



**A FACILITATED DISCUSSION
ON
“RECALCITRANT RESPONDENTS”**

**PRESENTATION ON THE SUB-TOPIC
“WHY RESPONDENTS REFUSE TO COOPERATE”**

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1. INTRODUCTION

- 1.1 This is an AORC facilitated discussion on “**Recalcitrant Respondents**” in the context of the Ombudsman’s mandate of receiving and investigating complaints from members of the public against governmental action.
- 1.2. In the course of investigating a complaint brought before him/her the Ombudsman relies on the evidence/information/testimony and knowledge of the facts relevant to the complaint that may be provided by the Complainant and the government entity the subject of a complaint.
- 1.3. Therefore by “**respondent**” I assume that we are referring to public officials on the one hand and members of the public on the other hand who may be required to assist the Ombudsman with information/facts or verbal account of events that are relevant to the investigations at hand.
- 1.4. The following discussions will focus on why these respondents i.e public officials and complainants refuse to cooperate with the Ombudsman in the course of his investigations.
- 1.5. These respondents may also be called “**difficult customers**”

2. WHY PUBLIC OFFICIALS REFUSE TO COOPERATE

There could be a number of reasons for lack of cooperation by public officials. They include the following:

2.1 Lack of understanding of the mandate of the Ombudsman

Public officials may not understand the mandate of the Ombudsman and lack familiarization with the legislation establishing the office, which may make it difficult for them to cooperate with the Ombudsman.

Most of these public officials who have to respond to our inquiries believe that they are doing the Ombudsman a favour by availing information. They seem to think that because the Ombudsman is not a court of law they are not bound to cooperate.

2.2 Disregard of the Ombudsman

Public officers may at times consider the Ombudsman as a busy body who wants to control their actions and hence less inclined to cooperate.

They have a tendency to ignore correspondence without advancing reasons for such. In as much as we receive complaints from members of the public of non-response by public officers, we also find ourselves suffering the same fate. Non-response to correspondence is maladministration but public officers continue to commit it, even to the Ombudsman.

2.3 Lack of effective and efficient complaints handling structures

It is important for organisations to have a comprehensive complaint management framework to provide a clear structure for receiving, assessing, recording, responding to, reporting on, and using complaints to improve services to the public.

Most of the government departments lack effective complaints handling mechanism. As a result, they end up not satisfying complainants. The dissatisfied complainants end up lodging their complaints with the Ombudsman. The complainants approach the office of the Ombudsman at times very angry and agitated by the manner in which they had been treated by the government departments concerned.

2.4 Poor and improper records keeping and information handling

Records management strategies help keep organizations efficient and productive. Records help organizations to keep track and provide evidence of administrative and executive transactions.

Public officers may refuse to respond because of lack of information resulting from poor and improper records keeping and information handling.

2.5 Malice/bad faith

Some officers just refuse to cooperate because they believe that they can simply ignore the Ombudsman's enquiries. These are the type of officers who believe that the Ombudsman is toothless and cannot do anything to them even if they withhold information needed in the investigation.

2.6 Discernable general unhappiness and poor morale on the public officers.

Some public officers are disgruntled and demotivated due to poor conditions of service. As a result, some public officers spend more time trying to address their issues instead of attending to complaints and or responding to the Ombudsman's enquiries.

2.7 The concept of floodgates

At times, public officials appreciate the maladministration and injustice caused but are hesitant to respond or take corrective action on the case at hand because of fear of opening floodgates due to the high numbers of similarly affected individuals.

2.8 Lack of transparency

Most public officials operate under a code of secrecy. Even though the legislation establishing the office of the Ombudsman has made it clear that there is no room for secrecy or confidentiality pertaining to Ombudsman inquiries, this seems to be deeply entrenched in the officers that they find it difficult to open up to the Ombudsman whenever required to do so.

2.9 Lackadaisical behaviour

Utter laziness has been observed on some of the public officers. Each time you make a follow up, an officer will tell you they forgot to look into the matter without any regret as if it should be understood that they could just forget to do their work. This kind of behaviour goes unpunished hence it keeps recurring.

2.10 Perception that Ombudsman recommendations are not binding

Public officials tend to wait to see what the Ombudsman will do if they do not respond to Ombudsman's enquiries or implement recommendations. They believe that if they sit them out, the Ombudsman will give up and the complaint will miraculously disappear. We try of course through engagements to sway this perception but it persists and continues to impede the Ombudsman's work.

3. WHY COMPLAINANTS REFUSE TO COOPERATE

Some members of the public who interact with the office of the Ombudsman when lodging complaints or being requested to provide information that may assist in the investigation of complaints are at times difficult to handle because of the following:

- (i) Lack of honesty; tendency to not tell the truth or hide the information that is not supportive to the complaint.
- (ii) Verbally abusive, derogatory and even insulting.
- (iii) Realising that the complaint has no merit and then deciding to abandon the complaint without informing the Ombudsman
- (iv) Refusal to accept the outcome of investigations
- (v) Unwillingness or inability to accept reasonable and logical explanations including final decisions that have been comprehensibly considered and dealt with.
- (vi) Refusal to accept that further action cannot be taken on their complaints.
- (vii) Attempt to reframe a complaint in an effort to get it taken up again
- (viii) Bombarding the organisation with phone calls, visits, letters and emails after the matter has been closed.
- (ix) Persistently demanding review of their complaints without presenting any new or fresh information.

- (x) Mistrust of the office of the Ombudsman and a deep seated believe that the Ombudsman is part of the executive arm of government.
- (xi) Unable to appreciate that the Ombudsman is a neutral mediator, neither the defender of the administration nor advocate for the complainant.

CONCLUSION:

The solution to the above problems is mindset change that can only be brought about by:

- (i) A concerted effort by the Office of the Ombudsman to inculcate in our public officers the principles of good governance. This can be achieved by teaching public officers best administrative practices.
- (ii) A robust outreach programme to educate the members of the public on the mandate of the Ombudsman and the importance of the Office in democracy, good governance and the rule of law and its role in promoting and protecting human rights.

Thank you.