

Model Clauses for a Mandate

Developing Terms of Reference for the Ombuds

Revised September 20, 2025

Introduction

There is considerable diversity in practice among Canadian College and University Ombudspersons. Some Offices are dedicated to serving only students, while others attend to the concerns of all groups on campus, including faculty and staff. Some of the Offices receive support entirely from either the Student Union or the University, while others are jointly funded by a number of groups. Ombudspersons, themselves, may be drawn from the faculty or staff of the University or may be students who work in the Office on a part-time basis. Notwithstanding these differences, most College and University Ombuds Offices in Canada are founded on the same basic principles, namely; independence, impartiality, confidentiality, the ability to investigate and recommend, the ability to promote change, informality, accessibility, accountability and a commitment to fair treatment and fair process (1). The Terms of Reference that govern these Offices clearly reflect both a commonality of principles and a diversity of practice. To this end, these documents contain many common themes but the specific provisions are often based on the unique nature of each Office and the community it serves. Ombudspersons pay close attention to their Terms of Reference and often rely on these documents to guide their practice and, if necessary, to defend their actions.

Bearing in mind the importance of the Terms of Reference, ACCUO members have long discussed the possibility of developing « model » terms to be used by new Offices and by others interested in revising and improving their existing Terms of Reference. However, it was felt that this approach might be too rigid, given the broad range of practices and the desire to produce a useful and practical resource tool. Therefore, it was decided that rather than produce one set of « model » terms, we would identify the fundamental « elements » that one might, ideally, wish to include in a College or University Ombuds Office's Terms of Reference. Where possible, we would indicate how each « element » supports one of the underlying principles (e.g. independence, confidentiality etc.) upon which our Offices are based. A selection of sample clauses, drawn directly from members Terms of Reference, would be included to demonstrate how the fundamental elements might be incorporated in different settings. Where appropriate, we have added some commentary and indicated which sample clauses most closely reflect the classical ombuds model. This document(2) is intended to be a « work in progress » that can be easily amended to include new ideas and clauses.

July 2005

1. These underlying principles are based on the model of practice that most Canadian College and University Ombuds Offices aspire to – namely, the classical legislative ombuds role.
2. This document was developed by Shelley Lancaster, Ombuds at McMaster University and Marie-José Rivest, Ombudsperson at University of Montreal and is modeled on an Occasional Paper by Dean M. Gottehrer entitled, « Ombudsperson Legislative Resource Documents » (March 1998). The Occasional Paper (#65) may be obtained from the International Ombudsperson Institute, Faculty of Law, University of Alberta, Edmonton, Alberta T6G 2H5, Canada - 10/2005

Sample Clauses

1. Structure of the Office
2. Statement of Principles
3. Confidentiality
4. Jurisdiction
5. Access to Information
6. Functions of the Office
7. Terms of Employment of the Ombudsperson
8. Office Procedures

Structure of the Office (Elements 1 to 4)

01. Element: The process by which the office has been established is described

Underlying Principle:

Commentary: Sometimes the Terms of Reference contain historical information on the development of the office. Where offices have been jointly developed by the University and the Student Association, the terms may highlight the joint nature of the office. The more classical the orientation of the office, the more likely it is that the office was established through an act of the organization(s) official governing body.

Sample Clauses: The University is committed to the just and fair treatment of each and every member of the University community. In keeping with this commitment, the University joined with the Student Union in 1998 to support the development of a jointly funded Ombuds Office.

02. Element: The main purpose/mandate of the Office is set out.

Underlying Principle:

Commentary: Some offices have clearly defined mandates. Ideally, the essential characteristics of the Ombudsperson's function (e.g. independence) will be included in this clause.

Sample Clauses: The mandate of the Ombuds Office (hereinafter referred to as "the Office") is twofold in nature. First, the Office is to provide an independent, impartial and confidential process through which members of the University community may pursue the just, fair and equitable resolution of any university-related concern. Secondly, the Office is to make recommendations, where appropriate, for changes in University policies and procedures and to promote discussion on institution-wide concerns.

To investigate, in an impartial fashion, complaints that may arise against the University or against anyone in the University exercising authority.

The Ombudsperson shall receive, investigate and seek to resolve complaints and grievances from the students of the University about matters which are under jurisdiction of the University and the Student Union.

To provide the students of the University with a mechanism, which is independent of the administration, executive, and legislative organs of the Parties (the University and the Student Union), to assist students in the resolution of misunderstandings, disputes, and conflicts, which may arise from time to time between a student and one or both of the Parties, and to provide such information services as may be deemed appropriate from time to time to persons at the University about the processes of redress available at the University and in the community at large.

To investigate, at the request of any student of the University or upon the Ombudsperson's own motion, any grievances that may arise against the University or its boards, committees, academic or administrative departments, etc., or against anyone employed by the University exercising authority.

The principal role of the Office is to provide an impartial mechanism of last resort for the review of all decisions and actions in respect of the administration of the College.

03. Element: The Ombudsperson in the exercise of the Offices functions, duties and responsibilities shall not be subject to the direction or control of another person or authority.

Underlying Principle: Independence

Commentary: It is essential to have a guarantee of independence included in the Terms of Reference. The office must be independent in structure, function and appearance. This independence protects the ombudsperson from interference or retaliation, and ensures the office's control over its budget and resources.

Sample Clauses: The Ombuds Office shall be independent of all existing administrative structures of the University.

The Office of the Ombudsperson shall function independently of all decision-making structures of the University.

The Office of the Ombudsperson shall be independent of all existing university and student administrative structures.

The Ombudsperson shall carry out the responsibilities of the Office independently of all student, staff, faculty, and administrative bodies within the University.

04. Element: The reporting structure is clearly stated.

Underlying Principle: Independence

Commentary: The Ombudsperson is accountable to the entire community for implementation of the mandate. The Ombudsperson should report to the highest level possible within the organization (e.g., Board of Governors/Board of Directors of the Student Association). In addition, the Ombudsperson may receive support from an Advisory Committee.

Sample Clauses: The Ombudsperson is appointed by the Governing Council on the recommendation of the President; is accountable to the Governing Council and has unrestricted access to all University authorities.

The Office of the Ombudsperson will report to the President of the University and the President of the Student Union.

The Ombuds Officer is appointed by the Student Union executive and is accountable to the Student Union's Board of Directors.

The Ombudsperson shall report to the President and Vice-Chancellor of the University.

Note: If your Office is financially supported by the Student Union and you are concerned about maintaining the Office's independence see Simon Fraser's Terms of Reference for a unique setup.

Statement of principles (Elements 5 to 9)

Ombuds Offices are founded on a number of general principles including independence, impartiality, confidentiality, informality, the ability to investigate and accessibility. These principles are reflected in the structure and operation of the Office.

05. Element: The office operates informally

Underlying Principle: Informality

Commentary: The Office operates as informally as possible (e.g. less reliance on written communication). However, Canadian Offices do keep case files

Sample Clauses: Informality shall be the prevailing atmosphere of dealings with the Office of the Ombudsperson, until such time as formal steps become a necessity.

06. Element: The Office shall be easily accessible and adequately promoted.

Underlying Principle: Accessibility

Commentary: The idea of accessibility may include:

- office hours
- willingness of Ombudsperson to meet people outside the Office
- physical accessibility of the office and ease of confidential access.

To make the Office truly accessible, Ombudspersons must promote the Office and make it known to the various University constituents.

Sample Clauses: Emphasis shall be placed on the availability and accessibility of the Ombudsperson to the members of the University, in so far as the physical and procedural restraints placed upon his/her operations.

The Office shall make every reasonable effort to inform the University Community of its existence and function.

The Office shall publicize its operations using funds available for that purpose.

07. Element: Standards of fairness are articulated.

Underlying Principle: Commitment to fair process

Commentary:

Sample Clauses: It shall be the special concern of the Ombudsperson that:

Decisions affecting individual students are made with reasonable promptness;

Procedures used to make decisions about students are fair and the criteria upon which they are based appropriate;

The rights and responsibilities of members of the University community are adequately defined and publicized;

Any gaps and inadequacies in existing University policies and procedures that affect the ability of individuals to function as members of the University community or which might jeopardize their human rights or natural justice be brought to the attention of the proper authority;

Procedures used to reach decisions are adequate and that the criteria and rules on which the decisions in question are based are appropriate and adequately publicized;

Procedures and policies used to reach decisions affecting students are adequate and consistently applied and that criteria and rules on which the decisions in questions are based are appropriate.

In the course of inquiry or investigation and in bringing recommendations forward, the Ombudsperson will seek to ensure that the principles of natural justice and procedural fairness are observed.

It shall be the special concern of the Ombudsperson that decisions about individual students are made fairly. Among other things, that means:

- with reasonable promptness;
- in accordance with applicable policies and procedures;
- taking account of all relevant information

08. Element: All concerns shall be assessed and investigated impartially.

Underlying Principle: Impartiality

Commentary:

Sample Clauses: The Office shall assess and investigate all complaints with impartiality.

The Ombudsperson acts in consideration of and with respect for the legitimate interests and concerns of all affected parties.

09. Element: The Ombudsperson generally attempts to resolve issues closest to the source of the problem.

Underlying Principle: Informality

Commentary: This supports the Ombudsperson's commitment to informal resolution without resort to formal avenues of appeal. It is on this basis that many Ombudspersons encourage visitors to the Office to return to the individual/office

where the problem originated to try and resolve the issues themselves. It is this principle that also guides the Ombudsperson back to the original parties before a higher authority is approached.

Sample Clauses: Whenever practical, the Ombudsperson shall seek the resolution of a student's grievance or problem at the lowest level within the organization.

Confidentiality (Elements 10 to 11)

10. Element: Any matter brought to the Office remains confidential unless there is a safety concern or the party gives the Ombudsperson permission to intervene. A party's written or verbal consent may be required to intervene.

Underlying Principle: Confidentiality

Commentary: All Terms of Reference contain provisions on confidentiality. The concept arises in two contexts. First, there are clauses dealing with the Ombudsperson's responsibility to keep information obtained from a complainant confidential until authorized to divulge some or part of this information to assist in the resolution of a case. Some offices require written permission to intervene and release confidential information; others proceed on verbal instructions.

Associated with these clauses, are the sections dealing with maintaining the records of the office securely. Secondly, there are clauses dealing with the Ombudsperson's right to access confidential records located elsewhere in the University and the Ombudsperson's obligation to keep these records confidential. In some cases, material in these records may be disclosed on a "need to know" basis or to support a recommendation

In all cases, there are limits on confidentiality including cases of imminent physical safety and cases where an Ombudsperson is legally required to disclose. Provincial privacy Legislation may govern certain records.

Sample Clauses: Ensuring strict confidentiality of all personal information of clients, and undertaking no course of action on the clients' behalf without the express consent of the client, except to the extent required by law.

All dealings with The Office are deemed to be confidential, and may only be revealed on a "need to know" basis with the written consent of the complainant.

The Ombudsperson shall maintain suitable records of inquiries and cases. The files of the office shall be for the exclusive use of the Ombudsperson and members of the staff of the office and shall not be released to anyone else for any purpose.

The Ombudsperson shall not release any information regarding personal and personnel records, unless written permission has been received from the affected persons for releasing the information.

Communicate clearly to a complainant the extent to which the Ombudsperson can respect a complainant's request for confidentiality.

Should the pursuit of an inquiry necessitate the disclosure of details that identify an applicant, the applicant shall be informed. Any disclosure shall be limited to those who have a need to know.

Should an applicant decide to withdraw an application in order to protect his or her anonymity, the Ombudspersons shall respect this decision.

Confidentiality will be respected even though acceding to such a request may prevent resolution of a problem.

Communications with the Students Ombuds Services Office are deemed to be confidential:

- No member of the office will be compelled to give evidence about anything s/he learns in the exercise of his or her duties.
- Notwithstanding this guideline, the Ombuds may disclose a matter in order to establish grounds for conclusions or recommendations in a report provided the identity of the individuals involved is not made known without their permission.
- Nothing in this guideline is intended to affect the rights and responsibilities of any person under the law of British Columbia or Canada.
- The Ombudsperson shall meet with persons or groups on a confidential basis and shall not intervene without their express written or e-mail consent.
- Notwithstanding the foregoing, the Ombudsperson is not required to maintain confidentiality in cases involving the commission of a serious crime or where there is an imminent risk of physical harm or abuse.
- The Ombuds Office is not an office of record: advising the Ombuds Office of a situation is not a substitute for advising the appropriate authority.

11. Element: The Ombudsperson will not be compelled to testify or produce evidence in any University proceedings. The University will attempt to protect the Ombudsperson from being subpoenaed.

Underlying Principle: Confidentiality, Independence

Commentary: This provision protects the confidentiality of complainants and the Ombudsperson's records.

Sample Clause: The Ombudsperson shall not be required to give evidence before a University tribunal about anything that they may have learned in the exercise of his/her

duty. The University will endeavour to protect the Ombudsperson from subpoena by others, both inside and outside the University.

Jurisdiction (Elements 12 to 16)

12. Element: This area describes categories of individuals or groups who may or may not bring a concern to the Office. The categories are specified, such as students, ex-students, employees, professors, alumni, applicants, users of university services. The categories may differ from university to university and must be carefully drafted.

Underlying Principle:

Commentary:

Sample Clauses: The Ombudsperson shall investigate in such manner as they deems appropriate complaint(s) by any student, staff or faculty member of the University against the University or against anyone in the University exercising authority.

The Ombudsperson shall deal with any enquiries, complaints and grievances on any matter primarily but not exclusively, from members of the Student Union.

The Office may receive a complaint (excluding grievances falling within the scope of a Collective Agreement grievance procedure) from any member of the University Community, past or present, including students, faculty members, staff members, or administrators, or from persons outside the University Community, providing that the complaint relates to the University or University Community.

Complaints may be made by any member holding status as a student of the University community, by former members of the student body or by student applicants to the University (dependent on the discretion of the Office of the Ombudsperson), whether accepted or not at the time of the complaint.

Complaints may be made by any member of the University community (students and members of the teaching or administrative staff) or by former members of the teaching or administrative staff or student body (in respect of matters arising out of their former University employment or student status).

The Ombuds Office may receive any University-related inquiry or concern from any member of the University community, including all faculty, staff and students. From time to time, there may be students in collaborative programmes who are specifically excluded from using the services of the Ombudsperson. At the Ombudsperson's discretion, concerns may also be received from former students and previously employed staff and faculty in respect of matters arising out of their former student status or University employment. Concerns may also be received, at the discretion of

the Ombudsperson, from University applicants whether accepted or not at the time of the initial contact.

The Ombudsperson investigates, at the request of any member of the student body, any complaint that may arise between that student and the University or anyone in the University exercising authority.

13. Element: This area describes who has standing to bring concerns to the Ombuds office. Concerns should not be brought to the Office by third parties who are not personally affected in the matter.

Underlying Principle:

Commentary: Many Terms of Reference require the complainant to be personally affected by the act that is the subject of the complaint.

Sample Clause: All matters submitted by an individual or a group to the Ombudsperson must be presented by the individual involved, and no third party shall have the authority to initiate an investigation by the Ombudsperson on another's behalf.

The Office of the Ombudsperson shall not deal with the complaints or grievances from any individuals who do not present that complaint or grievance personally. Any third party attempting to initiate action on behalf of another individual shall be informed of this policy and instructed to persuade the injured party to contact the Office of the Ombudsperson.

14. Element: The types of matters the Ombudsperson can/cannot look at are delineated.

Underlying Principle:

Commentary:

Sample Clause: The Ombudspersons may help to resolve problems informally and may inquire into any University-related concerns or complaints. As well, they may inquire into the application of any policy, rule or procedure of the University.

The Ombudsperson shall be entitled to investigate any issue concerning the University or the Student Society which affects any member of the University community.

This mandate includes the right of inquiry into the application of any policy, rule or procedure; with the exception of those covered by a Collective Agreement with a certified bargaining unit.

The Ombudsperson shall not intervene in any matter covered by a collective agreement, unless all parties consent to the Ombudsperson's informal involvement.

The Ombudsperson shall not intervene if a matter is currently pending in a legal forum. In the event that both parties have retained a solicitor, the Ombudsperson may only intervene if both parties and their solicitors consent. The Ombudsperson may always provide information pertaining to University policies and procedures.

15. Element: The Ombudsperson is generally the avenue of last resort and cannot be accessed before all other avenues have been exhausted.

Underlying Principle:

Commentary: The Ombudsperson will accept to give information and advice at any stage of an ongoing process. However, the Ombudsperson will generally ask complainants to exhaust their remedies before they will accept to intervene. Others have noted that the Ombudspersons should remain sensitive to times when exhausting local remedies would impose an undue burden on the complainant. Some Terms of Reference protect the Ombudsperson from acting on a complaint where an appeal process exists until the process has been used and completed.

Sample Clause: The Ombudsperson shall refuse to intervene if the person or group seeking the Ombuds intervention has not exhausted local remedies or existing avenues and recourses or has neglected to do so in due time.

The Office of the Ombudsperson is not meant to replace established channels of assistance but may be used if an individual needs assistance in identifying where to go, would prefer to discuss a problem with a neutral party, or has already gone through established channels without satisfaction.

Where there may be another University office for the resolution of complaints or the provision of information, the Ombuds Officer shall direct enquiries to such offices and emphasize their responsibility for initiating the appropriate actions and for returning to the Ombuds Officer if not satisfied with the outcome.

Formal action shall be taken by the Ombudsperson only after all existing channels have been exhausted by the client, and the Ombudsperson has received a formal, written complaint from the client.

The Ombudsperson will not investigate issues where there is an alternate remedy, unless such remedy has not been appropriately applied. The Ombuds office is the office of last and final resort.

16. Element: The Ombudsperson may refuse to intervene or may withdraw from a case on certain grounds.

Underlying Principle:

Commentary: The Ombudsperson must have discretion to act and enough flexibility to do so.

Sample Clause: If the Ombudsperson deems a case to be unjustified, frivolous, or premature the case may be refused or discontinued at the discretion of the Ombudsperson. If requested, a statement of reasons for the refusal or termination of the case shall be issued by the Office of the Ombudsperson to the party concerned.

The Ombudsperson shall have the right to refuse or discontinue work on any case which the Ombudsperson is of the opinion is not worthy of investigation where such complaint is frivolous, vexatious, not brought in good faith, or is an abuse of the Ombudsperson's functions.

If an Ombudsperson refuses to take up a case or withdraws from a case, he or she shall, on request, provide the applicant with a written statement of the reason.

The Ombudsperson may refuse to inquire into or formally investigate a complaint or may withdraw from a case if s/he believes continued involvement is ill advised, for example, if the complaint is frivolous, vexatious (not made in good faith).

Where the Ombudsperson is satisfied that the requirements of the principles of natural justice and procedural fairness have been met, the Ombudsperson has the right to terminate his or her involvement in a case.

The complainant has had knowledge of the acts for more than one year before making a complaint and has no reasonable explanation for not pursuing a remedy or appeal or filing a complaint.

Access to Information (Elements 17)

17. Element: The Ombudsperson has access to all records, people and information. Access may be limited in the case of confidential information.

Underlying Principle: Ability to investigate independently and impartially

Commentary:

Sample Clauses: The Ombudsperson shall have access to files, records, reports, documents and information needed in fulfilling the functions of the office. Requests by the Ombudsperson for information should be handled in a mutually convenient and expeditious manner by members of the university community.

In order to fulfill the function of the office, the Ombudsperson shall have access to all official university files, records and information as required, in accordance with the University's policy on Freedom of Information and Protection of Privacy. Requests for information from the Ombudsperson must be given priority by every employee of the University.

The Ombudsperson shall have unrestricted access to all University authorities.

University officials shall respond to all:

- reasonable requests for information pertinent to the mandate of the office as stated herein will be honoured;
- requests for copies of student academic records when accompanied by written authorization of the student(s) concerned, will be honoured.

The Ombudspersons shall respect the confidentiality of any confidential information or materials to which they have access.

The University and the Student Union agree to direct their officers, agents, employees, councils and committees to render all possible assistance to the Ombudsperson in the performance of the duties of that office.

The University and the Student Union agree to make all information available to the Ombudsperson about a student subject to:

- permission having been given to the Ombudsperson by the student concerned that the Ombudsperson should have access to this information;
- the law governing privileged information;
- such policies, rules and regulations enacted by the University and the Student Union about the confidentiality of information;
- and should any information be withheld by officers or agents of the University and the Student Union, the Chief Executive Officer of the party from which the information is requested shall give reasons in writing to the Ombudsperson as to why any information is withheld; and further, it is the intent of the University and the Student Union to make all available information required for the performance of the duties of the Ombudsperson easily and readily available to the Ombudsperson.

"Access" to files shall be understood in its functional sense and will include the right of the Office to have copies of any document pertaining to the particular case under investigation, that it deems necessary for its file. The President may deny access to a document if he or she reasonably believes that there is a legal duty to deny access to the document. Copies will be made available only on the express understanding that they are in the sole custody of the Ombudsperson or Assistant Ombudsperson, that

the contents will be well protected and that there will be strict adherence to the confidentiality of information of a personal or confidential nature.

Should information be withheld by any member of the University community which is necessary for the proper performance of the Ombudsperson's responsibilities, they may bring it to the attention of the appropriate Officer, who will use his/her office to assist in securing the release of the pertinent information.

The Ombudsperson will investigate complaints and concerns having broad access to members of the University community, and to University records and reports (with the exception of medical, psychiatric, and psychological records which will be released only upon presentation of a notarized waiver signed by the individual whose records are requested, or other records privileged by law).

The Ombudsperson shall not be required to explain why the information is being sought. All reasonable requests for information pertinent to the functions and purposes of the Office of the Ombudsperson will be honoured and the Ombudsperson shall be expected to search actively for the answers to all such inquiries and provide them to the inquiring parties. The Ombudsperson may seek information from external contacts if it is warranted.

Subject to the provisions of the "Freedom of Information or Protection of Privacy Act", the Ombuds will have access to all people, files and records relevant to an inquiry or investigation.

Functions of the Office (Elements 18 to 30)

The Ombudsperson performs a variety of functions including: providing information, referring inquiries to the appropriate individuals or Offices, offering advice, intervening to facilitate a resolution, investigating concerns, recommending fair resolutions to individual cases and publishing reports and recommendations on University wide issues.

18. Element: Different methods of intervention may be specified, e.g. mediation.

Underlying Principle: Ability to investigate / Independence

Commentary: It is important not to limit the Ombudsperson's ability to intervene.

Sample Clauses: If all parties wish, the Ombudsperson may mediate a conflict or dispute when s/he believes the situation justifies mediation.

Facilitating communication between students and University staff who have the responsibility and authority to resolve specific problems.

The Office may offer mediation and advisory support at any stage to assist a person to resolve a problem by him or herself and to avoid more formal procedures.

In cases where the Ombudsperson deems it is appropriate and with the consent of one of the individual(s) involved, the Ombudsperson may intervene to attempt the resolution of a concern. Normally the Ombudsperson shall not intervene until existing avenues of redress have been exhausted although the Ombudsperson may choose to intervene following the completion of informal procedures and prior to the commencement of more formal procedures. Once a formal procedure has been commenced the Ombudsperson shall not intervene except in cases of serious procedural irregularities. This will not prohibit the Ombudsperson from continuing to offer advice and assistance to the party(ies) without becoming directly involved in the process. The method of intervention remains at the discretion of the Ombudsperson. Any intervention shall be directed at obtaining a resolution in a timely and efficient manner, at the lowest level possible within the organization.

The method of intervention remains at the discretion of the Ombudsperson but may include:

- requesting that a University official meet with a member of the University community;
- meeting directly with the other party(ies);
- facilitating communication between the parties;
- reviewing any relevant University record;
- making informal inquiries into a matter
- utilizing a form of shuttle diplomacy;
- facilitating a meeting between the parties;
- mediating a dispute;
- formally investigating a claim and;
- offering recommendations for a fair resolution.

The office shall be given, upon request, written reasons for any administrative decision taken within the University with regard to an individual complainant where the office requests such for the purpose of advising or assisting the griever.

19. Element: One of the functions of the Ombudsperson is to provide information and refer matters, as appropriate.

Underlying Principle:

Commentary:

Sample Clauses: The Ombudspersons shall:

- inform University members about existing policies, rules and procedures and advise them as to the appropriate channel of redress for any concern or complaint they may have;
- serve as an information resource for students by providing advice on policy and procedure, rights and responsibilities, and general guidance on where and to whom complaints and inquiries are appropriately directed;
- make referrals to appropriate bodies whether within or outside the University Community.

The Office shall serve as a repository of information regarding the appropriate methods to be used in the pursuit of the resolution of difficulties encountered by clients. In order to effect this service, the Office of the Ombudsperson shall have at its disposal, or shall make every effort to obtain expeditiously, such materials as are necessary to inform members of the University community on matters of policy, procedure and individual rights, as well as available services.

To serve as a general information centre for members of the University community about all situations and University procedures concerning which grievances may arise, specifically, to advise such members of their rights and responsibilities as well as the proper procedures and steps to follow in order to pursue whatever business or complaints they may have.

The Ombudsperson is expected to search actively for the answers to any pertinent questions.

20. Element: One of the functions of the Ombudsperson is to provide advice and, where appropriate, to coach individuals to assist them in resolving their own concerns.

Underlying Principle:

Commentary: The Ombudsperson can provide advice to help resolve concerns and to assist in generating and evaluating options.

Sample Clauses: The office will advise students of their rights and responsibilities and will inform them of appropriate ways to pursue their case.

The Ombudsperson shall act as an impartial and objective third party who shall attempt to provide all possible assistance to a client so the client may act on [his/her] own behalf.

The Ombudsperson shall provide advice to students, staff and faculty to help resolve concerns and to assist individuals in generating and evaluating options and determining an appropriate course of action. The Ombudsperson shall encourage individuals, where appropriate, to approach the other party or Office in a dispute directly and to act on their own behalf in resolving concerns.

21. Element: The Ombudsperson has the power to investigate a complaint.

Underlying Principle: Ability to Investigate

Commentary:

Sample Clauses: An investigation by the Ombudsperson will be undertaken at the Ombudsperson's discretion. Normally, the Ombudsperson will investigate only if:

- the person or persons affected agree the matter should be investigated;
- the matter is related to the University;
- other avenues or means to address the concern are exhausted, unavailable or for good reason unacceptable;

The Ombudsperson has sole discretion as to whether a complaint warrants investigation, and what the scope of an investigation shall be.

At their discretion, conduct an independent and objective inquiry into complaints when normal channels of recourse have been exhausted.

The Ombudsperson sets the procedures for investigations in such a manner as they see fit.

22. Element: The Ombudsperson may initiate an investigation on his/her own initiative. This is a rare occurrence.

Underlying Principle: Ability to Investigate / Independence

Commentary:

Sample Clauses: The Ombudsperson may without receiving an official complaint from the University community, identify and investigate any inadequacies in existing University procedures and policies that might jeopardize the rights of the members of the University communities.

The Ombudsperson may initiate investigations on his/her own initiative.

The Ombudsperson may, at his/her discretion, initiate inquiries or investigations concerning matters which s/he feels warrant such treatment.

The Ombudsperson may, without receiving an official complaint from the University Community, identify and investigate any inadequacies in existing University procedures and policies that might jeopardize the rights of the members of the University Community (limited).

The Ombudsperson shall act as an impartial and objective third party who shall attempt to provide all possible assistance to a client so the client may act on [his/her] own behalf.

The Ombudsperson shall provide advice to students, staff and faculty to help resolve concerns and to assist individuals in generating and evaluating options and determining an appropriate course of action. The Ombudsperson shall encourage individuals, where appropriate, to approach the other party or Office in a dispute directly and to act on their own behalf in resolving concerns.

23. Element: After investigating a case, the Ombudsperson may report the results of the investigation to the complainant. If the Ombudsperson determines that a matter is not substantiated, the Ombudsperson shall provide reasons to the parties, if requested.

Underlying Principle: Ability to Investigate and Recommend

Commentary: A complainant has the right to know why the Ombudsperson believes a complaint lacks substance. An Ombudsperson should observe the same standard of administrative fairness expected of decision makers.

Sample Clauses: An investigation by the Ombudsperson normally culminates in a written, confidential report. A draft report will be provided to each party for comment. A final report will typically contain:

- a summary or description of the information gathered in the course of the investigation;
- an analysis of the information, and its significance and relevance to the claims of the parties; and
- the Ombudsperson's reasoned conclusions and recommendations.

The report will not disclose any information without the agreement of the party providing it. If a party is unwilling to have key information included in the report or shared with other parties, the Ombudsperson has the option of terminating the investigation without making any findings or recommendations.

After concluding the inquiry or investigation, the Ombudsperson shall evaluate the merits of the concern and notify the parties of her/his findings. When the Ombudsperson concludes that a concern is not substantiated, s/he shall explain her/his findings to the individuals involved.

24. Element: The Ombudsperson may make recommendations on individual cases.

Underlying Principle: Ability to Investigate and Recommend

Commentary: Recommendations can be made verbally or in writing.

Sample Clauses: The Ombudsperson will make recommendations regarding a complaint or grievance to appropriate officials. If a recommendation is not acted upon to the Ombudsperson's satisfaction, the Ombudsperson may seek relief from a higher authority of the appropriate party.

The Ombudsperson shall bring findings and recommendations to the attention of those in authority by the most expeditious means possible, and to the University community at large to the extent this is appropriate.

To make recommendations to those in authority with a view to remedying the situation of individual students, as appropriate.

Recommend solutions when complaints are found to be valid.

The Ombudsperson may request that they be informed on any actions taken or recommendations or the reasons for not complying with them.

25. Element: The Ombudsperson may take a case or recommendation to a higher authority in the organization if the matter is not satisfactorily dealt with at the lower level in a timely way. The Ombudsperson has the option to make a recommendation public (e.g. in the annual report).

Underlying Principle: Ability to Investigate and Recommend

Commentary: Some Terms of Reference have a provision (similar to legislative Ombuds Office) whereby the Ombudsperson notifies an individual or body before issuing a critical report and giving them a reasonable time to reply.

Sample Clauses: The Ombudsperson may make recommendations regarding a complaint or grievance to the appropriate officials and if such recommendation is not acted upon to the satisfaction of the Ombudsperson, the Ombudsperson may report to a higher authority.

If, after exhausting all internal and available avenues of decision making, the Ombuds believes that the college's response to his or her recommendations is not satisfactory, s/he may prepare a report and make her or his recommendation public. The Ombuds consults with the department or persons at issue prior to making a report public and gives them a reasonable opportunity to present additional information relating to the recommendations (which may remove the need to make a public report) or otherwise seek modification of the report, including:

- The report respects the confidentiality of the parties in dispute.

- The complainant is informed of the decision to publicize the recommendations and is given the opportunity to read the proposed report.
- The department and/or persons are given the opportunity to prepare a response that will be attached to the published report.
- As a courtesy, the Student Ombuds Services Committee is shown the report prior to publication.

Recommendations issued by the Office of the Ombudsperson shall not be construed either as reflections of the operating philosophy of the funding organization(s) or any other body on campus, or as policy statements and shall explicitly state this whenever such recommendations are issued.

In the event that an Officer fails to act on a recommendation made by the Ombudsperson they, after a reasonable delay, may bring the matter to the attention of the Chief Executive Officer.

If after a reasonable delay, the matter remains unresolved, the Ombudsperson may bring it to the attention of the appropriate governing body for resolution.

26. Element: No person who files a complaint or participates in an investigation should be subject to reprisals.

Underlying Principle: Credibility, Independence, and Effectiveness of Office, Power to Investigate

Commentary:

Sample Clauses: Any member of the University community who is making a good faith effort to resolve a problem or raise a concern has the right to:

Contact and see the Ombudsperson during normal business hours to discuss his/her grievance. When necessary the Ombudsperson will provide special meeting arrangements outside of normal business hours.

Communicate with the Ombudsperson without retaliation by any University official, employee or student.

Any member of the University community has the right to seek the assistance of the Ombuds Office without reprisal or threat of reprisal from any other University member or Office. Any individual or body found to make such reprisals or threats will be subject to disciplinary action.

No person who files a complaint or participates in any way in an investigation, shall be subject to reprisals or denied any rights, privileges or benefits because of such actions.

The Ombudsperson is responsible for the development, recommendation and the implementation of appropriate procedures to protect an individual's use of the services of the Office.

27. Element: The Ombudsperson may make recommendations to change policies/procedures/regulations.

Underlying Principle: Ability to Recommend/Change Agent

Commentary: The Ombudsperson does not make policy but can provide a useful perspective. The Ombudsperson will use individual cases to identify systemic issues and preventative measures.

Sample Clauses: Bring to the attention of those in authority any policies, rules or procedures which appear unclear or inequitable or which might jeopardize the rights or freedoms of any members of the University. The Ombudspersons may suggest changes to the existing policies, rules or procedures or offer advice on the development of new policies, rules or procedures.

Identifying systemic and recurring problems and making appropriate recommendations for changes in structures and procedures.

Recommend to the appropriate University authorities, reconsideration of existing regulations or policies in light of current conditions, existing anomalies or inequities, and make proposals for change, in particular, where a matter in its opinion has not been satisfactorily concluded under existing procedures.

If, after reasonable delay, the matter remains unresolved, the Ombudsperson may bring it to the attention of the appropriate governing body for resolution.

The Ombudsperson may bring to the attention of those in authority any policies, rules or procedures that appear unclear, inequitable or unfair. The Ombudsperson may suggest changes to existing policies, rules or procedures or offer advice on the development of new policies, rules or procedures.

28. Element: The Ombudsperson reports annually and may also report periodically and make special reports. There is often a list of what the Annual Report may/should contain. There is also a mechanism for following up on recommendations made in the Annual Report.

Underlying Principle: Ability to Recommend, Accountability

Commentary: The Annual Report is critical to the Ombudsperson's accountability. The Annual Report is useful as a public relations tool. The Annual Report must not contain individual identifying characteristics because of the importance of retaining confidentiality. The Annual Report is an opportunity to report on trends, issues, and

practices, and recommend systemic improvements. The Annual Report includes statistical data. In some cases, the University provides an administrative response.

Sample Clauses: The Ombudsperson shall make an annual report to the University community through the Governing Council and such other special reports as may be required from time to time by the Governing Council.

Produce a statistical report each semester, as well as an annual report to the University community through the Ombudsperson Review Committee, and other such special reports as may be required from time to time by the Ombudsperson Review Committee.

University shall respond, through the Vice-President, Administration, to the annual report of the Ombudsperson and to any other such special report as may be required from time to time by the Ombudsperson Review Committee.

The Ombudsperson shall publish an annual report outlining cases handled, general trends in caseload, recommendations issued and any other relevant information concerning the activities of the Office for the year ended April 30th. The published report shall be available to the public.

By June 1, the Office of the Ombudsperson shall submit an annual written report on its activities to the Committee for consideration by the Senate and the Student Union. The preparation of the annual report shall be the responsibility of the Ombudsperson.

The Office may, at other times during the year, submit additional reports or recommendations to the appropriate University authority either directly, with a copy to the Committee, or through the Committee.

The Ombudspersons shall submit an annual report to the Rector by September 30 of each year. The report shall detail activities of the Ombuds Office, including statistics on all complaints received, and shall make recommendations, as necessary. The Rector shall ensure that the appropriate administrators consider and respond to the recommendations contained in the report.

The annual report shall be published in the University's newspaper.

The Ombuds will file reports with the Student Ombuds Services Committee on the operations of the Student Ombuds Service Office;

Trimester Summaries – at the end of the following periods: September 1 to December 31; January 1 to April 30 and May 1 to September 31 – in statistical format with a brief summary of current activities and trends analysis as appropriate.

Annually – in an Annual General distributed to the college community, including to the Presidents of the College and the Student Society, the vice presidents, the deans, the chief executive officers of all employee groups, and all other interested members of the college community.

Under extraordinary circumstances, as requested by the Student Ombuds Services Committee.

29. Element: The Ombudsperson may have a right to attend and/or speak at meetings of the governing bodies.

Underlying Principle: Independence

Commentary: Allows the Ombudsperson to be in tune with the pulse of the University, and provide a global perspective. Provides a good opportunity to network, and bring forward messages from the Ombudsperson's Office. The Ombudsperson may discuss problem areas and trends. An important part of Ombudsperson's persuasive power.

Sample Clauses: The Ombudsperson shall be an Official Observer at the University Senate and the Student Representative Assembly.

The Ombudsperson shall have the right to be recognized and to speak at any General Meeting of the Society, and shall be entitled to attend any meeting of the Student Forum or its various subcommittees, with full speaking privileges but no vote. The Ombudsperson's participation shall be governed by Robert's Rule of Order and ruling of the Chair. A report from the Ombudsperson shall be placed on the agenda of any General Meeting, meeting of Student Forum, or other meeting of the Student Society at the direction of the Ombudsperson.

30. Element: A list of prohibited functions may be included.

Underlying Principle: Accountability Impartiality, Confidentiality

Commentary: In defining the role of the Ombudsperson's Office, it is important to delineate the parameters and limitations of the Ombudsperson's Office. This increases understanding about what the Ombudsperson can and cannot do.

Sample Clauses: Although authorized to function in the widest possible context and with a minimum of constraints, the Ombudsperson shall not:

Be a voting member of any committee, hiring board or council of the University, but may be a non-voting member or a consultant on policy and procedure development ;

Make university of student union or other policy or replace established legislative or judicial procedures, although any or all of these may be investigated or questioned and recommendations may be made for their improvement;

Set aside a client's request to preserve anonymity even though acceding to such a request may prevent resolution of the problem;

Release any personal information regarding an individual client unless express permission has been given by the client or as required by law;

Exercise a judicial function, or make binding decisions in any case;

Act as the advocate of any party during the investigation of a complaint;

Initiate an investigation until all existing avenues for seeking redress have been exhausted;

The Ombudsperson shall not have a judicial function, that is, will not make binding decisions on any case.

Exercise authority beyond the legal authority of the University.

The Ombudsperson shall have no actual authority to impose remedies or sanctions, or to enforce or change any policy, rule or procedure.

The Ombuds Office is not an office of record: advising the Ombuds Office of a situation is not a substitute for advising the appropriate authority.

Term of Employment of the Ombudsperson (Elements 31 to 44)

31. Element: The appointment process is outlined

Underlying Principle: Independence

Commentary: The process of appointment is designed to foster the office's independence and create a broad base of support in the University community. The appointment process varies across institutions. It is important to specify how the ombudsperson will be appointed in the terms of reference so that the appointment process is transparent. A fair appointment process guarantees the independence of the appointee, and ensures that the best person is selected. The appointment process should include consultation with the various constituents. A unanimous, majority or two-thirds vote may be required to appoint the Ombudsperson.

Sample Clauses: The Ombudspersons shall be appointed by the Rector upon the recommendation of an advisory committee struck for this purpose.

Candidates for the Office shall be identified by a search committee highly representative of the University community and including students and members of the teaching and administrative staff.

The Ombudsperson shall be selected by the Ombudsperson Review Committee. The appointment of the Ombudsperson requires the joint approval of the President of the College and the elected student President of the Students' Association.

The Ombudsperson is appointed by the Governing Council on the recommendation by the President (and / or the Committee).

32. Element: The employer is identified

Underlying Principle: Independence

Commentary: Varies somewhat depending on the constituency served. For example, in some cases the Student Ombudsperson's Office is employed by the Student Union. In other cases the Ombudsperson serves all, and may be employed by the University, or the University and the Student Union.

Sample Clauses: The Ombuds will be an employee of the College on a contract administered by the Student Ombuds Services Committee.

The Ombudsperson is a University Professional Management position jointly appointed and funded by the Student Union and the University and reporting to the President of the University and the President of the Student Union. The Ombudsperson shall be subject to all the usual rights and responsibilities of a University employee in a Professional Management position.

33. Element: The minimum qualifications of the Ombudsperson are listed.

Underlying Principle:

Commentary: The minimum qualifications are designed to ensure that an appropriate individual is selected to hold the Office. An Ombudsperson should be a person of recognized knowledge, judgment, objectivity and integrity. Alternatives may be included in a job description.

Sample Clauses: Understanding of the University's structure and systems.

Ability to work in a diplomatic and credible manner with people, especially students and University personnel.

Demonstrated willingness and ability to make a two-year commitment to the position.

Listening and crisis intervention skills, bilingualism, experience in policy development and committee work, and conflict resolution skills shall be considered assets.

Given the nature of the role, it is essential that the Ombuds possess highly developed interpersonal communications skills coupled with well-developed political sensitivities.

34. Element: The Ombudsperson shall not be employed in any other capacity with the University and shall not engage in any activities that might prevent the Ombudsperson from performing his/her duties in a fair, unbiased and proper manner.

Underlying Principle: Impartiality

Commentary: Although the ideal situation is to not be employed in any other capacity, some Ombudspersons have a dual role (e.g., faculty member, sexual harassment officer). Must be cognizant of potential for conflict of interest. If the Ombudsperson has a dual role, this must be stated at the outset; it should be clear in which role the Ombudsperson is involved.

Sample Clauses: The Ombudsperson shall devote full time attention to the Office and not hold or maintain any other offices or engage in any other occupation which would interfere with the performance of the duties of the Office.

The Ombudsperson shall not hold any elected position on campus. The Ombudsperson shall not hold any appointed position or employment in the Society or any affiliate organization.

To avoid the potential for a conflict of interest, the Ombuds does not have the right to pursue other employment within the College unless the employment is of a contract nature and requires no contact with the College students and the Ombuds receives the approval of the Student Ombuds Services prior to accepting the position.

35. Element: The Ombudsperson receives a salary and benefits commensurate with the position. The salary may not be diminished during the term of the Office except as part of a program applied to all employees at the same level.

Underlying Principle: Independence

Commentary: The salary should reflect the importance of the office. The salary should not be subjected to change as a method of controlling or punishing the office / ombudsperson. Some terms also specify the benefits an Ombudsperson should receive. These should be commensurate with those received by a fairly high level administrator.

Sample Clauses:

36. Element: The Ombudsperson is entitled to severance pay if they are not provided with sufficient notice of a decision not to re-appoint.

Underlying Principle: Independence

Commentary: The institution and the Ombudsperson will necessarily be concerned if the Ombudsperson's reputation and financial well-being is affected by a review committee not meeting its obligation to decide upon re-appointment in a timely fashion. Therefore, provision should be made for that possibility.

Sample Clauses: Should the parties agree not to renew the term of the Ombudsperson upon the expiration of a term, the incumbent shall be eligible to receive a severance payment calculated at the rate of one month's salary for every two years of service as Ombudsperson, to a maximum of six month's salary.

37. Element: Many institutions have established a specified term of office for the Ombudsperson. In addition, there may be a limit on the number of terms an Ombudsperson may fulfill.

Underlying Principle: Independence

Commentary: The Ombudsperson is able to operate most effectively if they have sufficient time in the position to fully understand the institution's policies and practices and acquire sufficient experience with a wide variety of complaints to be able to identify systemic and system-wide issues. If the Ombuds role is a term position, a five-year (renewable) term period is preferable (rather than a shorter period) because it contributes to the independence of the position. There is usually a probationary period of six months or a year. However, it should be noted that in many cases, the Ombudsperson is hired as a full-time, permanent employee of the institution and can only be removed for "cause".

Sample Clauses: The appointments shall be made for an initial term of two years, renewable for further terms of five years. During the fourth year of each such term, the Rector shall appoint an appraisal committee which shall review the operations of the Ombuds Office. This review shall include, but not be limited to, consultations with the internal community as well as external appraisal.

The term of the Ombudsperson should be from three to seven years. An Ombudsperson should serve for a maximum of three terms.

38. Element: Provision may be made for the appointment of a deputy Ombudsperson, if the Ombudsperson becomes unable to act, for an extended period of time, due to a conflict of interest, illness, etc.

Underlying Principle: Independence, Impartiality, Accountability

Commentary: The appointment of a temporary Ombudsperson should be done with considerable attention being paid to maintaining the reality and appearance of independence of the Office and the impartiality of appointee. The candidate may be recruited from outside the University employee group, e.g. retired Ombudsperson, Ombudsperson from another post-secondary institution in the same geographic area.

Sample Clauses: The Management Committee shall also be responsible for recommending a temporary Ombudsperson to the President of the University and the President of the Student Union in the event that the Ombudsperson is unable to perform the duties of the Office.

39. Element: The Ombuds Office should be funded at a level sufficient to carry out the purposes of the Terms of Reference effectively.

Underlying Principle: Independence, Accountability

Commentary: The Ombudsperson should participate in the preparation of the budget for the Office and request sufficient resources to perform all functions well. When the Ombuds Office is jointly funded by the Student Union and the University, it is important to clearly outline how the costs are to be shared.

Sample Clauses: The budget for the operation of the Office of the Ombudsperson shall be set in consultation with the Ombudsperson.

40. Element: The funding of the Office is delineated in detail in order to identify the specific responsibilities of various contributors, where applicable.

Underlying Principle: Independence

Commentary: As offices may receive funding, of various types, e.g. financial, “in-kind”, from both the University and its student associations, and there may be some complexity to how these determinations are made, there is benefit in ensuring the commitments made and responsibilities assumed are clearly articulated.

Sample Clauses: It is the intent of the Parties (the University and the Student Union) to share the costs of the operations equally. In each year prior to the first day of April, the Committee shall submit a detailed budget for the operation to the Parties. The Parties shall meet and decide the total allocation for the operation. In the calculation of each of the Parties’ contributions, a mutually agreeable allowance shall be established for the provision of space, furniture and equipment which shall be credited as part of the contribution of the appropriate Party. In the event that by May 1 of each year, the Parties cannot agree to the allocation for the fiscal year commencing May 1, the operation shall be terminated and each Party shall be equally responsible for any continuing liability of the operation.

The University shall provide payroll, benefit and accounting services to the operation. The University shall be fully reimbursed for all such expenses.

Costs of operating the Office of the Ombudsperson shall be borne by the Student Union and by the Office of the Vice-President, Student Services. Notwithstanding the generality of the foregoing.

The Student Union shall provide: Photocopying Postage

The Office of the Vice-President, Student Services, shall provide: office supplies, such as stationery, file folders, etc. telephone services advertising costs office space and furnishings

Secretarial services will normally be supplied by the Student Union in accordance with its own priorities and subject to limitations of personnel. In cases where the Student Union is unable to meet the requests of the Office in this regard, the Office of the Vice-President, Student Services, shall supply such services. Also, the latter will be responsible for the typing of all reports which are to be submitted by the Office.

Arrangements for office accommodation shall be negotiated between the University and the Student Union on a mutually satisfactory basis.

The base funding for the Office of the Ombudsperson is shared equally by the University Student Union and the University. The Ombudsperson Committee will pursue when appropriate, special project funding.

In order to safeguard the independence of the Office from both the University and the University Student Council, the costs of the Office shall be divided evenly, each party contributing half.

Jointly funded by the College and Student Association – a letter of agreement will outline financial responsibilities.

41. Element: The Ombudsperson may be subject to periodic performance reviews if they are not appointed for a fixed term. The services provided by the Ombuds Office may also be periodically evaluated.

Underlying Principle: Accountability, Independence

Commentary: It is important that the Office demonstrates a high level of accountability for the quality of service provided by the Ombudsperson to the community overall and the specific users of the service.

Sample Clauses: The Office of the Ombudsperson shall be reviewed on a regular basis, coincident with the end of the incumbent's term, in a manner to be determined by the Executive Committee of the Governing Council.

At the completion of the probationary period, and after consideration of one biannual report, the Ombudsperson Advisory Committee shall conduct a performance review and shall advise the incumbent in writing of the Committee's intention concerning continuance of the incumbent in the position.

The Ombudsperson shall be subject to performance review, normally at intervals of two years from the date of confirmation in the position, throughout the term of employment.

42. Element: A mechanism is included to deal with cases where the Ombudsperson may be in a conflict of interest.

Underlying Principle: Impartiality / Accountability

Commentary: As there is no fault associated with a conflict of interest arising from circumstances which are beyond the control of the Ombudsperson, the wording focuses on how to act when such a circumstance arises so as to maintain the integrity of the Office.

Sample Clauses: The Ombudspersons shall avoid involvement in cases where there may be a conflict of interest.

In the case of an actual or threatened conflict of interest, the Ombudsperson shall make this fact known to the client and/or major parties concerned, and shall ensure that the client is aware of any other possible methods of resolving the matter.

A conflict of interest will be deemed to arise when the Ombuds' private interests supersede or compete with his or her dedication to the impartial and independent nature of the role of Ombuds. When a real or perceived conflict of interest exists, the Ombuds will declare and disclose this to the Student Ombuds Services Committee.

In appropriate cases, another member of the University community may be requested to assume the role of Ombudsperson, for the purposes of this individual case and shall, in such a role, be governed by The Terms of Reference for the Office.

43. Element: A mechanism for making complaints regarding how the Ombudsperson has implemented the Terms of Reference for the Office is also included. The complainant must waive his/her right to confidentiality if they want the complaint to proceed.

Underlying Principle: Accountability

Commentary: It is very desirable to demonstrate the high degree of accountability espoused by the Ombudsperson and the employer, by describing how the Ombudsperson is held accountable for meeting his or her responsibilities, as specifically defined in the Office's Terms of Reference. In addition, the clear definition of an appropriate course of action when a complaint is made, strives to ensure a fair process is available to all concerned, e.g. the complainant, the investigators of the complaint and the Ombudsperson.

Sample Clauses: If a member considers that an Ombudsperson has committed a procedural or substantive violation of these terms of reference, with respect to any matter to which the member has been a party, they may submit a written complaint, detailing the alleged violation, to the Rector. The Rector shall investigate the complaint and inform the member of the results of the investigation.

Note: If a member of the University community believes that the Ombudsperson has committed a procedural or substantive violation of these terms of reference, with respect to any matter that the member has been a party, s/he may submit a written complaint, detailing the alleged violation to the Chair of the Committee. The Ombudsperson Review Committee will investigate the allegation and inform the members of the University community of the result.

Any complaints against the Ombudsperson shall be presented, in person and in written form, to the Student Forum.

If a member of the University community believes that the Ombudsperson has committed a procedural or substantive violation of these Terms or Reference s/he may submit a written complaint, detailing the alleged violation, to the President of the University and the President of the Student Union. The complainant must be a party to the matter in question and no complaint shall be considered while a case is ongoing. The President of the University and the President of the Student Union (or if they are personally involved, the Provost and the Speaker of the Student Representative Assembly) may personally investigate the matter or may jointly select one or more members of the University community to investigate the matter, and report back to them as to his/her/their findings. The Ombudsperson shall be provided a fair opportunity to answer any allegations. Following the investigation, the President of the University and the President of the Student Union shall, acting jointly, take whatever action they deem appropriate including requesting further investigation, dismissing the complaint if it has been successfully answered, or taking appropriate discipline action, up to and including dismissal for cause.

The Committee may receive comments from clients, respondents or others in the University Community about the performance of the Ombudsperson and may take whatever actions it sees fit in consequence.

44. Element: Termination of the Ombudsperson's contract or employment should only be for "cause".

Underlying Principle: Independence

Commentary: As there is the potential for the Ombudsperson to bring forward issues or recommendations that the University or an individual finds annoying or embarrassing, it is important that the employment relationship be defined in such a way that termination can not be used as a form of reprisal against the Ombudsperson.

Sample Clauses: By concurring resolutions of the Senate and the Student Union approving a recommendation of the Committee, an appointment can be terminated for stated cause concerning incapacity, breach or neglect of duties.

Upon successful completion of the probationary period, the Ombudsperson may only be terminated for cause. The Ombudsperson Advisory Committee shall develop procedures to be employed when termination is proposed, and shall be guided by standard procedures in force at the University.

The Ombudsperson may not be removed from Office on the basis of acts performed under the authority of these Terms of Reference.

Office procedures (Elements 45 to 51)

45. Element: The Ombudsperson may delegate responsibilities conferred by the Terms of Reference to any member of his/her staff.

Underlying Principle: Independence

Commentary: The power to delegate supports the functional independence of an office and is exercised according to the managerial discretion possessed by the Ombudsperson.

Sample Clauses: Wherever the word 'Ombudsperson' is used in these terms of reference, it is intended to cover not only the Ombudsperson, but also other staff who may be authorized from time to time to carry out certain functions of the office.

The authority and responsibility of the Ombudsperson and Assistant Ombudsperson, when dealing with a particular matter, shall be the same as that of the Office.

46. Element: The Ombudsperson may appoint/dismiss the office's staff, set compensations and other terms and conditions of employment.

Underlying Principle: Independence

Commentary: The power to delegate supports the functional independence of an office and is exercised according to the managerial discretion possessed by the Ombudsperson.

Sample Clauses: The Ombudsperson has the sole power to appoint and remove staff of the office.

The Co-ordinating Committee shall, upon the recommendation of the Ombudsperson, appoint and dismiss all other employees of the office and set compensation for such employees subject to ratification by the University and the Student Union.

47. Element: The Ombudsperson may, as s/he sees fit, adopt whatever rules, regulations, policies and procedures are necessary to govern the day-to-day operation of the Office. These may include procedures for receiving and processing complaints, conducting investigations and reporting findings and recommendations.

Underlying Principle: Independence

Commentary: This power is part of the power of the Ombudsperson to manage the affairs of the office in accordance with its mandate and duties.

Sample Clauses: In the event that a period of one month should elapse without contact between the Ombudsperson and the client, after all reasonable attempts have been made by the Office of the Ombudsperson to contact the client, the client's case may be considered withdrawn.

The Ombudsperson is not required to intervene in cases that are not brought to the Office in a timely manner.

48. Element: The Ombudsperson may set policy to govern the retention of case files and other Office records.

Underlying Principle: Jurisdiction and power to manage the affairs of the Office.

Commentary:

Sample Clauses: The Ombudspersons shall maintain suitable records of complaints, findings and recommendations which shall be accessible only to the staff of the Ombuds Office. Such files shall be destroyed according to a retention schedule determined in accordance with provincial legislation.

Case records will normally be maintained for two years, or longer at the discretion of the Ombudsperson currently in the Office. Materials received from parties to the case, or copies of documents submitted to the Ombudsperson in his/her formal capacity, will be deemed property of the Ombuds Office. An Ombudsperson's personal notes will be

deemed his/her personal property, and those are left in the Case Record files at his/her personal discretion.

Each file and record will be maintained for a period of seven years and one day from the date on which the Ombudsperson deems the case to be completed. At the end of the period of seven years and one day, the file or record may be destroyed; however, no destruction of the file or record will take place while any proceedings are pending in the University, the Courts or any outside tribunal and until after all rights or appeal are exhausted or times of appeal have expired.

All records are deemed to be the property of the Student Ombuds Services Office.

All case files, regardless of status, shall be kept confidential unless otherwise stated in writing by the client. All documentation of cases shall be solely for the use of the Office of the Ombudsperson and may be destroyed at the discretion of the Ombudsperson.

Case records will normally be maintained for two years, or longer at the discretion to the Ombudsperson currently in the Office. Materials received from parties to the case, or copies of documents submitted to the Ombudsperson in his/her formal capacity, will be deemed property of the Ombuds Office. An Ombudsperson's personal notes will be deemed his/her personal property, and those are left in the Case Record files at his/her personal discretion.

49. Element: Cases are normally considered on a first come-first served basis subject to the Ombudsperson's discretion. An effort is made to handle cases as expeditiously as possible.

Underlying Principle: Accessibility and Simplicity

Commentary: This element is supported by the independence of the Office and its ability to manage its own affairs.

Sample Clauses: The office will normally function on a first come, first served basis, though the Ombudsperson shall have discretion to make exceptions. Cases will be handled promptly.

50. Element: The Ombudsperson may contract for professional services as reasonably required.

Underlying Principle: Independence

Commentary: The Ombudsperson may require professional advice, from time to time, in order to fulfill all required functions. Possibilities that may require consultation are legal matters, methodologies for evaluation of service, etc.

Sample Clauses:

51. Element: The Terms of Reference are subject to periodic review and a method of amending the terms is specified. Any amendment process requires broad consent.

Underlying Principle: Independence

Commentary:

Sample Clauses: