and not to any office or section within it. Further, the way people respond to the

ombuds often depends upon to whom the office reports. An ombuds reporting to -- and budgeted by -- the CEO is unlikely to be perceived as vulnerable to pressure from managers below the CEO. In addition, some organizations seek to ensure the independence of the ombuds by appointing the ombuds for a specific term or requiring the ombuds be dismissed only "for cause."

Thus, three cardinal principles are intertwined. Neutrality ensures that everyone in the organization will be heard without judgment. Confidentiality ensures that members of the organization can discuss sensitive information. Independence ensures that the ombuds can operate in the best interests of the organization as a whole.

### **The Functions of an Organizational Ombuds**

How does the organizational ombuds function compare with other offices' functions?

Probably the most important functions of an ombuds are these five:

- Listening with care and regard (*delivering respect*);
- Providing a completely safe and accessible person, highly placed within the organization, to raise very serious problems and to pick up "new" problems (*zero barriers*);
- Collecting data from the entire organization about problems and innovations for recommending systems change (*central overview*);
- Helping people to help themselves – helping to get problems settled at the *lowest possible level*; and
- Supporting both formal and informal conflict management, and preventing unnecessary conflict (*appropriate dispute resolution*).

Day-to-day tasks of the ombuds professional include:

*Listening.* The first option that a caller or visitor may choose is just to talk, and for the ombuds to listen, in an active and supportive fashion. The ombuds should be an impartial person with respect to the facts of a situation. In many cases "being heard" is all that a caller wants.

*Providing and Receiving Information.* Often a caller needs information on a one-to-one basis, such as a copy of (or clarification of) a company policy. An ombuds also may receive information, such as perceptions of unsafe work conditions, fraud, discrimination, or other unethical or criminal behavior.

*Reframing Issues and Developing Options.* An ombuds may be able to help develop new options for solving problems. The ombuds can often help reframe the issues, identify different perspectives, and describe additional effective paths from which the visitor may choose. This function is often especially useful to managers.

*Referral.* Sometimes the ombuds is not the best person to help, but knows who might be more appropriate. An ombuds understands the other resources within the organization, refers complainants to others, and works with others on behalf of a complainant when given permission to do so.

*Helping People in a Direct Approach.* An ombuds may help a complainant to deal directly with the perceived source of a problem. Through discussion, support and role-playing, an ombuds helps to develop the skills and self-confidence to work on an issue without third party intervention.

*Informal Third-party Intervention and Shuttle Diplomacy.* A complainant may ask a third party to intervene between A and B, or to bring them together informally, to resolve the problem. The third party could be the ombuds or someone else, such as a colleague, an administrative officer, a personnel officer, an impartial line supervisor or department head, or some other appropriate person.

*"Looking into" the Problem.* Some organizational ombuds may occasionally agree to look into a problem on a fairly exhaustive basis and write a report. However, most organizational ombuds look into problems much less formally, and seldom write a case report. They usually will report their findings directly to a relevant manager or the findings become part of the work of shuttle diplomacy and informal intervention. If the informal findings of an ombuds indicate the need for formal investigation (by the audit department, counsel, ethics office, safety office, security department, campus police, or line management), the matter will be turned over to the appropriate party.

*Classic Mediation.* This option is offered by ombuds in many organizations. Classic mediation is purely voluntary. This option must therefore be chosen by *both* disputants, and agreed to by the ombuds, if it is to occur. Settlements often are put into writing, and may be on or off the record, as the parties wish.

*Generic Approaches.* An ombuds might be given permission to approach a department head about a given problem without using any names. The department head might then choose to distribute and discuss copies of the appropriate employer policy. Or a department head who was informed about possible harassment might encourage harassment training, in such a way as to stop and prevent inappropriate behavior. Generic approaches may be effective in stopping a specific offender and may help to prevent similar problems, without jeopardizing an individual complainant or risking privacy rights.

*Systems Change.* The Ombudsman Association<sup>4</sup> surveys indicate that about a third of the working time of organizational ombuds is spent working with line and staff managers to improve supervision, human services and conflict management systems of the organization. A practitioner who identifies a new problem in a timely fashion serves as an "early warning" channel. The practitioner might notice a pattern, or multiple incidents of the same kind, that would indicate the need for employer attention. In addition, some ombuds produce annual reports, including statistical data, summarizing problems of concern.

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4 See [www.ombuds-toa.org](http://www.ombuds-toa.org).

**Comparison of Ombuds Offices with Other Offices**

	<b>AA/EEO</b>	<b>HR or Personnel</b>	<b>Ethics Officers</b>	<b>Ombuds</b>	<b>EAP</b>
<b>Focus</b>	Respond to allegations of unlawful discrimination or harassment; prevent discrimination	Provide leadership; develop and administer company strategy, policies and practices with respect to people	Address and prevent waste, fraud, and abuse, and code of conduct violations Help to uncover and investigate ethics allegations.	Provide a <b>zero barrier</b> office for all work related problems, support all conflict management activities, including system improvement.  Help to uncover serious problems. Help to resolve disputes informally where possible. Identify issues, generate options, mediate, refer to other resources, recommend changes. Provide training.	Provide counseling and consultation to help employees and supervisors with personal problems that affect work
<b>Function</b>	Receive, track, refer or investigate EEO cases. Identify issues and assure appropriate disposition, discipline and documentation. Provide training.	Assist managers and employees in following and applying all HR-related policies and procedures. Provide training.	Identify problems, adjudicate, and assure appropriate disposition of cases, and discipline of offenders. Provide training.		Counsel and refer employees and supervisors who need help with personal problems. Presentations.
<b>Designated Neutral Near Absolute Confidentiality</b>	No; compliance officer No; protects privacy	No; compliance officer No; protects privacy	No; compliance officer Protects the source if possible	Yes Yes	No; advocate for employee There are some limitations.
<b>Make or Modify Policy</b>	No	Yes	Yes	No	No
<b>Implement Policy</b>	Yes	Yes	Yes	No	Concerning certain employee health benefits
<b>Enforce Policy</b>	Yes	Yes	Yes	No	Concerning certain employee health benefits
<b>Office that accepts notice for corporation Conducts formal investigations as the basis for management action</b>	Yes	Yes	Yes	No	No
<b>Expected to Testify</b>	Yes	Yes	Yes	No	No - except with client permission
<b>Responsible for identifying systemic shortcomings or problems</b>	Limited to legal or jurisdictionally defined concerns.	Yes, especially at the senior levels	Limited to ethics concerns	Expected to identify, communicate, make recommendations about work-related issues, including those caused by company policies	May make recommendations