

<https://untoday.org/how-confidentiality-enables-open-and-safe-conversations-with-your-ombudsman/>



How confidentiality enables open and safe conversations with your ombudsman

Privacy and trust will always be key components of the UN ombudsman's policy

By Lucia Vinti*

1 Feb 2023

Confidentiality is a key principle governing the work of an organisational ombudsman. It allows visitors to raise issues in a safe space, knowing that information would be kept confidential on the part of the ombudsman unless the visitor gives permission otherwise. The principle of confidentiality could be described as the most clearly defined standard and easiest to interpret. However, the notion of confidentiality and how to maintain it practically deserves to be reflected on.

Confidentiality enables safe spaces for informal conversations

As ombudsman, when working on a case, preserving confidentiality is an important part of our standards of conduct. In our organisation, the Office of the United Nations Ombudsman and Mediation Services, maintains strict confidentiality and does not disclose any information about individual cases or on the identity of visitors. Further, ombudsman and mediators cannot be compelled by any United Nations organ or official to testify or disclose information about cases. This is enshrined in the terms of reference of the Office (ST/SGB/2016/7).

When a visitor reaches out to our Office, a confidential, informal conversation is scheduled. During our first meeting, we will listen to understand the visitor's specific situation, and once we have a clear picture of the issue, we will discuss the advantages and disadvantages of various options and

opportunities for resolution. Together, the ombudsman and visitors explore various perspectives on the situation, taking into consideration the underlying needs and interests of all involved, to identify possible courses of action. Throughout our interactions, visitors make the decision of what to do next according to what is best for them.

Why is confidentiality important to many staff?

A confidential conversation with an ombudsman allows personnel, including those with a managerial role, to express themselves free of any form of judgement and unexpected consequences. Conversations with an ombudsman are off the record; they are informal exchanges that visitors often choose to have before considering further potential steps. In the recent organisational staff satisfaction survey, many respondents expressed a fear of speaking out: confidentiality allows for open and frank exchanges with a neutral party, the ombudsman, who does not judge or take any sides.

Confidentiality allows visitors to keep control of their own information

While information is owned by the visitor who consulted the ombudsman's Office, confidentiality is a shared responsibility between the ombudsman and the visitor. On the ombudsman side, working under the confidentiality principle, there are no circumstances that would allow the Office to disclose any information to an outside party. With the exception of cases of imminent danger or serious harm, confidentiality is only waived to discuss an issue with another party with the explicit consent of the visitor. This approach allows the visitor to take control of their own situation and feel confident that the matter will be dealt with according to the terms discussed with the ombudsman. It may also be the case that visitors to the Office present issues which they wish to be dealt with openly and in dialogue with other parties. Such requests may result in shuttle diplomacy, facilitated conversations and structured mediations. When engaging with other parties, an ombudsman will always be sure to clarify with the visitor specifically which parts or pieces of the information that have been shared confidentially can or should be disclosed.

Confidentiality is a shared responsibility

Importantly, while the Office operates under the principle of confidentiality, it is crucial that visitors understand their own role as safe guardians of their own information. As ombudsman, while we are entrusted to keep communications confidential in working to resolve various workplace issues informally, our experience informs us that confidentiality must be understood

as a two-way covenant. An ombudsman expects that visitors treat with discretion the options explored and information exchanged. Taken out of context, any element of these discussions may lead to subjective interpretations and create wrong assumptions. ombudsman's insights are not drawn from a legal or regulatory perspective of the matter but rather aim at finding an informal way out of the problem, often through ad-hoc and creative options. Ultimately, ombudsman and mediators do not intend to provide advice to be regarded as a judgement or official decisions; rather, they seek to find mutually acceptable solutions for all parties involved, through dialogue and mutual understanding.

Confidentiality does not have to impede organisational learning

Confidentiality is a key component in any visitor-ombudsman relationship: it contributes to creating a safe space for discussion and ultimately it enables mutual trust. At the same time, confidentiality should not prevent the organisation from learning lessons based on individual cases brought to the Office. While there is a firm understanding that this principle should be applied rigorously to individual cases, there is also a need for discernment of the organisational realities and the need for interaction with other departments to discuss a wide range of issues that impact on dispute resolution mechanisms. The principle of confidentiality should not be upheld to preclude generic discussions (e.g. on systematic observations and trends), and preclude dialogue on strategic, policy or procedural issues of common interest.

Confidentiality is the cornerstone of the organisational ombudsman profession; it is what makes this function so unique in any given organisation. As such, it brings additional complexities and necessitates ongoing reflections. We hope that this piece will stimulate further reflections among personnel. Conflict-resolutions officers and mediators across our eight regional offices are available to continue this discussion offline – be assured that it will be treated with neutrality, independence, informality, and of course, confidentiality!

* Lucia Vinti is a Strategic Communications Officer at the Office of the United Nations Ombudsman and Mediation Services.