

FCO Discussion Points Re: Proposed Bylaw Changes

The Board is asking for input from the members with respect to issues that might result in amendments to be considered at a future general meeting of the members of the organization.

The Forum of Canadian Ombudsman is an inclusive organization that invites membership from a broad spectrum and supports various types of ombudsman work. Questions sometimes arise as to whether the current wording of by-laws 4 and 10 support the objective of being a broad-based and inclusive organization.

The board takes no particular position at this time with respect to whether any amendment to the by-laws is warranted but would like to encourage the membership to engage in discussion about whether there is a need to revisit these provisions.

The board would like to obtain feedback from the membership at the 2013 Annual General Meeting with respect to this issue. The board proposes to engage the membership in further discussion via the Forum website and by other means to assess interest in and potentially develop options for amendments to the bylaws which could be considered at a future general meeting.

The current section 4 (d) reads as follows:

Each member shall identify himself or herself, on admission to membership, and thereafter whenever a change in his or her circumstances require, as belonging to one of the five Sections described below. No specific rights or conditions apply to membership in any class except as provide in section 3(c)(ii) and section 9 of these By-Laws.

- i. Legislative Ombudsman, being persons who may or may not hold the title Ombudsman, who have been appointed in a Canadian jurisdiction pursuant to an enactment of Parliament, a legislative assembly, or other elected public body, to investigate or otherwise deal with, upon complaint or by initiative, matters related to the administration of one or more governmental or public sector organizations, and their appointees and staff;
- ii. Public Sector Ombudsman, being persons who may or may not hold the title Ombudsman, who are appointed in a Canadian jurisdiction by government or the public sector to investigate or otherwise deal with, upon complaint or by initiative, complaints by the public which relate to matters of public sector administration or complaints by the public which relate to matters regulated by the government or public sector administrator, and their appointees and staff;

- iii. Private Sector Ombudsman, being persons who may or may not hold the title Ombudsman, who are appointed by in a Canadian jurisdiction by a public or private Corporation to investigate or otherwise deal with, upon complaint or by initiative, complaints which relate to matters of the administration of the Corporation or matters which relate to the administration of entities in a defined industry or endeavour, and their appointees and staff;
- iv. Colleges or University Ombudsman, being persons who may or may not hold the title Ombudsman, who are appointed in a Canadian jurisdiction by a public or private educational institution to investigate or otherwise deal with, upon complaint or by initiative, complaints which relate to matters of the administration of the educational institution, and their appointees and staff;
- v. Members at large, being any individual or organization not represented at paragraphs (i) to (iv) who has an interest in promoting the objects of the Corporation.
- vi. International Members, being ombudsman, persons on the staff of ombudsman or persons who have an interest in promoting the objects of the Corporation and who are not citizens or residents of Canada

One option for an amendment, to remove the requirement that members declare the section to which they belong, is as follows:

The Forum of Canadian Ombudsman is an inclusive organization that invites membership from a broad spectrum and supports various types of ombudsman work including the following:

- i. Legislative Ombudsman, being persons who may or may not hold the title Ombudsman, who have been appointed in a Canadian jurisdiction pursuant to an enactment of Parliament, a legislative assembly, or other elected public body, to investigate or otherwise deal with, upon complaint or by own initiative, matters related to the administration of one or more governmental or public sector organizations, and their appointees and staff;
- ii. Public Sector Ombudsman, being persons who may or may not hold the title Ombudsman, who are appointed in a Canadian jurisdiction by government or the public sector to investigate or otherwise deal with, upon complaint or by initiative, complaints by the public which relate to matters of public sector administration or complaints by the public which relate to matters regulated by the government or public sector administrator, and their appointees and staff;
- iii. Private Sector Ombudsman, being persons who may or may not hold the title Ombudsman, who are appointed by in a Canadian jurisdiction by a public or private Corporation to investigate or

- otherwise deal with, upon complaint or by initiative, complaints which relate to matters of the administration of the Corporation or matters which relate to the administration of entities in a defined industry or endeavour, and their appointees and staff;
- iv. Colleges or University Ombudsman, being persons who may or may not hold the title Ombudsman, who are appointed in a Canadian jurisdiction by a public or private educational institution to investigate or otherwise deal with, upon complaint or by initiative, complaints which relate to matters of the administration of the educational institution, and their appointees and staff;
 - v. Members at large, being any individual or organization not represented at paragraphs (i) to (iv) who has an interest in promoting the objects of the Corporation.
 - vi. International Members, being ombudsman, persons on the staff of ombudsman or persons who have an interest in promoting the objects of the Corporation and who are not citizens or residents of Canada

It has also been suggested as an alternative that by-law 4 could be deleted entirely.

One argument for such changes is that the Forum of Canadian Ombudsman has changed, some might say "matured," and that it is no longer necessary to create distinctive classes of membership that can be interpreted as divisive or elitist. A contrary argument is that the provisions actually emphasize the importance and equality of various ombuds models and backgrounds and, therefore, are inclusive.

Bylaw 10 currently reads as follows:

The Board shall include at least one head of an ombudsman organization from each of the following Sections:

- ii. Legislative Ombudsman
- iii. Public Sector Ombudsman
- iv. Private Sector Ombudsman
- v. Colleges and University Ombudsman

One possible option is that by-law 10 could be deleted.

The argument for this deletion is that it is no longer necessary that any of the directors necessarily must be heads or organizations. Although it is likely that some of them may be, the provision creates some exclusivity that may be contrary to the objective of inclusivity. The proposed deletion is offset somewhat by the requirement that the proposed nominating committee take into account a broad range of factors when it makes nominations.

The board takes no position at this time with respect to these or any options. Other options may be better and, of course, the *status quo*, is always an option. The goal is to encourage thoughtful discussion.

Please come to our AGM in Halifax during the conference in June. And please come prepared to talk about these issues.

If you are unable to attend or if you wish to comment in advance of the AGM, or if you have any questions, please do not hesitate to speak with any member of the board.

Thanks.

Kevin Fenwick
President, FCO