

# Online Dispute Resolution and Ombuds: Bringing Technology to the Table

COLIN RULE AND INDU SEN

## ABSTRACT

People in industrialized countries now conduct most of their professional and personal communication using technology. Whether Skyping home from a business trip to tell the kids good night, conducting a twenty-person conference call with teams around the world, or wading through the endless stream of e-mails from coworkers, technology is almost unavoidable in modern life. Some of the capabilities that technology enables border on the miraculous, like the newfound ability to reach anyone around the world with just a few swipes on a tablet. As a result, many now work more closely with teams on the other side of the planet than teams across the hallway. But, of course, people are just as complicated via computer-mediated communication as they are via face-to-face communication, so technology doesn't erase conflict. Disputes and misunderstandings occur with or without technology, but the proliferation of technology introduces new wrinkles in the fabric of workplace conflicts. Ombudsmen are increasingly called upon

to respond to disputes arising in these new contexts, and it's simply not feasible to jump on a plane to handle all of them in person. Virtual "visitors" to an ombudsman's office and other stakeholders now speak the language of technology, and they increasingly expect to use technology to help resolve workplace disputes. As a result, ombudsmen are also called upon to be more versatile with their toolbox to ensure that they can provide support in the ways that are most helpful to their constituents. In this article, the authors, one a practicing ombuds and the other an online dispute practitioner, discuss how technology is changing the work of ombudsmen, offering both challenges and opportunities, and share some lessons learned and new capabilities gleaned from the field of online dispute resolution (ODR).

## KEYWORDS

Online dispute resolution, ODR, technology, communication, negotiation, virtual, conflict resolution, computer-mediated communication, mediation

Technology is transforming the way in which people live and work. Individuals all over the world now communicate effortlessly with each other via powerful computers they carry in pockets all the time, wirelessly connected to the Internet (which, by habit, are still called "phones"). These devices have eliminated a lot of the geographic barriers that previously constrained interpersonal communication, and, as a result, daily working relationships now stretch around the globe and cross multiple time zones. But people are just as complicated on either side of an Internet connection as they are face-to-face, because computers don't erase all the things that make humans complex and emotional. Disputes can still arise between coworkers even if those coworkers have never met each other in person; technology now enables those disputes to transcend time and space. If the services

of ombudsmen are to stay relevant in this newly wired world, and tackle the phenomenon of conflict in cyberspace, ombudsmen must learn how to leverage technology to transcend time and space in a similar fashion.

Ombudsmen are in the communication business. The reality, for many ombudsmen, is that they already work across offices; time zones; countries and regions; and administrative, field, and other types of organizational operations—and with populations who have diverse communication needs and styles. Although they may not be able to meet every single need, to be effective they must be able to diagnose root causes of conflict and miscommunication, then identify what can facilitate communication in a given situation. It is an important time to ask where technology falls in the scope of the organizational ombudsman's work, including whether ombudsmen are aware of—and can make (better) use of—the technological tools that can improve dispute resolution processes, reach, and services. These questions also highlight the reality and impact of technology on workplace communication. As advocates for improved methods of communication and conflict resolution within their organizations, and as communication channels themselves, ombudsmen must develop a greater understanding of how technology can positively affect conflict resolution.

## Communication, Relationships, and Technology

When a dispute arises between two individuals or a within group, the first thing that comes to mind for most ombuds is communicating with the person who raised the concern, carefully evaluating options, including whether it may be possible to have the parties sit down and work out the problem through direct communication. It is safe to say that most people who gravitate toward ombudsman work are people who are good at facilitating this kind of in-person interaction. As such, the idea of using technology to convene a discussion can at first seem impersonal and strange. Common questions may include: How can we be effective in our role if we can't see the parties or read the emotions in the room? How will I earn trust from the person without the intimacy of an in-person meeting? Won't technology make facilitating the conversation more difficult, or serve to dehumanize the interaction between the parties? How can I ensure that the parties remain engaged with the process? How will I be able to ensure confidentiality? How can I be sure that technology will not become an additional hurdle to overcome?

Twenty years ago, professional dispute resolvers were quite skeptical about using technology. The sense was that technology only enabled sterile, antiseptic communication, stripped of real honesty and emotion. Many people argued that online apologies, in particular, were not as effective as face-to-face apologies because of the lack of nonverbal communication. The oft-expressed concern was that overly simplistic software solutions would trivialize disputes and suggest that disputants could just click their way out of any issues they encountered. As such, dispute-resolution professionals were very slow to adopt technology into their practices, and many insisted that face-to-face communication was the only real way to conduct conflict-resolution procedures.<sup>1</sup>

Over the past ten years, however, technology has “humanized.” The tools used to interact with each other in the realm of computer-mediated communication have become far more intuitive and easy to use, while at the same time becoming more powerful. Devices like smartphones and tablets have made interaction with technology as simple as pointing one's finger, which for many seems more natural and human than typing on a keyboard. Computers now play pleasing sounds and show pictures and video in stunning clarity and color. Technology has gotten much better at

connecting with people, and helping to connect people with people. In response, people have started connecting more with technology to facilitate communication and relationships in contexts from family to the workplace. Though it does not replace the need for in-person communication and nurturing, technology is adapting to evolving human needs and interests, making communication available and accessible where it may not have been in the past.

As a result, the times (and our culture) are changing rapidly. The purpose of this piece is not to judge whether such changes are “good” or “bad,” but rather to recognize that they are happening. Computer-mediated communication is now used in ways that would have seemed inconceivable a decade ago. Not only is videoconferencing used to say good night to kids when parents are on a business trip, some even send text message spouses when that spouse is in the next room instead of just walking over to ask a question. Members of the younger generation, in particular, have become reliant on technology in almost every area of their lives. Not only do they use technology throughout their workdays, they’ve become comfortable using it in many of their most intimate personal relationships. As such, when a dispute arises, many people now expect to be able to use the same kinds of tools to address issues quickly and effectively. Technology is built into our daily lives so thoroughly that, for many people, *not* using computer-mediated communication to address a workplace dispute would seem weird. Yet many mediators and ombudsmen remain skeptical.

## Hesitation Versus Reality of Needs

Within the field of conflict resolution, there is still a hesitation about integrating technology into informal dispute- and conflict-resolution processes. Often online dispute resolution, or ODR, is presented in a manner that suggests there is a bright line between online dispute resolution and face-to-face dispute resolution, and that a dispute-resolution process has to be either one or the other. But that distinction is something of a false dichotomy. In reality, many of us switch back and forth between online and face-to-face communication all the time. It does not feel strange to speak with someone face-to-face, then look down to send him or her a calendar invitation from one’s phone, then have him or her accept the invitation and send back a document while getting into a taxicab—all within the space of a few minutes. This is true within the workplace as well. Staff may choose to send e-mails to a coworker in the next cube—partially out of convenience, but also out of courtesy to not interrupt a coworker in the middle of a task he or she is focused upon. It may also be important to have a record of that communication (something that is not created with a phone call or in person). These approaches have become so common that they are not even noticed anymore.

Dispute-resolution processes are not necessarily so different. Organizational ombudsmen may follow a policy of not creating records that identify the person who brings a concern, but in a truly party-empowered process, perhaps the parties to a dispute can decide themselves that they want to handle some of the issues over e-mail or via text, other issues over the phone or conference call, and other issues at an in-person meeting. In practice, an ombudsperson may initially engage with the parties over e-mail to coordinate a meeting, then shift to phone, then engage face-to-face, before shifting back to phone for follow-up and using an online feedback form for receiving feedback on the services of her office. Our parties balance between these different forms of communication every day in their working lives, and they will expect that their neutrals will be similarly comfortable moving between these different communication types. There is no need decide whether to handle dispute resolution work online or offline, because parties are already comfortable using both. In fact, individuals are already learning to sort their interactions into different communication chan-

nels based on the nature of the relationship in question. As ombudsmen work in more global and fast-paced organizational environments with diverse sets of constituents, they encounter different communication styles, relationships, comfort zones, preferences, available tools, and other practical needs. It begs the question of what tools can be provided to enhance communication for regular ombudsman practice, as well as tailoring to specific needs and preferences, and how technology can support such efforts. For example, how can technology facilitate communication in setting up and conducting a meeting with someone who has a hearing impairment and lives on another continent?

## What ODR Can Offer Practitioners

Many lessons about how to effectively marry technology and conflict resolution come out of the field of ODR. When ODR first began about 15 years ago, many providers just replicated face-to-face processes in software. But those of us who experimented with those software tools quickly realized that some face-to-face dispute-resolution processes work well online, but others do not translate at all. The discovery of software algorithms opened up exciting new possibilities to assist parties in resolving their disputes. Ethan Katsh, a professor from the University of Massachusetts–Amherst who is widely regarded as the “father” of ODR, described these possibilities in his book *Online Dispute Resolution*, labeling them the “fourth party,” where technology earns a seat at the table alongside the human neutral (the third party) and the disputants.<sup>2</sup> This idea of technology as a fourth party has become a foundational concept in the practice of ODR.

The fourth party can assist parties in a variety of ways as they move toward resolution. For example, a fourth party can provide information and set expectations for the parties in an impartial way that a third party cannot. Software algorithms can also enable a variety of different types of communication, from text-based asynchronous conversations (such as e-mail) to text-based synchronous conversations (such as chat). Software can also enable audio and video conversations via tools such as Skype and Google Hangouts. These tools can enable participation from individuals anywhere in the world, saving them the time and expense of travel, and increasing the participation and engagement of disputants. Fourth-party tools can offer online joint-document editing (such as Google Docs), where parties can collaboratively author documents, or online “wizards” that help parties explore their options or provide early resolution for issues—sometimes before the complainant even informs the respondent about their concerns. Software tools can quickly address simple misunderstandings before they escalate or offer a library of creative possibilities to help parties craft their ideal solutions. Every year technology gets more powerful and more intuitive, making the fourth party an increasingly helpful presence at the negotiating table. There is little doubt that more advances are just around the corner.

## Technology as a Tool for Facilitated Processes: Asynchronous Communication

One of ODR’s greatest capabilities is its ability to enable text-based asynchronous processes, such as in mediation processes, to accommodate the needs of certain types of conflicts and dispute-resolution processes. Asynchronous communications such as e-mail open up some exciting possibilities in conflict resolution. Let’s consider the arena of negotiation. In an asynchronous dispute-resolution process, technology is a tool that gives access to the process to parties; they can participate from different locations and at different times, rather than participating in real-time interactions. For instance, in a mediation process, sessions are often held jointly with both parties sitting at the same

table. If the neutral wants to have a private conversation with one of the parties, the neutral needs to pause the joint session and begin a caucus session, sending the other party out of the room for a certain period of time. There are often sensitivities around how much time the mediator spends in caucus with one party versus the other party. If the mediator sends Party A out into the hallway and talks to Party B for twenty minutes, and then switches parties and speaks to Party A for only five minutes, that can create concerns in both parties. Is the mediator showing favoritism to one side versus the other? Is the mediator putting more pressure on one side to ease his or her demands versus the other side?

In contrast, in an online asynchronous process, three conversations can take place at the same time. One conversation is a joint discussion between both parties and the mediator; the second conversation is private conversation between Party A and the mediator; the third conversation is private conversation between Party B and the mediator. The parties can post messages into each conversation at any time. This ability is sometimes referred to as “concurrent caucusing.” It may be that Party A is not interested in having extensive private conversations with the mediator and does not post very much in his or her private caucus conversation. Party B, on the other hand, may want to post lots of messages in the private conversation, perhaps because he or she has never been in a dispute resolution process before and has many more questions about what is going on. Because Party A and Party B have equal access to the mediator, they have no concerns about asymmetries in the amount of time the mediator spends with each of them in caucus conversations. However, the mediator is free to spend as much time as is required for the effective administration of the resolution process with each party in their private channels.

Another benefit of concurrent caucusing is the ability to get private feedback from the parties, even when it appears the conversation in the joint discussion is going well. In face-to-face dispute resolution processes, the mediator is often reluctant to caucus with the parties while progress is being made because of the risk that such a caucus would slow down or derail the joint problem solving that is occurring. However, one of the parties may have misgivings or concerns as the process moves quickly toward a proposed resolution, and the lack of a private communication channel may make it difficult for that party to raise those concerns. An asynchronous conversation with concurrent discussions enables the mediator to check in with the parties even when the joint conversation is going well, which may enable the mediator to be more aware of concerns that may potentially derail a resolution or interfere with further adherence to an eventual agreement.

Asynchronous communication is not only helpful to parties; it can also benefit conflict resolution practitioners. One of these new capabilities is to enable the mediator to dynamically reframe negotiation communication between the parties. In some of the face-to-face mediations the authors have conducted, emotions run high and parties have made comments that were intentionally hurtful, which served to significantly complicate the conversation and undermine trust. When such an incendiary comment is made in an asynchronous communication environment, the neutral can see the comment prior to the other party viewing it and discuss it with the party who originally posted it, in order to learn more about what the poster is aiming to achieve. For instance, a neutral may put an angrily worded post into a comment “holding bin,” which creates a window of time in which the mediator might ask the poster how he or she feels this comment will be received by the other party, and whether he or she feels it will help move the process toward a mutually satisfactory solution. Upon reflection, the party may decide that redrafting the comment is advisable because it might have a negative impact on the negotiation. This type of precommunication reframing is only possi-

ble in an asynchronous interaction because, in a face-to-face interaction, a comment uttered by one party is heard by the other party as soon as the comment leaves the first party's lips. Then the neutral is put into a difficult situation where it is impossible to "unring" the bell that has just been "rung" by the provocative comment.

## ODR in Ombuds Work

New capabilities make ODR a very useful option for ombuds to use in dispute-resolution processes. Workplace environments have struggled with the challenge of resolving disputes for decades. Part of this is because confronting conflict can be very unpleasant. For instance, people in some cultures find it quite embarrassing to admit to having a dispute, and those in other cultures may find it difficult to have direct face-to-face communication with someone of a different status. Resolution processes that rely exclusively upon face-to-face communication can sometimes find themselves "stuck" or ineffective in contexts like these. In the first example (embarrassment), if an ombudsperson approaches an individual in a situation like this and asks that person about the existence of a conflict, the party will often deny it. The person may feel that experiencing a conflict is shameful and an indication of selfishness or personal weakness. However, even if the party refuses to acknowledge the existence of a conflict, it still may exist—and potentially worsen over time. Online communication channels can sometimes provide a way for the matter to be addressed without requiring an embarrassing face-to-face confrontation. The change of communication type afforded by online dispute-resolution mechanisms can help the parties get a bit of distance from the disagreement, which can create space to brainstorm effective ways to resolve it. The parties engaged in the online communication may in fact act like nothing is going on, in their face-to-face interactions, but the online channel enables them to communicate openly and brainstorm solutions. One cannot assume that the optimal informal conflict-resolution process is always direct face-to-face communication, once one knows about cultural considerations and the different needs of those who contact an ombuds office.

Asynchronous communication can be beneficial when an ombudsman is working within an organization populated by individuals who speak different languages and dialects. Disputes possibly arising from cultural miscommunications or language difficulties may require a process that supports and helps the ombudsman bridge the resulting communication challenges. Face-to-face interaction, particularly if the process is conducted in a second or third language for one of the parties, can be complicated by misunderstandings and inaccurate translations. Text-based asynchronous communication can enable the parties to be more reflective and thoughtful in the messages they exchange, which can moderate the potential for further misunderstandings because they have an opportunity to review and edit their messages before sharing them with the other side. Asynchronous communication can also enable the parties to do research in the midst of the negotiation, potentially empowering them with important data that can help achieve a more robust and fair resolution. It can also enable the parties to consult with other experts or supporters to ensure that they are fully informed of applicable rights and are equipped with accurate information instead of presumptions and guesses. Asynchronous communication can also be prioritized against other obligations, because it does not require immediate response to every message. In this way, asynchronous interaction can help parties be at their best in a resolution process, which leads to better resolutions.

Online dispute resolution can also alter the ombudsperson's access to information within their organization. Online communication can be anonymous, and anonymity can be a powerful tool in getting people to be honest about their perspectives; anonymity can drive trust in an environment

where there may be a lack of perceived or actual safety in speaking up. In the face-to-face context, anonymity is often infeasible if not impossible. For instance, an ombuds might create an online form to collect concerns and feedback anonymously, enabling the ombudsperson to further research specific areas or provide supporting information for making recommendations gathered through these channels. As ombuds practitioners understand well, for situations where individuals may be afraid of retaliation or stigmatization, an anonymous forum can give them a way to share information that they want to share without fear. In many ways, ombuds serve as that forum, but an online tool overseen by the ombuds office can enhance this ability and be instrumental in allowing such information to surface.

ODR tools can also be used creatively in raising awareness about an ombuds program and conducting outreach to constituents. Ombuds offices typically make outreach efforts to ensure that those who have access to the office know about the program, the people involved in the program, how the office can help, how to contact the office, etc. Most ombuds offices already use websites to provide such information; some also take advantage of online intake and calendaring tools. It is a natural next step to extend these tools to make the information more accessible. In addition, since many ombuds offices also provide training and education, there are opportunities to think about how ODR can help support these efforts through online forums, boards, webinar sessions, virtual town halls, etc.

Online dispute resolution can also be very helpful in the reporting-upward context. Ombudsman programs typically collect data to share a picture of the types of issues received and feedback the organization should be aware of, and many use a case-management system. ODR tools can make the collection and management of data, monitoring of issues, and follow-up of reports transparent and thoroughly documented. It is plausible for an ombuds office to have a tool for an ODR system that not only assists with the resolution process, but also supports the larger case-management system, assists with the awareness and outreach efforts of the program, and automatically generates reports (including trend analyses and red flags), sharing them with appropriate audiences. In this way, ODR tools can become a partner for an ombuds office and its staff; they can even help improve coordination, the sharing of updated information, communication, and discussions between ombudsmen in a common office.

## Downsides to Technology in Dispute Resolution

It must also be noted that integrating technology is not always a good thing, when it comes to dispute-resolution processes. Sometimes the lack of nonverbal communication can make engagement between the parties more complicated, or perpetuate misconceptions and misunderstandings. In some disputes, one party may be much more comfortable with technology than the other party; as a result, the use of technology may perpetuate power imbalances. For example, if one party is able to type much faster than the other party, and the dispute is being resolved in an asynchronous, text-based chat-type environment, the faster typist may have a significant advantage and may leverage that advantage by getting in two or three words for every word that the other party types. Or, if one party has a powerful computer with a fast Internet connection and the other party is relying on an older computer with a slow dial-up connection, it can also generate imbalances between the parties. Equal access to the right tools for the process can affect actual or perceived fairness in a process. Of course, it is important to remember that conflict can signal a rupture in a relationship, and technology may not play a role in helping to soothe and heal the harms caused by that rupture. The authors do

not advocate the integration of technology into every dispute-resolution process. Instead, they urge ombudsmen to incorporate these tools and techniques into their toolbox of approaches, so that the tools can be appropriately deployed in situations where they can add value to the process—but avoided in situations where they are likely to be a distraction or further complicate matters.

## Questions Ombudsmen May Have as They Incorporate Helpful ODR Tools

Ombudsmen may have several questions when incorporating technology into their practices. One of them focuses on confidentiality and record keeping. If, for example, an office adheres to the IOA Standards of Practice and Code of Ethics, an ombudsman does not keep records that contain identifying information on behalf of the organization (see standard 3.5).<sup>3</sup> However, tools and services such as encryption, deleting identifying records, using independent third-party services, and other security measures may help address this question. An online tool does not necessarily create or keep identifying records, but the ombuds profession many need to consider this issue. Many ombudsmen are already using tools such as company or external e-mail systems, Skype, Doodle, and SurveyMonkey, because they help them reach the right audience and have become indispensable in today's world—especially to those who have a dispersed constituency. However, confidentiality and security are issues that should be addressed, because many of these tools are not confidential. Some concerns are also due to the “unknown” about how technology affects confidentiality, which is a reason for ombudsmen to become more familiar with ODR tools. Much of this also depends on the agreement between the ombuds program and the organization, and the level of independence a program has around confidentiality.

Another question involves informality. Because an ombudsman is an informal resource, would using online dispute resolution make the process more formal or less formal? We think that it does not, if it is clearly for the purposes of informal dispute resolution. ODR can be used to facilitate both formal and informal processes without changing their character. It supports the facilitator as a “fourth party” and helps a practitioner use methods of communication that are already familiar to their constituents, when appropriate.

Ombudsmen likely have several questions about using technology in their practices, but a final question worth mentioning here is practitioners' fear of incorporating something new (and perhaps some self-doubt about their abilities to pursue, learn, and use new technology in their practices). Focusing on providing safe in-person places for visitors is invaluable; however, ombuds also need to find ways to reach those who may not be able to engage in in-person sessions. Therefore, the question this begs of practitioners is how to build ODR awareness and skills—or technology, more broadly. Technology cannot replace ombudsmen, but it can enhance their ability to reach others. The authors encourage others to learn what would be possible—not only for their offices and their practices, but also for themselves as practitioners who can be equipped with a new set of skills.

## Conclusion

New technologies often stimulate skepticism about their acceptability and worry about what will be lost if that technology catches on. In the 1980s, when banks were beginning to roll out automated teller machines (ATMs) for their customers, a common argument against the ATMs was that people wanted to have personal relationships with their bankers. The trust generated by shaking

someone's hand and looking into his or her eyes could never be established with a faceless machine just distributing cash. Think about your own experience, though. When was the last time you went inside a bank to withdraw money from your account? Do you miss the experience of standing in line and speaking to a teller in person? In modern times it is unusual for individuals to go inside a bank branch to take care of simple tasks regarding their bank accounts, but they will see a teller if they need to deal with complex problems beyond the capabilities of machines. In the last few years, ATMs have become even more powerful and flexible: taking stacks of checks all at once, scanning and reading them, and rarely making mistakes. Bank customers now trust the machines and, in many cases, prefer them to people for simple interactions. The tellers instead focus on the exceptional processes—the tasks that require deliberation and advice. Banks have transferred administrative tasks to the ATMs (who are kind of like the “fourth parties” of banking). These changes are good for consumers and good for the banks.

A similar change is coming to the practice of dispute resolution. Ombuds play an indispensable role in connecting and supporting people in their organizations, and the heart of that will always be face-to-face interaction. But technology is getting better at handling the administrative burdens of conflict resolution. Visitors to an ombuds office increasingly expect to be able to raise a concern or make a complaint at any hour of the day or night because they recognize the software is always there, continuously available, in a way that humans simply cannot be. As it improves, software will help ombudsmen provide relevant information to parties, improve responsiveness, expand transparency and accessibility, and provide continuous process improvement. It will also enable us to focus our efforts on the cases that most require a human touch, instead of spreading ourselves thinly over many cases that shouldn't demand equal measures of our attention. It will help ombudsmen reach more people and help more people reach the services of an ombudsman.

The increased sophistication of our technology tools will continue to transform the role of the ombudsperson, especially as the expectations of our parties change along with society's wider transformation. Ombudsmen should continuously educate themselves about newly available technology tools so their practices can evolve with the times. If done right, this expansion of technology will help to make us more effective in our organizations, and keep us relevant—no matter what new technologies emerge in the future and what role they play in creating or resolving workplace conflicts.

## NOTES

1. Colin Rule, “Technology and the Future of Dispute Resolution,” *Dispute Resolution Magazine* 21 (2), [http://www.americanbar.org/publications/dispute\\_resolution\\_magazine/2015/winter/technology-and-the-future-of-dispute-resolution.html](http://www.americanbar.org/publications/dispute_resolution_magazine/2015/winter/technology-and-the-future-of-dispute-resolution.html).
2. Ethan Katsh and Janet Rifkin, *Online Dispute Resolution: Resolving Conflicts in Cyberspace* (San Francisco: Jossey-Bass, 2001).
3. “IOA Standards of Practice,” International Ombudsman Association, accessed June 3, 2015, [http://www.ombudsassociation.org/IOA\\_Main/media/SiteFiles/IOA\\_Standards\\_of\\_Practice\\_Oct09.pdf](http://www.ombudsassociation.org/IOA_Main/media/SiteFiles/IOA_Standards_of_Practice_Oct09.pdf).

## AUTHORS' BIOGRAPHIES

**Dr. Johnston S. Barkat** is Assistant Secretary-General heading the United Nations Ombudsman and Mediation Services. As a senior advisor reporting to the Secretary-General, he oversees offices in New York, Geneva, Vienna, Nairobi, Bangkok, Santiago, Entebbe (Uganda) and Goma (Democratic Republic of the Congo).

Dr. Barkat is an internationally recognized expert in mediation, dispute resolution systems design, and preventive diplomacy. He has taught at Columbia University's International Center for Cooperation and Conflict Resolution. He is a Distinguished Visiting Professor at Pace University and an honorary faculty of dispute resolution for the University of Granada School of Law, in Granada, Spain.

He has held leadership roles in the Association for Conflict Resolution, served as former president of the International Ombudsman Association, and is a fellow of the American Bar Foundation. Dr. Barkat's Ph.D. research focused on negotiating intractable conflicts.

**Shereen Bingham, Ph.D.**, is a professor of communication, an ombudsperson, and serves on the Women's and Gender Studies faculty at the University of Nebraska at Omaha. She is a Nebraska State Court-approved family mediator and an affiliate of Concord Mediation Center in Omaha.

**Dr. Frank Fowlie** was the inaugural ombudsman for the Internet Corporation for Assigned Names and Numbers (ICANN). He is currently the ombudsman for the International Organization for Migration (IOM) at Geneva. Frank holds a doctorate in conflict resolution from La Trobe University in Melbourne.

**Charles L. Howard** is a lawyer in private practice who has served as independent counsel for organizational ombuds programs for twenty-five years. He has written and spoken frequently on ombuds related topics and is the author of *The Organizational Ombudsman: Origins, Roles, and Operations—A Legal Guide*, published by the American Bar Association Dispute Resolution Section in 2010. He currently serves as chair of the Ombuds Committee of the ABA Dispute Resolution Section.  
[choward@goodwin.com](mailto:choward@goodwin.com)

**Daniel Rainey** is currently the Chief of Staff for the National Mediation Board (NMB). He is a former ombudsman and was involved in the design of the ombudsman offices at the NMB and the U.S. Navy Medical Command.

**Colin Rule** is co-founder and COO of Modria.com, an online dispute resolution service provider in San Jose, California. Prior to founding Modria, Colin was director of Online Dispute Resolution for eBay and PayPal from 2003-2011. Colin is also the author of the book *Online Dispute Resolution for Business* and co-chair of the Advisory Board of the National Center for Technology and Dispute Resolution at University of Massachusetts-Amherst.

**Indu Sen** is the ombudsman at the International Baccalaureate Organization (IB), a non-profit educational foundation headquartered in Geneva. She serves the IB's internal and external stakeholders globally. Prior to the IB, Indu was the director of the Office of the Ombudsman at the University of California, Riverside. She currently serves on the IOA Board of Directors and the International Committee, and is the coordinator of the Asia Pacific Regional Advisory Committee. One of her past endeavors was co-founding FairShake ODR, a project dedicated to looking at how technology can facilitate ADR processes and increase access to dispute resolution.

## MISSION STATEMENT

The *Journal of the International Ombudsman Association (JIOA)* is a peer-reviewed online journal for scholarly articles and information relevant to the Ombudsman profession. As members of a relatively new profession, we continually strive to understand, define and clarify the role and function of the professional organizational Ombudsman. *JIOA* will help foster recognition that what we do for our agencies, corporations, colleges and universities is worthy of study. While we must vigorously protect the confidentiality of our interactions, we can still study and be studied to understand what we do and how we do it; what works well and what doesn't work; what our options are; how social, technical and legal changes may impact us; what the profile and career development of Ombudsman professionals might be, and other matters of interest. The *JIOA* can facilitate a greater interest in Ombudsing, enhance our professional standing, and serve to give us a better understanding of our dynamic roles and the impact on our institutions and agencies. The journal also will allow IOA members, other Ombudsmen, and other professionals to reach out to their colleagues with their ideas, research findings, theories, and recommendations for best practices and to engage in ongoing discussions of critical issues.

## **JOURNAL OF THE INTERNATIONAL OMBUDSMAN ASSOCIATION PRINCIPLES FOR ACCEPTING MANUSCRIPTS FOR PUBLICATION**

The JIOA will accept manuscripts for publication according to the following principles:

1. All accepted articles will conform to — and/or not be in violation of — the IOA Standards of Practice. This means:
  - a. That the content of the article upholds and does not violate the IOA Standards of Confidentiality, Neutrality, Independence and Informality. Exceptions may be allowed if (a) any alternative content to the IOA SoPs is acknowledged as an alternative to them, and (b) authors provide a rationale for employing alternatives to the IOA SoPs, e.g., where alternate Standards of Practice documents underpin the manuscript, or the current SoPs are being challenged or critiqued;
  - b. The article does not contain data and/or has not employed a research methodology in violation of the IOA SoPs;
2. The content of the manuscript is relevant to the work of Ombudsmen in any setting;
3. Manuscripts, whether solicited or unsolicited, will be subject to blind, anonymous peer-review. Final decisions about publication rest with the Editor;
4. Manuscripts must be original, that is, unpublished elsewhere. Exceptions may be made where, in the opinion of the Editorial Team, the value of the manuscript has historical or vital contemporary importance;
5. All listed authors of a manuscript have agreed to their being listed as authors, and have seen and approved the manuscript;
6. Manuscripts that constitute a complaint against or criticism of an individual Ombudsman or an Ombudsman office will not be considered for publication and, where the target of written complaint is a Board-certified Ombudsman practitioner, authors will be referred by the Editor to the IOA Board of Certification;
7. In all other respects, all accepted articles will conform to the Instructions for Authors as presented in each Volume of the JIOA.

The JIOA Editorial Team (the Editor and Associate Editors) is the final judge of the appropriate implementation of these and any future principles.

## INSTRUCTIONS FOR AUTHORS

### EDITORIAL STATEMENT

The Journal of the International Ombudsman Association (JIOA) is a peer-reviewed online journal for scholarly articles about the Ombudsman profession. JIOA aims to foster recognition and understanding of the roles and impact of Ombudsman offices in a variety of institutions and sectors. JIOA is a unique publication for organizational Ombudsmen and other professionals to reach out to their colleagues with ideas, findings, recommendations for best practices, and engage in ongoing discussions of critical issues.

### ELIGIBLE CONTRIBUTORS

Submissions are encouraged from all responsible contributors regardless of affiliation with the International Ombudsman Association. JIOA encourages contributions relevant to the work of Ombudsmen in any setting. JIOA is a peer-refereed journal and articles are accepted without remuneration. Authors wishing to discuss submission ideas are encouraged to contact the Editor or a member of JIOA's editorial board.

### LANGUAGE OF MANUSCRIPTS

JIOA will accept manuscripts in all major languages for review for publication. Where manuscripts are submitted in languages other than English, an English 'Abstract' must be supplied. Subject to the paper being published in JIOA, this English 'Abstract' will be published alongside the 'Abstract' in the author's original language. Occasionally, at the discretion of the Editor, the paper will be published with a full- English translation. As with all submissions, authors wishing to discuss potential submissions in languages other than English are encouraged to contact the Editor or members of JIOA's editorial board.

## GUIDELINES FOR SUBMITTING AN ARTICLE

Please send an electronic copy of your article as an attachment to info@Ombudsassociation.org. JIOA's editor will send a reply when the email has been received and the attachment(s) are opened successfully. Submissions should conform to the following guidelines.

### Originality

A cover letter should be submitted with your submission and must include a statement that neither the paper nor its essential content has been published or is under consideration for publication elsewhere. It will be presumed that all listed authors of a manuscript have agreed to the listing and have seen and approved the manuscript.

### Authorship

All persons designated as authors should qualify for authorship. Each author should have participated significantly to the concept and design of the work and writing the manuscript to take public responsibility for it. The editor may request justification of assignment of authorship. Names of those who contributed general support or technical help may be listed in an acknowledgment.

### TYPE OF SUBMISSION

We accept submissions in the form of articles, commentaries, book reviews, essays, short reports, and letters to the editor.

**Articles** of any length will be considered, although JIOA is particularly interested in publishing concise scholarship generally between 1,500 and 5,000 words. Commentaries and book reviews should be no longer than 1,000 words.

**Essays** and short reports that advance an idea, summarize a development, or initiate or engage in a discussion are solicited.

**Letters** to the editor are encouraged, but may be edited for length.

## FORMAT

Manuscripts should be double spaced, with ample margins of at least one inch. Pages should be numbered. All identifying information should be removed from the manuscript files themselves prior to submission. Proofs for checking will normally be sent to the first author named to whom any correspondence and reprints will also be addressed. Footnotes to the text should be avoided wherever this is reasonably possible.

All manuscripts should be made anonymous by the principal submitting author. This involves the following:

1. Removing all identifiable properties from the Word file "Properties" (particularly the author name and organisation) – this can be done manually in Word.
2. Ensure the manuscript contains no mention of the authors' organisations, names, or the names of key colleagues. Substitute real names with "X" throughout – they can be placed in the article after review.
3. Similarly, all those who are being acknowledged as informal reviewers, discussants or inspirations for the submitted article should be anonymised in the manuscript. Where acknowledgements are being made, a separate section for this should appear on the front page of the manuscript, along with the key words, author's name and affiliation, a brief author biography and an abstract of not more than 150 words.
4. Where author names and organisation names cannot be avoided, then authors must accept that their article will not be anonymous. This is not preferred by the JIOA but, where inevitable, authors are required to state that they waive the right of an anonymous review. JIOA prefers submissions prepared in Microsoft Word. Word Perfect and RTF are also acceptable.

## TITLE PAGE, KEY WORDS AND AUTHOR INFORMATION:

The name(s) of the author(s) should appear only on a separate title page which should also include the author(s) affiliation and mailing address. The title page should also include a biographical note of no more than 100 words. Contact information, including telephone numbers and mailing addresses, should be provided for each author. Additionally, the Title page should include up to six key words, including the word "Ombudsman" (or whichever variant of this the author has employed in the article). A sample title page is attached. Author(s) should also submit a statement indicating all affiliations, financial or otherwise, that may compromise or appear to compromise the objectivity or unbiased nature of their submission. Such conflicts of interest may arise out of commitments involving honoraria, consultant relationships, participation in a speakers' bureau, stock holdings or options, royalties, ownership of a company or patent, research contracts or grants, and, in some instances, being an official representative of another organization. Any conflict of interest will be included as a footnote in the published manuscript.

**Abstract:** Please supply an abstract of 100 or fewer words with your submission. The abstract should also include a word count of the article, excluding references.

## GRAPHICS

Please convert all graphics to TIFF or EPS format. Line art should be a minimum of 600 dpi, and halftones a minimum of 266 dpi in resolution.

**Illustrations** should not be inserted in the text but each provided as separate files and given figure numbers and title of paper and name. All photographs, graphs and diagrams should be referred to as Figures and should be numbered consecutively in the text in

Arabic numerals (e.g. Fig. 3). Captions for the figures should be provided and should make interpretation possible without reference to the text. Captions should include keys to symbols.

**Tables** should be submitted as separate files and should be given Arabic numbers (e.g. Table 3). Their approximate position in the text should be indicated. Units should appear in parentheses in the column heading but not in the body of the table. Words or numerals should be repeated on successive lines; 'ditto' or 'do' should not be used.

## STYLE

Authors should conform to the latest edition of the Chicago Manual of Style. Authors will be consulted during the editing process, but are expected to permit minor standardizations and corrections (i.e., headings, alignments, citation formatting, standard American English spelling, and minor punctuation). JIOA encourages and promotes the use of gender-neutral language.

Please note that the Journal publishes manuscripts in accordance with the linguistic and grammatical conventions of the author's country of writing. This means that spelling ('colour' or 'color'; 'organization' or 'organisation') may vary, and Editorial and grammatical conventions may also vary (e.g., placement of citations). While the Journal will normally publish accepted manuscripts in the linguistic style and grammatical conventions of the author, the final say on this rests with the Editor.

**CITATIONS:** The author(s) are responsible for the accuracy and thoroughness of citations. Footnotes should be consecutively numbered and collected at the end of the article. References should be listed on a separate page at the end of the manuscript. Citations should follow the Chicago Manual of Style format. If the submission is accepted

for publication, the author should be prepared to provide access to copies of all materials cited.

### Examples of citations:

Kosakowski, T., & Miller, D. (2007). Why we get no sleep at night. *Journal of the International Ombudsman Association*, 1, 100-101.

Rowe, M.P. (1977). Go Find Yourself a Mentor. In P. Bourne & V. Parness (Eds), *Proceedings of the NSF Conference on Women's Leadership and Authority, University of California, Santa Cruz, California, 1977* (pp 120-140). Santa Cruz: University of California Press.

Miller, D. (2000). Dying to care? Work, stress and burnout in HIV/AIDS carers. London: Taylor & Francis.

Titles of journals should not be abbreviated.

**COMPREHENSION:** The Journal and its reviewers pay much attention to ease of comprehension of manuscripts. For example, is jargon used without explanation, do sentences contain more than one idea per sentence, and are paragraphs and sentences too long? Authors are requested to avoid such concerns by avoiding jargon, keeping to one idea per sentence, and keeping sentences and paragraphs short.

## COPYRIGHT

JIOA seeks to provide authors with the right to republish their work while protecting the rights of JIOA as the original publisher. Authors of accepted articles will be asked to sign an agreement form transferring copyright of the article to the publisher. After original publication, authors retain the right to republish their article, provided that authorization is obtained from JIOA. Authorization is generally granted contingent upon providing JIOA with credit as the original publisher. Authors will be required to sign a Publication Agreement form for all papers accepted for publication. Signature of the form is a condition of publication and papers will not be passed

to the publisher for production unless a signed form has been received. Please note that signature of the agreement does not affect ownership of copyright in the material. Government employees need to complete the Publication Agreement, although copyright in such cases does not need to be assigned. After submission authors will retain the right to publish their paper in other media (please see the Publication Agreement for further details). To assist authors the appropriate form will be supplied by the editorial board.

## **CONSIDERATION OF SUBMISSIONS**

### **Blind Evaluations**

Submissions are reviewed by at least two editors without consideration of the author's identity. Please ensure that the manuscript is anonymous by removing any link to the author. Remove reference material in any footnote that references the author of the piece for review and replace information with "Author." Note the instructions on making the manuscript anonymous in the section entitled "Format."

### **Timeline for Acceptance**

JIOA accepts submissions on a rolling basis throughout the calendar year. The review process starts on the first day of every month. It is intended that decisions on publication will be made within three months of receipt of a submitted manuscript.

### **Expedited Review**

JIOA will attempt to honor reasonable requests for an expedited review of submissions. However, if we are unable to give an expedited review by the date requested, you will be notified that the article has been withdrawn from consideration. To request an expedited review, please contact the JIOA Editor and provide: your name, phone number, and e-mail address; the title of the article; your deadline for a decision.

### **Publication Dates**

JIOA is published biannually.

### **Antidiscrimination Policy**

It is the policy of JIOA not to discriminate on the basis of race, gender, age, religion, ethnic background, marital status, disability, or sexual orientation.

## SAMPLE FRONT PAGE

### THE WAY THINGS ARE, HAVE BEEN AND WILL BE

John Doe  
Organizational Ombudsman  
ABC Inc.

#### Contact details:

ABC Inc.  
1122 Washington Square  
Washington, DC 12345  
Tel: 012 345 6789  
Email: abcomb@abc.com

**Key Words:** Ombudsman, history, dispute resolution, nirvana

**Word Count (including Abstract):** 2500

#### Abstract:

It was the best of times, it was the worst of times, and Ombudsmen saved the day by offering ethically based, neutral, independent and confidential services to their organization ("X") and staff. This paper dissects how Ombudsmen worked in the circumstances of concern and how they might systematise future interventions, using validated procedures described in detail in the article. The outcomes are identified, quantified, and a conceptual structure for applying the lessons learned is presented.

#### John Doe:

John Doe is a native of Equanimity and Hard Work, and has post-graduate degrees in thinking and doing from the School of Hard Knocks in the University of Life. He has worked as an organisational Ombudsman for 30 years and in his present position (at "X") for ten.

#### Acknowledgements:

The author is particularly grateful to A, B, and C for their stimulating discussion and ideas that led to the development of this article, and to D, E and F for reviewing earlier drafts of the manuscript.

## REVIEW PROCEDURES

### RESPONSIBILITIES OF EDITORS AND EDITORIAL BOARD MEMBERS

JIOA editors are designated as the Editor and up to four Associate Editors. The editors collaborate with an editorial board comprised of approximately twenty participants with IOA membership. The editorial board is intended to reflect the diversity of the association as best we can.

The primary contact for JIOA is the Editor who is responsible for the journal publication process and the journal website. The Editor directs the processing of manuscripts and maintains communication with the IOA Board of Directors, the Associate Editors, editorial board members/reviewers, and authors.

Editorial board members, and other IOA members designated by the Editor in special cases, are responsible for the peer reviews of the submitted manuscripts.

### REVIEW PROCESS

JIOA uses a blind review process and all references to the author(s) and author's work place are removed prior to the manuscript being distributed to reviewers.

The Editor and/or Associate Editors will review each submitted manuscript to determine if the topic is appropriate for publication in JIOA. Acceptable manuscripts will be distributed electronically to three editorial board members selected by the Editor for peer review.

Manuscripts judged by the Editor and/or Associate Editors as inconsistent with the general mission of JIOA or the recognized Standards of Practice will be returned to the primary author with comments and possible suggestions for revision.

Reviewers will use a consistent and systematic set of criteria to evaluate the

quality and potential of a manuscript. These criteria include items related to content, organization, style, and relevance. Review forms and comments will be returned to the Editor.

Each reviewer will recommend one of the following:

- Accept for publication as is
- Accept for publication with minor revisions as indicated
- Accept for publication after major revisions by author(s)
- Revision and resubmission for subsequent review
- Reject manuscript

The final decision on whether to publish a manuscript is made by the Editor and is based upon recommendations from the peer reviewers. If there is significant variation among the reviewers regarding the status of a manuscript the Editor may:

- Seek additional input from the reviewers
- Request an additional review
- Seek additional input from the Associate Editors

Reviewers' comments will be provided to the primary author. However, the reviewers of a specific manuscript will remain anonymous. It is the policy of JIOA to work with authors to facilitate quality publications. The Editor may suggest or an author may request that a member of the editorial board be available to provide assistance at various stages of the preparation and publication process.

### NOTES FOR JIOA REVIEWERS

Reviewing manuscripts for JIOA must be undertaken in accordance with the principles of the IOA — by demonstrating independence, neutrality and confidentiality. This requires that manuscripts be accorded the status of office visitors. The content of reviewed manuscripts and of reviews should not be shared with anyone other than the Editor of the JIOA.

It is important for reviews to have a forward-looking, beneficial intent – this is an opportunity to give feedback that will help nurture, guide and develop authorship. It is not an exercise in showing you know more, are wiser or more clever and literate in the subject matter! Authors should learn from reviews and take away from the review a sense of future direction and beneficial development for their paper.

The aim of the review is to strengthen contributions to the JIOA, and thereby strengthen the Ombudsman profession. In this sense, a review is as much a critique of the reviewer as of the manuscript. Accordingly, it is a requirement that all reviews offer information that can help guide the author. Although reviews are confidential (i.e., the manuscript author does not know who the reviewers are), they are best written as though the author is in the room. Accordingly, a useful test of the reviewers' assertions is the "Old Bailey" test: If they were standing in the dock at the Old Bailey, would they be able to justify their assertions to the author? Are they making statements that are justifiable, verifiable and credible, or just say-so? Does the tone of their review convey the IOA Standards of Practice in practice?

Reviewers are asked to look out for issues of comprehension in manuscripts, particularly:

- Make strong recommendations, where appropriate, for authors to break up long paragraphs;
- Avoid and, where possible, eliminate jargon; Maintain only one idea per sentence. Each of these issues comprises an element of the Fog Index — the estimation of the comprehension afforded

by a manuscript. Where the Fog Index is high, comprehension is low, and vice versa. The JIOA aims for the lowest possible Fog Indexes for manuscripts.

Where criticism is appropriate, it should ideally be constructive and be contextualised

within a set of options given by the reviewer for modification of the text. Where there are clear mistakes, inaccuracies or errors, these should be indicated and corrections or options for alternative expression suggested. Personal criticism — whether of content, ideology, style or tone — is unacceptable.

Please note, suggestions for modification should be itemised and returned to the Editor using the "Comments to the Authors" section of the JIOA Referee Review Form, which is sent to reviewers together with the manuscript to be reviewed. Suggestions for modification should not be returned to the Editor in the form of "Track Changes" in the original manuscript. This would identify the reviewer to the author and, even if this does not concern the reviewer, it might concern or prejudice the author in their consideration of the reviewer's comments. Reviewing is a form of power relationship. That is why anonymity is required on both sides.

Manuscripts may come in a variety of styles — from the determinedly academic (with numerous citations and references) to the determinedly idiosyncratic and personal. All styles may be acceptable, and need to be reviewed within their own context. Opinion pieces may have been commissioned by the Editor and, where this is the case, this will be indicated by the Editor.

Please note that the Journal also publishes manuscripts that acknowledge the linguistic and grammatical conventions of the author's country of writing. This means that spelling ('colour' or 'color'; 'organization' or 'organisation') may vary, and Editorial and grammatical conventions may also vary (e.g., placement of citations). While the Journal will normally publish accepted manuscripts in the linguistic style and grammatical conventions of the author, the final say on this rests with the Editor.

## **PUBLICATION AND TRANSFER OF COPYRIGHT AGREEMENT**

### **AGREEMENT**

The International Ombudsman Association (the "Publisher") is pleased to publish the article entitled:

---

---

(the "Work") by the undersigned person(s) (the "Author"), which will appear in the Journal of the International Ombudsman Association (the "JIOA"). So that you as Author and we as Publisher may be protected from the consequences of unauthorized use of the contents of the JIOA, we consider it essential to secure the copyright to your contribution. To this end, we ask you to grant the Publisher all rights, including subsidiary rights, for your article. This includes granting the Publisher copyright and licensing rights to the article, separate and apart from the whole journal issue, in any and all media, including electronic rights. However, we will grant you the right to use your article without charge as indicated below in the section on "Author's Rights."

### **GRANT TO THE PUBLISHER**

Whereas the Publisher is undertaking to publish the JIOA, which will include the Work, and in consideration of publication and for no monetary compensation, the Author hereby transfers, assigns and otherwise conveys to the Publisher for its use, any and all rights now or hereafter protected by the Copyright Law of the United States of America and all foreign countries in all languages in and to the Work, including all subsidiary rights, and electronic rights, together with any rights of the Author to secure renewals, reissues and extensions of such copyright(s). These rights include, but

are not limited to, the right to: (1) reproduce, publish, sell and distribute copies of the Work, selections of the Work, and translations and other derivative works based on the Work, in any media now known or hereafter developed; (2) license reprints of the Work for educational photocopying; (3) license other to create abstracts of the Work and to index the Work; and (4) license secondary publishers to reproduce the Work in print, microform, or any electronic form.

### **AUTHOR'S RIGHTS**

The Author hereby reserves the following rights: (1) all proprietary rights other than copyright, such as patent rights; (2) the right to use the Work for educational or other scholarly purposes of Author's own institution or company; (3) the nonexclusive right, after publication by the JIOA, to give permission to third parties to republish print versions of the Work, or a translation thereof, or excerpts there from, without obtaining permission from the Publisher, provided that the JIOA-prepared version is not used for this purpose, the Work is not published in another journal, and the third party does not charge a fee. If the JIOA version is used, or the third party republishes in a publication or product that charges a fee for use, permission from the Publisher must be obtained; (4) the right to use all or part of the Work, including the JOIA-prepared version, without revision or modification, on the Author's webpage or employer's website and to make copies of all or part of the Work for the Author's and/or the employer's use for lecture or classroom purposes. If a fee is charged for any use, permission from the Publisher must be obtained; (5) The right to post the Work on free, discipline specific public servers or preprints and/or postprints, provided that files prepared by and/or formatted by the JIOA or its vendors are not used for that purpose; and (6) the right to republish the Work or permit the Work to

be published by other publishers, as part of any book or anthology of which he or she is the author or editor, subject only to his or her giving proper credit to the original publication by the Publisher.

### **WARRANTIES**

The Author warrants the following: that the Author has the full power and authority to make this agreement; that the Author's work does not infringe any copyright, nor violate any proprietary rights, nor contain any libelous matter, nor invade the privacy of any person; and that the Work has not been volume 6, number 2, 2013 105 Journal of the International Ombudsman Association published elsewhere in whole or in part (except as may be set out in a rider hereto). If the Work contains copyrighted material of another, the Author warrants that the Author has obtained written permission from the copyright owner for the use of such copyrighted material consistent with this agreement. The Author will submit a copy of the permission letter, in addition to text for credit lines, as appropriate, with the article manuscript.

### **IN CONCLUSION**

This is the entire agreement between the Author and Publisher and it may be modified only in writing. Execution of this agreement does not obligate the Publisher to publish the Work, but this agreement will terminate if we do not publish the Work within two years of the date of the Author's signature.

Author's Signature: \_\_\_\_\_  
Name (please print): \_\_\_\_\_  
Date: \_\_\_\_\_

Author's Signature: \_\_\_\_\_  
Name (please print): \_\_\_\_\_  
Date: \_\_\_\_\_

Joint Authorship: If the Work has more than one Author, each author must sign this agreement or a separate counterpart to this agreement. All such counterparts shall be considered collectively to be one and the same agreement.

Please keep one copy of this agreement for your files and return a signed copy to:

**Editor, JIOA**  
**David Miller, Ph.D.**  
**384 Decanter Bay Road**  
**RD3 Akaroa 7583**  
**New Zealand**  
**+64 3 304 7567**  
**decanterbay@gmail.com**

## IOA STANDARDS OF PRACTICE

### PREAMBLE

The IOA Standards of Practice are based upon and derived from the ethical principles stated in the IOA Code of Ethics. Each Ombudsman office should have an organizational Charter or Terms of Reference, approved by senior management, articulating the principles of the Ombudsman function in that organization and their consistency with the IOA Standards of Practice.

### STANDARDS OF PRACTICE INDEPENDENCE

- 1.1** The Ombudsman Office and the Ombudsman are independent from other organizational entities.
- 1.2** The Ombudsman holds no other position within the organization which might compromise independence.
- 1.3** The Ombudsman exercises sole discretion over whether or how to act regarding an individual's concern, a trend or concerns of multiple individuals over time. The Ombudsman may also initiate action on a concern identified through the Ombudsman's direct observation.
- 1.4** The Ombudsman has access to all information and all individuals in the organization, as permitted by law.
- 1.5** The Ombudsman has authority to select Ombudsman Office staff and manage Ombudsman Office budget and operations.

### NEUTRALITY AND IMPARTIALITY

- 2.1** The Ombudsman is neutral, impartial, and unaligned.
- 2.2** The Ombudsman strives for impartiality, fairness and objectivity in the treatment of people and the consideration of issues. The Ombudsman advocates for fair and equitably administered processes and does not

advocate on behalf of any individual within the organization.

- 2.3** The Ombudsman is a designated neutral reporting to the highest possible level of the organization and operating independent of ordinary line and staff structures. The Ombudsman should not report to nor be structurally affiliated with any compliance function of the organization.
- 2.4** The Ombudsman serves in no additional role within the organization which would compromise the Ombudsman's neutrality. The Ombudsman should not be aligned with any formal or informal associations within the organization in a way that might create actual or perceived conflicts of interest for the Ombudsman. The Ombudsman should have no personal interest or stake in, and incur no gain or loss from, the outcome of an issue.
- 2.5** The Ombudsman has a responsibility to consider the legitimate concerns and interests of all individuals affected by the matter under consideration.
- 2.6** The Ombudsman helps develop a range of responsible options to resolve problems and facilitate discussion to identify the best options.

### CONFIDENTIALITY

- 3.1** The Ombudsman holds all communications with those seeking assistance in strict confidence and takes all reasonable steps to safeguard confidentiality, including the following:

The Ombudsman does not reveal, and must not be required to reveal, the identity of any individual contacting the Ombudsman Office, nor does the Ombudsman reveal information provided in confidence that could lead to the identification of any individual contacting the Ombudsman Office, without that individual's express permission, given in the course of informal discussions with the Ombudsman; the

Ombudsman takes specific action related to an individual's issue only with the individual's express permission and only to the extent permitted, and even then at the sole discretion of the Ombudsman, unless such action can be taken in a way that safeguards the identity of the individual contacting the Ombudsman Office. The only exception to this privilege of confidentiality is where there appears to be imminent risk of serious harm, and where there is no other reasonable option. Whether this risk exists is a determination to be made by the Ombudsman.

**3.2** Communications between the Ombudsman and others (made while the Ombudsman is serving in that capacity) are considered privileged. The privilege belongs to the Ombudsman and the Ombudsman Office, rather than to any party to an issue. Others cannot waive this privilege.

**3.3** The Ombudsman does not testify in any formal process inside the organization and resists testifying in any formal process outside of the organization regarding a visitor's contact with the Ombudsman or confidential information communicated to the Ombudsman, even if given permission or requested to do so. The Ombudsman may, however, provide general, non-confidential information about the Ombudsman Office or the Ombudsman profession.

**3.4** If the Ombudsman pursues an issue systemically (e.g., provides feedback on trends, issues, policies and practices) the Ombudsman does so in a way that safeguards the identity of individuals.

**3.5** The Ombudsman keeps no records containing identifying information on behalf of the organization.

**3.6** The Ombudsman maintains information (e.g., notes, phone messages, appointment calendars) in a secure location and manner, protected from inspection by others (including management), and has

a consistent and standard practice for the destruction of such information.

**3.7** The Ombudsman prepares any data and/or reports in a manner that protects confidentiality.

**3.8** Communications made to the Ombudsman are not notice to the organization. The Ombudsman neither acts as agent for, nor accepts notice on behalf of, the organization and shall not serve in a position or role that is designated by the organization as a place to receive notice on behalf of the organization. However, the Ombudsman may refer individuals to the appropriate place where formal notice can be made.

## INFORMALITY AND OTHER STANDARDS

**4.1** The Ombudsman functions on an informal basis by such means as: listening, providing and receiving information, identifying and reframing issues, developing a range of responsible options, and – with permission and at Ombudsman discretion – engaging in informal third-party intervention. When possible, the Ombudsman helps people develop new ways to solve problems themselves.

**4.2** The Ombudsman as an informal and off-the-record resource pursues resolution of concerns and looks into procedural irregularities and/or broader systemic problems when appropriate.

**4.3** The Ombudsman does not make binding decisions,

mandate policies, or formally adjudicate issues for the organization.

**4.4** The Ombudsman supplements, but does not replace, any formal channels. Use of the Ombudsman Office is voluntary, and is not a required step in any grievance process or organizational policy.

**4.5** The Ombudsman does not participate in any formal investigative or adjudicative procedures. Formal investigations should be conducted by others. When a formal investigation is requested, the Ombudsman refers individuals to the appropriate offices or individual.

**4.6** The Ombudsman identifies trends, issues and concerns about policies and procedures, including potential future issues and concerns, without breaching confidentiality or anonymity, and provides recommendations for responsibly addressing them.

**4.7** The Ombudsman acts in accordance with the IOA Code of Ethics and Standards of Practice, keeps professionally current by pursuing continuing education, and provides opportunities for staff to pursue professional training.

**4.8** The Ombudsman endeavors to be worthy of the trust placed in the Ombudsman Office.