

# Ombudsman in the 21st Century: A Model for Public Currency in Private Discretion

*By David McNabb*

An Ombudsman gives voice to the unresolved concerns and complaints of individuals in their dealings with institutions or in relationships between individuals within an institution. Ombudsman service, funded by the sponsoring institution, is delivered promptly, privately and free of charge.

The public is perhaps most familiar with the work of an Ombudsman in state and local governments, in colleges and universities, and in large public and private organizations. A recent evolution of the Ombudsman role is its inclusion in the alternative dispute resolution (ADR) framework. The Alternative Dispute Resolution Act (1996) specifically includes “Ombuds” as one legitimate form of ADR available to the public in its dealings with federal government administrative agencies.

The Ombudsman provides a variety of services: an organizational Ombudsman may have an informal telephone conversation with an individual about options to resolve a workplace question, concern or dispute. In a state or local government, an Ombudsman may use a formal investigation as a method to resolve complaints from citizens. Ombudsman discretion may limit the extent of confidentiality available in a formal investigation. In another context, an organizational Ombudsman for a university may, in private, discuss with an individual the option of a formal investigation for certain issues. However, the Ombudsman will refer a complainant to other resources outside the Ombudsman office for reporting of issues that may lead to a host institution’s deciding on a for-



mal investigation. Handling the issue of a formal investigation and confidentiality in this way ensures Ombudsman public currency is not compromised in any way.

In whatever form an Ombudsman service takes, ultimately Ombudsman credibility and the ability to help a sponsoring host institution hear and respond to the voice of the individual relies on the ongoing acceptance of Ombudsman work by all audiences including service

users, host institution leadership, regulators, lawyers and lawmakers, and the media. The various roles of Ombudsman are not interchangeable: an Ombudsman role designed for state and local governments will not translate to a university Ombudsman role. Yet adherence to the ideals of independence, confidentiality and fairness is a hallmark of the Ombud’s craft in whatever form it is practiced.

Excellent resources exist for anyone seeking information about Ombudsman roles in the United States. Those resources include Ombudsman groups like the United States Ombudsman Association ([www.usombudsman.org](http://www.usombudsman.org)), the International Ombudsman Association ([www.ombudsassociation.org](http://www.ombudsassociation.org)) and the Coalition of Federal Ombudsmen ([www.federalombuds.ed.gov](http://www.federalombuds.ed.gov)).

The Ombuds/Ombudsman Section of the Association for Conflict Resolution (ACR) ([www.mediate.com/acrombuds](http://www.mediate.com/acrombuds)) is another tremendous resource for all Ombuds/Ombudsman practitioners to leverage opportunities from the diversity of Ombudsman roles and services. Members come together for networking and professional development in the good company of the conflict resolution professionals at ACR. Strong ties exist between Ombuds and ACR. Many Ombuds come from the field of mediation or are drawn into it. Ombuds rely on their conflict resolution and mediation skills everyday in assisting office visitors with their inquiries, concerns and complaints, and in ensuring individual voices are heard by host institutions.

There are many similarities between Ombuds and other conflict resolvers, but one difference should be pointed out: Unique to the role of Ombudsman is the “fairness review.” While the concept of “fairness” is ages old, it finds very recent voice: It is a key organizing call to action in the Department of Treasury white paper Financial Regulatory Reform: A New Foundation, June 17, 2009. “We focus here on what is essential: to address the causes of the current crisis, to create a more stable financial system that is fair for

consumers, and to help prevent and contain potential crises in the future.”

An Ombudsman fairness review respects legal compliance and due process without deciding the law, yet offers something more. An Ombudsman engages parties—individuals and host institutions—in a post review of accountabilities and best practices. An Ombudsman imagines and rehearses success and best practices in transactions and relationships between host institutions and individuals, while tracking and making notes of possible administrative failures, gaps, errors and omissions, particularly in communication. In this way, an Ombudsman can be a catalyst for integrity, accountability and good citizenship, norming failures in administration and contradictions in democracy, resulting in a virtuous cycle of individual and institutional confidence.

In summary an Ombudsman reality tests and models public currency in private discretion by engaging stakeholders

with credible and legitimate Ombudsman forms and services which can reflexively generate virtuous cycles of success and confidence. In its various forms, the concept of Ombudsman provides a more comprehensive approach to fairness. This response more fully mitigates the possibility of the human behaviours that gave rise to the financial and economic failures in the first decade of the 21st century. 🌐

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*We use the term “Ombudsman” and “Ombuds” in deference to its near universal usage everywhere in the world except the United States. Most practitioners believe that the original Swedish term is not gender-biased.*

