

THE
ORGANIZATIONAL
OMBUDSMAN

*Origins, Roles, and Operations
A Legal Guide*

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Actual Ombuds Example

A desire to protect others but an uncertainty over whether the problem continues

A female employee had filed a formal complaint about male employee's sexual harassment of her, including his inappropriate touching of her. The male employee was reprimanded and moved to another location. The female employee was given coaching and additional protection, including an escort to her car at the end of work.

The female employee sometime later came to the ombuds because she believed that the male employee, in his new work location, was engaged in the same conduct with another female employee, but the suspected conduct did not involve her and she had no direct proof. She also did not want to be identified in any complaint, but she indicated that she was trying to protect other women from what she had gone through. After discussing various options with the ombuds about how this issue could be addressed, the female employee permitted the ombuds to contact HR to advise them that a person who wished to remain anonymous had concerns—but no direct proof—about sexual harassment by the male employee.

HR conducted its own investigation and concluded that the male employee was, in fact, sexually harassing another female employee. His employment was subsequently terminated.

Actual Ombuds Example**Limited disclosure solves the problem and protects the informant**

An employee came to the ombuds to report that he suspected that one of the subcontractors working on plant renovations at the facility where he worked was not doing the work to code. The employee felt that this should be brought to the attention of the company for safety reasons but because he was a union member in the same trade as the subcontractor, he was unwilling to be the one to raise the issue with a formal channel. He was certain that he would suffer retaliation by other members of the union if it became known that he had been the person who reported the issue.

After discussing various options, the employee agreed to permit the ombuds to contact the facility manager to advise him that it would be advisable to have an inspection of the construction work by the local building inspector, but no other information was revealed. The manager arranged for the inspection, which uncovered the defective work, and the company required the subcontractor to correct it. Since the inspection appeared to be a routine inspection by the building inspector, the identity of the employee who came to the ombuds office was protected.

Actual Ombuds Example

Where does a vice president go with concerns about the president?

The ombuds of a multinational organization received a call from a regional vice president with concerns about an international region president. The inquirer expressed concerns that the regional president was acting strangely and making improper comments about people at an offsite meeting where over a dozen other vice president-level organization officials were present, together with several outside counsel, professionals, and other consultants to the organization. The inquirer was concerned that the regional president could have a drug problem, as the strange behavior had been evident for at least the preceding few months. The vice president making the call, however, was also obviously concerned that he may be wrong and was worried about the possible impact on his own career.

The ombuds discussed various ways this issue could be surfaced and investigated. The inquirer gave the ombuds permission to convey information about the regional president's conduct (but not the inquirer's identity) at the off-site meeting to the top levels of the organization at its international headquarters. When this information was relayed to the president of the entire organization and the head of HR, they instigated an investigation almost immediately by having many of the attendees of the offsite meeting interviewed. The regional president was also interviewed. As a result of this investigation, they made the decision to remove the regional president from his position and announced that he was relocating back to the organization headquarters. He retired from the organization not long thereafter.

Actual Ombuds Example**The ombuds can provide assistance to a manager without breaching confidentiality**

Several employees in a country other than the United States came to the ombuds to express concern about a new country manager for their organization. He was an expatriate American, and his communication style and approach were different from and clashed with their local culture. To the locals, he was "rough, rude and loud." They also found him unapproachable. That country's team morale started to fall and absenteeism spiked.

Before any action was taken on the concerns expressed by the several employees, the country manager himself also contacted the ombuds office, asking for help and guidance on how to become a better leader in that culture. Without revealing that any employees had raised concerns about him, the ombuds was able to provide suggestions to the manager, such as changing his style of communication and advising him on how to participate in various activities to better understand the local culture.

Actual Ombuds Example

Ombuds arranges for an anonymous call to a formal channel

Multiple employees on a regional sales team had been talking among themselves about the disrespectful, abusive, unsupportive behavior of their mutual supervisor. The employees all worked in different states and were connected only by way of a virtual network, so that their interaction with each other, their supervisor, and potential resources was entirely by phone and e-mail. They expressed great fear of retribution from the supervisor if they spoke up. They also did not trust other resources in the organization. With frustration mounting and many of them finding it increasingly difficult to focus on their jobs, a representative of the employees contacted the ombuds in search of a way to anonymously raise their concerns,

After listening to the concerns expressed and understanding what the employees had already attempted to do to resolve the problem, the ombuds discussed various options. The option selected was for the ombuds to contact HR to arrange for an anonymous telephone call between a regional HR director and some of the employees. The understanding was that the ombuds would coordinate the conference call and that four employees would participate in it with the HR director but that the employees would not identify themselves. The ombuds coordinated the call and once all participants were connected, the ombuds dropped off so as not to be part of a formal, but unusual, teleconference.

As a result of the conversation, an investigation was begun into the leadership behavior of the supervisor in question. In the end, the supervisor was switched to a non-leadership role in the organization.

Actual Ombuds Example**When the supervisor and HR are part of the perceived problem**

A mid-level manager had concerns about how she was being treated by both her direct supervisor and her local HR representative. She felt that both were undermining her and not supporting her as she attempted to correct employee behaviors and improve the morale and production of the team she supervised. She felt very unsafe raising her concerns to anyone within the formal structure and reached out to the ombuds office so she could have confidential conversations there. She had repeated conversations with the ombuds regarding options and strategies.

Conversations with this manager continued over the course of approximately three months, after which time she had built up enough confidence and trust to reach out to her VP of HR with the assistance of the ombuds. As a result, a personal visit was made to her supervisor by the VP of HR, and changes were made in the HR department that addressed the concerns of the manager, as well as similar concerns of other employees that had surfaced through discussions with the ombuds.

Actual Ombuds Example

The ombuds as a knowledge resource in a pinch

A marketing middle manager was working with her boss under time constraints to prepare for a presentation to her boss's boss, a company vice president. In a rush to get the work done, her boss, who had not been with the company very long, told her to use a local vendor to accomplish one of the tasks necessary for the presentation. The manager knew that that vendor was not on the approved list of vendors but that the approved vendor would not be able to do the job in a timely manner. She also knew that the vendor suggested by her boss was a relative of his.

Time was short and the manager was stuck in a quandary. She thought that using a non-approved vendor could result in penalties being assessed against her department, but the job needed to be done in a hurry. She didn't think her boss was intending to do anything wrong and did not want to get him in trouble, jeopardize her working relationship with him, or delay the work by reporting this through a formal channel for investigation. At the same time, she did not know him well and was uncertain how he would react if she confronted him with his mistake. Because she had heard that she could speak with the ombuds confidentially, she called the ombuds to discuss what she could do.

Since the ombuds was intimately familiar with the company and its policies, the ombuds was able to help the manager quickly find the applicable policies and coach her on how to approach her boss to inform him of those policies. When the manager did that, her boss expressed appreciation for her effort to save him from a mistake. The ombuds was also able to direct the manager to higher levels in the company's procurement management to expedite approval of a vendor who could accomplish the task. Another vendor was located and the work was completed on schedule.

Help for a new manager

A newly promoted manager came to the ombuds with a concern about an employee who was described as volatile and intemperate but also a good friend and former peer and co-worker of the new manager. The manager expressed the desire to preserve the friendship but also that he wanted to do a good job as manager. Because he was so new in the job, the manager was unwilling to reveal to higher management that he needed help in resolving this issue. Being able to have a confidential discussion of the problem was critical to him.

After exploring various options, the manager had the ombuds coach him on how to speak directly with the employee. The ombuds and the manager engaged in role-playing, and the ombuds helped the manager craft language about the impact of the employee's problematic behavior and the manager's predicament as the "boss." The ombuds helped the manager find ways to articulate his desire both to preserve the friendship and to be a good boss, but that he would have to be a good manager if the two roles conflicted and could not be reconciled.

In a follow-up discussion much later, the manager reported that he had had the conversation and that it had been a very difficult one, but that there had been no more incidents of volatility. The manager also expressed more comfort in being able to impose discipline if it became necessary.

An ombuds helps an employee use the hotline

An employee came to the ombuds because she was concerned that a colleague in her office was tampering with time sheets. She said that she would normally have reported this to her supervisor but could not do so in this situation, because she was one of the few people who knew that the colleague and their supervisor were having an affair. She felt that under the circumstances, the supervisor would not be an appropriate person to whom to make the report, and she was afraid that if she tried to report this to someone else, she would be asked why she had not reported it to the supervisor. She did not want to have to lie or answer that question.

The employee and the ombuds discussed various options to surface the issue, including speaking with her supervisor's supervisor, an anonymous letter sent through intraoffice mail, and an anonymous call to the organization's hotline. She still was uncomfortable raising the issue with a formal channel or the supervisor's supervisor directly. Because hotline calls were received by an off-site, independent company, she felt that was a better option than sending an anonymous letter to someone at the company. She decided to raise the issue that way. The ombuds worked with her to explain how to include in the hotline call sufficient hard facts to adequately describe the problem for the investigators.

An ombuds helps the organization avoid a potential class-action lawsuit

A female professional staff member contacted the ombuds office with concerns over actions by the predominantly male staff in her group. She had only been with the organization for a few years but was highly educated and at the cutting edge of her scientific field. She had also received high ratings as an employee. She related that she and other women in her group had experienced demeaning, disrespectful, and dishonest treatment by the male professional staff. She thought one of the worst offenders was her former mentor, who was

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also a highly valued staff member responsible for bringing in millions of dollars of new business. She and the other female scientists and technical staff had been ignoring the demeaning behavior by him and the other male colleagues because they needed his skill and research projects.

The female staff member also mentioned an episode six months earlier in which a male staff member had created a dangerous condition in the lab with only women present. While the incident had been investigated and the male staff member transferred to another group, a verbal threat on her life had been made to prevent her from speaking about the episode. That event clearly had traumatized her, and she had not reported the threat. Since that time, however, she had been keeping a record of the incidents and comments. In addition, the women in the group had been advising potential new recruits to the organization that they could not recommend working at the organization.

The ombuds discussed various options with her on several occasions. During this time, the staff member urged other women in her group also to speak with the ombuds. The ombuds thought that the facts outlined by the women created a real possibility of a class-action lawsuit against the organization, and he was trying to find a way to help get the issue to senior management. While most of the women insisted on anonymity, two of the women with whom the ombuds spoke were willing to speak about their concerns with management.

The ombuds helped coordinate a meeting between those two women and the CEO. As a result of those conversations, an investigation was undertaken to deal with the issues in that group. In addition, senior management engaged workplace consultants to work with staff throughout the organization to raise awareness and deal with gender-related communication and interaction.

Suspicious of misconduct but a fear of reporting

An employee believed his supervisor had a falsified resume, including advanced degrees that the supervisor never earned. He thought this was wrong and wanted it reported, but only if his name could be separated from the report. The employee was not willing to allow any action to be taken unless he could be assured that his identity would be protected.

After hearing various options explained by the ombuds, the employee decided that he would use the organization's hotline option, as he now understood that information communicated to the hotline was passed directly to the chief of HR, who had responsibility for conducting an investigation. The ombuds coached the employee on the process of calling the organization's hotline and advised the employee how to include enough information in the report to allow the investigators to assess and investigate the allegation. Once the information was disclosed, the investigation revealed that the information was correct and the supervisor was disciplined.

Persistent retaliation

An employee came to the ombuds with concerns over retaliation by her manager for a complaint that the employee had made to HR about the manager. In the course of her discussion with the ombuds, it came out that the employee had been at the company for only one year and that the manager was hired from another company by the next-level manager, a vice president and a long-time friend. The employee, the manager, and the vice president were all women.

The employee had first complained to HR about her manager making negative comments in front of other employees about the employee's looks and the fact that she was from another country. She had also informed HR about other encounters with her manager and the manager's behavior in meetings at which the employee was present and tried to speak. HR had brought the issue to the attention of the manager and the vice president, but the manager responded by later confronting the employee about the complaint made to HR. The employee also felt that once HR had become involved, the manager was reducing the employee's work without justification. The employee believed that HR had not handled the matter confidentially and she

was most concerned about further retaliation. She wanted to speak to the ombuds confidentially about what could be done.

In the course of the discussions with the ombuds, the employee indicated that she thought that the manager had violated the company's code of conduct but was afraid to report it out of fear of further retaliation. With coaching from the ombuds and after discussing various options, the employee filed an anonymous report on the possible violation. Once she did so, however, she came back to the ombuds to share the latest experiences of retaliation, because although the report was anonymous, the manager and the vice president had assumed that she had filed it and were making her life very difficult. After receiving permission from the employee, the ombuds spoke with a senior person about the investigation that had been undertaken with respect to the code of conduct allegation and the persistent retaliation.

By escalating the issue in this manner, both the code of conduct issue and the retaliation were fully investigated. This enabled the employee to express her concern directly in connection with the investigation. The company found that the manager had, in fact, been retaliating against the employee, and the manager's employment was terminated. The vice president was reprimanded for her involvement in the matter. The employee was able to retain her position and report to a new manager.

Improving the organizational culture

An employee with less than a year of service came to the ombuds to discuss what she should do with information she had learned during one of her assignments. She had been asked to create a new work guide for her department, and in so doing, she had spoken with individuals and work teams about what work instructions had already been created, what was useful, and what else might be needed. In the course of these meetings, she heard many concerns from employees about management and vice-versa. She knew that she was not in a position to “fix” the problems but felt obligated to inform management. At the same time, she was in distress because she still was a relatively new employee and uncertain what the impact on her would be if she were to raise the unfavorable issues with management.

After a discussion of various options and some role-playing, the employee decided to speak directly with her boss by indicating that in the course of her work, various concerns had been expressed to her and then inquiring of her boss if he wanted to hear about them. Depending on his reaction, she was prepared to distance herself from the comments by indicating that she was only the messenger and reporting what she had heard.

She had the conversation with her boss, and informed the ombuds that it went well. She was later selected to sit on a staff/management panel to brainstorm possible resolution options.

Checking out the process can be very involved

The ombuds office was contacted by a woman who said that she was employed by the organization but who disclosed neither her name

nor the area in which she worked. She said that she was gathering information about what the ombuds office did and did not do, but she was quite thorough: the initial call lasted 45 minutes. This is a fairly typical action by some people who, before doing anything, want to “check out the process.”

A few weeks later, the same woman called again, although the ombuds knew this only by recognizing her voice (and later confirmed it); she made no reference to having spoken to the office before. She scheduled an appointment with the ombuds office but used an assumed name. When she met with the ombuds, she did not disclose either her position or where she worked in the organization. Her concerns focused on a number of issues she said she had been having with colleagues and her supervisor, including a general lack of civility (basic rudeness) and the need for clarification of responsibilities. She said that her issue with the supervisor was that he was not engaged as a manager and not managing staffing problems. The ombuds provided coaching for her and gave her options on how she could address the issues.

Approximately a month later, she returned for another discussion with the ombuds. They discussed how things had been going and strategized other options for her. More coaching was provided, and she left again to address her issues on her own. When she returned again approximately a month later, the ombuds assumed it was for another debriefing and further guidance, but at this point the woman revealed that all of the prior discussions had not been on the “real issue” and that she had resolved all of the other matters. Not until this discussion did she disclose that she was a post-doctoral graduate student working in a lab under the direction of a primary investigator (PI), who was well known both in their particular specialized field and at the organization as a major researcher and senior faculty member. Only at this point did she disclose that from the beginning, the true issue was this PI’s sexual harassment of her. She admitted that she had raised all the other issues to see if the ombuds really knew what he was talking about, appreciated the political realities of her position, and was “truly confidential.”

She said that she had gone through the extended “checking out the process” period because she was extremely concerned at how vulnerable her position was. The PI was eminent in his field and had the power to make or break her career. She was clear that she did not want

to engage any formal process, but she wanted the harassment to stop. After long discussions on a few occasions about various options, she finally decided that she would attempt to leave his lab and find another one. In the research world, this approach can be very problematic on many levels, especially if the PI of the lab being left attempts to prevent someone from transitioning to another lab or poisons the person's reputation. To address this issue, she asked the ombuds to speak with the PI to see if he would consent to her departure. The ombuds then had a confidential, informal, neutral, and frank conversation with the PI and helped him realize that it was in everyone's best interest for him to embrace her leaving his lab as a great opportunity for her "intellectual and professional development." He agreed and she found a new lab where she has flourished.