

Ombudsman Report

Banned Indefinitely: Safety or Punishment?

An Investigation into a Parks, Forestry and Recreation Decision to Ban an Individual

**Fiona Crean
Ombudsman
March 5, 2010**

Table of Contents

1	The Complaint.....	1
2	The Investigation	1
3	Summary of Events	1
4	City Policies & Procedures	3
5	Allegations & Findings	4
	(i) Decisions of December 5, 2005 and January 23, 2006	4
	(ii) March 27, 2007 Indefinite Ban.....	7
	(iii) December 2, 2008 Letter Extending Ban.....	9
	(iv) Process for Documenting Decisions under the Policy.....	10
6	Ombudsman Conclusions.....	11
7	Ombudsman Recommendations	14

1. The Complaint

1. By letter dated March 6, 2009, Mr. M made a complaint to my office that Parks, Forestry and Recreation (PFR) acted unfairly in banning him from all parks and community recreation facilities on December 5, 2005 for his inappropriate behaviour, and in continuing to refuse to remove the ban.
2. Mr. M maintains that he did not receive procedural fairness when the ban was first imposed or in subsequent decisions. As well, he alleged that he was not given the opportunity to respond to the allegations.

2. The Investigation

3. Following the opening of the Ombudsman's office to the public on April 6, 2009, my staff conducted extensive preliminary inquiries with PFR staff concerning Mr. M's complaint. A notice of intent to conduct a formal investigation was subsequently sent to the City Manager on June 8, 2009.
4. My investigators held interviews with present and former staff and reviewed material including the complainant's file, numerous voice mail messages from him to PFR staff and relevant City policies and legislation.
5. The results of my investigation, tentative conclusions and recommendations were communicated in a draft report to the City Manager, who was invited to provide a response. The City Manager subsequently advised that he concurred with my findings and recommendations and that the report's recommendations would be addressed in policy revisions.

3. Summary of Events

6. In 2003, Mr. M first qualified under the PFR Welcome Policy to use the facilities at a North York community centre free of charge. He was subsequently granted a permit to use the gym.
7. In the fall of 2005, the complainant was advised that his application for a 2006 winter session permit had been denied as the policy had changed.
8. Mr. M contacted staff at the recreation centre about this decision on November 27, 2005. The following day, he contacted the Supervisor, Customer Services, North York, to register his dissatisfaction with the decision. Mr. M spoke to the supervisor and later left her a voice mail message which PFR staff construed as abusive and threatening.
9. On or about December 5, 2005, the Facilities Supervisor for North District, attempted to deliver a letter to Mr. M regarding a decision to ban him from using PFR facilities. An altercation ensued upon delivery between the

Facilities Supervisor and Mr. M and it is not clear whether the letter was delivered.

10. Mr. M received the letter in question by courier on January 9, 2006. It informed him that he was banned for a period of one year from attending all City of Toronto parks and recreation facilities due to his "inappropriate behaviour".
11. Accompanying this letter was a *Trespass to Property Act* Notice advising Mr. M that he would be formally charged by the police if he was found on property owned by the City of Toronto or by the Toronto Board of Education in its use of parks and recreation programs.
12. An undated document signed by the Facilities Supervisor which was also included with the letter, gave notice to Mr. M that he was being banned due to "inappropriate and aggressive behaviour" and that any future violations would result in an extension of the ban.
13. Mr. M contacted the Acting Director for PFR, North York to advise of his dissatisfaction with this decision.
14. By letter dated January 23, 2006, the Acting Director advised Mr. M that he was being banned due to his inappropriate behaviour consisting of verbal abuse and threats of a physical nature against City staff. It indicated that the ban replaced the previous one of December 5, 2005. A time period for this ban was not specified.
15. The letter cited four incidents by date and staff name or title, two in November 2005 and two in January 2006. It provided no further details.
16. In January 2007, the complainant contacted PFR to advise that he wanted to be reinstated since the one year period for the initial ban had elapsed. He was advised to put his request in writing, which he subsequently did by letter dated January 31, 2007.
17. By correspondence of March 27, 2007, the PFR Supervisor, Customer Services, North York, (the Supervisor) informed Mr. M that the ban would remain in effect indefinitely because the Acting Director's letter of January 23, 2006 demonstrated that "irreparable damage" had been caused by Mr. M's conduct.
18. Mr. M called the General Manager on October 28, 2008, to ask that the ban be removed.
19. On December 1, 2008, the Supervisor called Mr. M to suggest that if he wanted to be reinstated, he could attend a meeting with the Recreation Director for the purpose of determining what conditions might be placed on

him. The complainant responded by saying that he wanted staff to apologize to him.

20. Mr. M received a letter from the Supervisor dated December 2, 2008, advising him that the ban would continue until he agreed to meet with staff to discuss the possibility of his return and any “conditions that are deemed necessary”. He was invited to contact the Supervisor directly if he wished to discuss the matter.
21. Mr. M then contacted the Ombudsman’s Office with his complaint.

4. City Policy and Procedures

22. The Suspension, Ban and Trespass Policy, Parks and Recreation (policy), first approved on February 28, 2000, authorizes PFR staff to ask a person to leave a program, location or city-owned site when that person is “displaying inappropriate, disruptive or aggressive behaviour that threatens the security/safety of Staff, Participants, and property”.
23. There are three levels of action that can be taken under the policy.

Suspension:

A suspension prohibits an individual from access to a program or facility for a specified period of time (short term). The length of a suspension is at the discretion of Staff, to be no longer than one week.

Ban:

Banning involves prohibiting an individual from entering the facility and/or program for a longer period of time. Full Time Recreation Staff must notify the Supervisor of Recreation and Facilities of the banned individual. Once the ban is over, the individual must request a meeting with the Full Time Recreation Staff before returning to the facility or program.

Trespass:

If a more serious incident occurs, (e.g. theft, violence, assault, weapons substance abuse etc.). The Supervisor of Recreation and Facilities in consultation with Recreation Staff must issue a Trespass Notice. A Trespass Notice involves filing a report with the Toronto Police Services, which prohibits access by an individual to one or more city-owned facilities for a specified period of time, in accordance

with provisions of "Trespass to Property Act". Non compliance by the individual warrants contacting Toronto Police Services to take appropriate action.

24. PFR staff stated that apart from the brief explanations included within the policy, there are no guidelines on how it is to be implemented.
25. The procedures set out in the policy to be followed by staff, relevant to this complaint, are:
 - Staff needs to be sensitive to the extenuating circumstances and consider each individual situation, including person [sic] with a disability/special need. During the initial intervention, it is imperative that Staff consults with the Program Supervisor... and other appropriate staff when making decisions.
 - Staff are required to get Supervisors approval to issue a Trespass to Property Notice.
 - When serving an individual with a Trespass Notice ensure all the specific facility details are clearly indicated and documented on the form.
 - All incidents must be documented on the Participant Injury/Incident Report form.
 - At the end of the Suspension, Ban and Trespass period, the individual must contact the Recreation Staff to arrange a meeting before being allowed back into program and/or facility.
 - The Recreation Manager will deal with the appeal - If Trespass decision is reversed it is the Managers [sic] responsibility to notify Toronto Police Services.

5. Allegations and Findings

(i) Decisions of December 5, 2005 and January 23, 2006

26. PFR was asked to provide my staff with all written records on which the decision was based to issue the ban and trespass notice. PFR provided a copy of the December 5, 2005 letter, with two attachments, that had been delivered to Mr. M.

27. The December 5, 2005 letter from the Facilities Supervisor states that Mr. M is banned “until further notice” from attending “North York Civic Centre, Amesbury Sports Complex, Humber Sheppard Community Centre and all other City of Toronto Parks & Recreation facilities” because of his “inappropriate behaviour”. The conduct is not explained further. The letter informs the complainant that “these activities” are in violation of the *Trespass to Property Act*, section 3(1) which states that entry to property may be prohibited by notice, and warns the complainant that he would be considered a trespasser if he appeared at, or entered, any of these premises. The letter indicates that a request to be heard can be submitted in writing to the Acting Director, and provides his address.
28. Attached to the letter is a document entitled „Banned Person Information” notifying Mr. M that he was being banned effective immediately for “...a one (1) year period commencing December 5, 2005.” This document further advises that the determining factor for the ban is based on his “inappropriate and aggressive behaviour” and any further violations would result in an extension of the ban or a charge under the *Trespass to Property Act*. Also included is a physical description of the complainant.
29. The second attachment is a *Trespass to Property Act* Notice which advises Mr. M that he will be charged with trespass by the police if he is found on NYCC/Amesbury Sports Complex & Humber Sheppard CC. It states that he is expected to comply with the directive for a period of one year.
30. My staff requested any additional file material on which the December 5, 2005 decision to ban the complainant was based. They were informed that the Facilities Supervisor who had made this decision had left the city and that his files could not be located.
31. My staff was advised that the reference to “inappropriate behaviour” specifically referred to a telephone call that Mr. M had made to the previous Supervisor of Customer Service on November 28, 2005.
32. Since the actual voice mail message could not be located, the previous Supervisor provided an oral statement about this incident. She said that when she initially spoke to Mr. M, he was “nasty” and “very rude”. She threatened to hang up on him and when he continued in the same vein, she terminated the call. Mr. M then left her a message in which he called her an “effing bitch”. She described the message as “horrible”, “vile” and “upsetting”. She said she was afraid for her staff should Mr. M pay a visit to their office.
33. The voicemail message was forwarded to other staff members, one of whom described in an e-mail that the message was “extremely abusive” with the “f” word being used frequently.

34. Subsequently, in January 2006, the complainant called the Acting Director on a number of occasions to discuss the ban. The Acting Director said that the complainant threatened him with physical force and mocked the accent of one of his staff members. The Acting Director said he believed he needed to take action against Mr. M as a matter of staff safety.
35. PFR provided staff e-mails from that period documenting the calls that Mr. M had made to a number of staff. His behaviour was variously noted as “irrational” and “volatile”. He is described as engaging in “abusive language” and making “physical threats”.
36. The Acting Director sent a letter to Mr. M on January 23, 2006, to advise that he was banned from all PFR facilities because of his continuing abusive and threatening behaviour. The letter listed the dates of four incidents that were problematic– the two incidents concerning staff from November 2005 which resulted in the original ban, and two more incidents involving other staff in January 2006. Mr. M was informed that this ban replaced the previous letter dated December 5, 2005, and that if he had any questions, he could put them in writing to the Acting Director.
37. The length of the ban was not stipulated in the letter. The Acting Director advised that the usual length of a Notice to Trespass is understood to be one year as outlined in the *Trespass to Property Act* Notice form. This form was not included in the letter. The Acting Director acknowledged that his letter should have contained the time period of the ban.

Ombudsman Findings

38. I accept that the November 28, 2005 telephone message from the complainant caused the recipient to become concerned for staff safety. I concur that the complainant’s conduct and use of obscene language required timely action to ensure staff safety and prevent its recurrence.
39. The decision to ban the complainant and issue the notice to trespass may have been an appropriate level of response to the behaviour in question. In the decision-maker’s place, I might have made the same decision. This is not what is at issue here. It is the responsibility of PFR to make such decisions, not mine. However, such a decision must be arrived at following a fair process.
40. A ban of lengthy duration and extensive scope was imposed without Mr. M being given an opportunity to address or refute the allegations against him. While both letters allow Mr. M to make a request to be heard, this was made available only after the fact.
41. I am concerned with the extent of the ban in that it applies not only to the facilities where staff were affected, but to all PFR facilities. There is no

evidence that the complainant posed a safety risk to staff in all PFR facilities. There was no documentation to such an effect, neither was there any rationale provided.

42. I am of the view that the December 5, 2005 letter, which advised Mr. M that his behaviour was “inappropriate”, was too vague and general. It did not describe the alleged inappropriate behaviour. It did not specify the incident or incidents that led to the ban and trespass notice, nor did it provide sufficient reasons.
43. The second letter of January 23, 2006, from the Acting Director also did not provide sufficient information about the prior and new allegations against him. This letter should also have included the time period of the ban.
44. There was insufficient record keeping on the initial decision to ban Mr. M. Despite the policy’s provisions, no incident reports, notes or statements were on file to support the ban. There was little documentation describing the alleged incidents and no explanation as to the rationale for applying the ban and trespass notice.
45. I considered whether the complainant’s actions in making abusive telephone calls to staff could be described as „serious incidents” warranting a trespass notice. The PFR policy provides examples of serious incidents which include “theft, violence, assault, weapons, substance abuse”. The policy does not provide a clear definition of what constitutes a serious incident nor is there clear guidance on how to apply this section of the policy.
46. I am concerned with the proportionality of the initial one year ban and trespass notice in relation to the complainant’s alleged conduct. There is no indication of the rationale for considering the complainant’s behaviour as a more serious incident in keeping with the PFR definition.
47. There was no indication that alternative measures were considered. It would seem that in making the decision to apply the most severe of the three available options, there should have been some explanation as to why a suspension or shorter ban was not considered adequate, especially when this was the first time the provisions of the policy were being applied to the complainant.

(ii) March 27, 2007 Indefinite Ban

48. Mr. M advised my staff that he absented himself from PFR facilities for the stipulated year upon receiving the letter. In January 2007, he contacted the Acting Director and asked to be reinstated. He was told to put his request in writing.

49. Mr. M submitted a written request to have the ban lifted on January 31, 2007. His letter was forwarded to the Supervisor.
50. Mr. M states that he did not receive an acknowledgement or response until March 27, 2007, at which time he received a letter from the Supervisor advising that the ban would remain in place "indefinitely". The reason given for this extension was because of his "past inappropriate behaviour towards staff". The letter stated that Mr. M had caused "irreparable damage" as set out in the previous letter of January 23, 2006. The letter did not mention any process by which Mr. M could ask questions or be heard.
51. According to the Supervisor, the decision to apply the ban indefinitely was based on Mr. M's past history. He referenced the voice mail message of November 2005, which the complainant left for the previous supervisor, and his interaction with staff at the time.
52. When asked what "irreparable damage" referred to, the Supervisor said that staff still felt afraid, based on their previous interactions with Mr. M.
53. The Supervisor said there were new issues regarding Mr. M's conduct, consisting of remarks he made to the Acting Director's staff around the time of the reinstatement request in January 2007.
54. The Acting Director advised that the complainant had made insulting comments to his assistant about her accent in several telephone calls. The assistant confirmed this by stating that the complainant informed her that he did not want to deal with her as he could not understand her accent.
55. My staff requested any documents that would support the decision but received none. There was no documentation about the "irreparable damage" or telephone calls. The Acting Director stated that he had relied mainly on oral information from staff who had previously dealt with Mr. M.
56. When the Supervisor was asked if he had contacted Mr. M before the decision was made to extend the ban, he said he had not.
57. When the Supervisor was asked whether he had considered applying a lesser penalty, such as a suspension or a ban for a finite period, he said he had not.

Ombudsman Findings

58. The decision to continue the ban indefinitely was based primarily on the complainant's previous conduct, for which a penalty of a one-year ban had already been imposed.
59. The only new information consisted of telephone calls to a staff member in which Mr. M made remarks that were characterised as insulting.

60. In short, PFR issued a lifetime ban based on comments to one staff member that, while unacceptable, could not be construed as threatening. I do not minimize the effect of this behaviour on staff, but imposing an indefinite ban for what were, at worst, insulting and unacceptable comments, was disproportionate and unjust.
61. Mr. M should have been told about the allegations against him and been given a chance to address them before the decision was made to impose an indefinite ban.
62. It was unreasonable that the incidents alleged and the rationale for the indefinite ban was not documented. This lack of documentation is even more problematic as the decision was based on the complainant's prior conduct which was also poorly documented.
63. PFR should have considered other available options as provided for in the policy.

(iii) December 2, 2008 Letter Extending Ban

64. After Mr. M received the March 27, 2007 letter banning him, he continued to stay away from PFR facilities. On October 30, 2008, he called the PFR General Manager's Office and left two messages outlining the history of his complaint and asking that something be done to lift the ban.
65. As a result of these messages, the matter of the ban was reopened. The Supervisor called Mr. M on December 1, 2008 and asked if he would like to be reinstated.
66. According to Mr. M, he was very surprised to get this call "out of the blue". The Supervisor said he informed Mr. M that the call was a result of the messages left for the General Manager in October. The complainant told the Supervisor that he wanted PFR staff to apologise and promise not to harass him. He understood the Supervisor to say that there would be a meeting with the Director of Community Recreation on December 3, at which time they could discuss the reason for the ban and associated conditions for reinstatement.
67. Mr. M said he was surprised to receive a letter from the Supervisor on December 3, 2008, dated December 2, 2008, advising that the ban would continue until he agreed "to meet with the City of Toronto staff to discuss any possibilities of your return and conditions that are deemed necessary". The letter told Mr. M to contact the Supervisor if he wished to establish a meeting time to discuss the possibility of reinstatement.
68. Mr. M advised Ombudsman staff that he believed PFR never had any intention of arranging the meeting or lifting the ban.

69. When the Supervisor was asked to comment on these allegations, he said there was every intention of following through with the meeting. However, he said Mr. M became irate on the telephone and never acknowledged he had left inappropriate phone messages for staff. The Supervisor said the complainant countered that they had harassed him and that he wanted an apology.
70. The Supervisor said that he had discussed the matter with senior staff. There was consensus that Mr. M was not ready to attend a meeting at which he would be expected to agree to abide by the city's anti-bullying policy and Code of Conduct.
71. After Mr. M received the letter, he left at least six voice mail messages with various PFR staff. My investigators listened to these messages. In two of them, Mr. M used profanity, in five of them he insulted staff, and in one he threatened staff members. In the latter, he stated: "And you tell [the Supervisor] if he wants to show his face, or [another employee], I'll deal with them fucking personally".
72. PFR brought these messages to the attention of the Toronto Police. After listening to a number of messages, the officer stated that they could be considered as "criminal harassment" but did not constitute a "threat."

Ombudsman Findings

73. It is evident Mr. M has often been orally abusive to PFR staff. Staff should not be expected to put up with such treatment and I do not condone the behaviour.
74. I accept that Mr. M was called on December 1, 2008 because he had asked to have the trespass ban lifted when he left messages for the General Manager.
75. I do not find that PFR harassed Mr. M. I find that the decision to continue the ban until Mr. M was willing to meet with staff is reasonable. My staff were informed that this offer remains available.

(iv) Process for Documenting Decisions under the Policy

76. The documents PFR provided regarding the four decisions they made concerning Mr. M were incomplete and stored in various locations. Staff seemed not to be clear about where material was kept, whether it was archived, or for how long.
77. There were no documents given to my investigators to support the original decision except for those indicated at paragraph 26 of this report and one e-mail. We were told that the person who had made the decision had left city

employment. There were apparently no incident reports completed, either at this point or with respect to the later decisions. Decisions were not adequately documented. Although many of the messages left by Mr. M with PFR were retained, the one that led to the first ban and the trespass notice was not.

78. When my staff asked how many bans and trespass notices were issued by PFR on an annual basis, they were advised that there is no process in place to monitor the application of the policy.

Ombudsman Findings

79. Incident reports were not completed, the rationale for arriving at decisions was not provided or explained in writing and vital material over the past four years was missing.
80. Banning someone from PFR facilities is a serious step. Such a decision must be properly documented and the relevant material placed in one file and stored in a secure place for purposes of future reference and an historical record.
81. PFR should monitor the frequency of and the circumstances under which this policy is applied by staff city-wide.

6. Ombudsman Conclusions

82. PFR staff have reported numerous incidents involving confrontations with the complainant. It is unacceptable that the complainant adversely affected the ability of city staff to carry out their duties. Staff safety is a compelling imperative and a legitimate concern. PFR has a responsibility to ensure the safety of its staff and patrons.
83. PFR was justified in taking action to respond to the various incidents. I have taken this into consideration when assessing the fairness of its actions.
84. I have also taken into consideration the importance of protecting a resident's access to, and use of, public space. Public property is of a special nature and is different from private property. Because of the relationship between the government and its citizenry, public property is owned and administered for a resident's benefit and use. The City may of course limit access to public property under the *Trespass to Property Act*, but such action must be legitimate, fair and properly executed.
85. The issue under review for me is whether the manner in which PFR responded by banning Mr. M was reasonable and whether the complainant was provided with procedural fairness. The decisions to ban Mr. M are administrative and must conform with procedural fairness.

86. Procedural fairness concerns how the decision was made. It includes the duty of fairness, which provides the person affected with the right to notice that an adverse decision is going to be made, the right to respond to the decision maker and the right to an unbiased decision. The process must be transparent and easily understood. The individual must be provided with a clear explanation for the grounds on which the trespass notice is based.
87. The initial decision to issue a ban and notice to trespass may have been an appropriate level of response to the incident in question. However, the alleged incidents were not properly or adequately documented. Mr. M was not provided with an opportunity to respond before a significant ban was imposed and there was no indication that any alternative measures were considered. In fact, no rationale was provided for the decision.
88. I am of the view that a fair course of action would have been to bar or suspend the complainant from the premises in the short term pending the following: a review with affected staff, completion of incident reports and/or documentation specifying and describing the incident(s) complained of, and the provision of an opportunity for Mr. M to address the allegations. This would have enabled staff to fully assess whether employee safety was at risk, the extent of that risk, any extenuating circumstances pursuant to the policy, and the measure appropriate to the gravity of the risk to safety.
89. I recognize that there may be situations where such a course of action would not be reasonable or would raise safety concerns. Absent such considerations, however, the above course of action should always be pursued.
90. The ban, which covered all PFR facilities, is far too broad, as there was no evidence to indicate that the alleged safety risk posed by the complainant extended that widely.
91. The PFR policy lacks adequate guidance for staff on its application and the actions that may be taken, and a clear definition of "serious incidents" justifying the issuing of a trespass notice.
92. My most serious concern about this matter is the decision to impose an indefinite ban against the complainant. An indefinite ban is tantamount to a lifetime ban and should be reserved for the most serious of circumstances. Even in those cases, there should be an opportunity to have the decision reviewed.
93. Furthermore, the decision was based primarily on incidents which had occurred in December 2005 and for which a year's ban had already been imposed and served. This would seem to be a case of punishment twice for the same offence. Such action is quite simply unfair.

94. It is also unfair that Mr. M was banned indefinitely without providing him any opportunity to address the allegations made against him.
95. It is unacceptable that there was so little documentation to substantiate such a significant decision against a resident. A thorough review should have been conducted in order to assess whether Mr. M's conduct provided valid grounds for an indefinite ban and this review should have been properly documented.
96. It is problematic that scant documentation of the alleged misbehaviour was kept at the outset and that this trend of neglecting to adequately document decisions continued through the ensuing four years that Mr. M has now been banned.
97. The Toronto Municipal Code Chapter 3, § 3-36, provides that the Ombudsman, in undertaking an investigation, shall have regard to whether the decision, recommendation, act or omission in question may have been:
 - a. Contrary to law;
 - b. Unreasonable, unjust, oppressive or improperly discriminatory;
 - c. Based wholly or partly on a mistake of law or fact;
 - d. Based on the improper exercise of a discretionary power; or
 - e. Wrong.
98. There are generally accepted definitions of the above-noted terms in both case law and the ombudsman field. I have considered those definitions in reaching my opinion.
99. I believe it was reasonable for PFR to take action to address the complainant's conduct. However, the process that ensued in each instance, both to reach the decisions, and implement them, did not comply with procedural fairness.
100. It is my conclusion that PFR:
 1. imposed a ban that was too broad in scope and unsupported by the evidence;
 2. failed to disclose clearly to the complainant the specific grounds that provided a basis for imposing each of the bans and the trespass notice;
 3. failed to provide the complainant with an opportunity to respond to allegations before imposing the bans;

4. failed to establish that consideration was given to alternative measures or penalties against the complainant as provided in the policy;
5. failed to specify the length of the ban in one instance;
6. in another instance, banned the complainant indefinitely, primarily based on his original actions which had already been addressed ;
7. failed to properly review, adequately document or explain the rationale for any of the incidents on which the bans were based; and
8. failed to properly keep records relating to the complainant.

7. Ombudsman Recommendations

101. Taking into account the evidence, I am making the following recommendations:

1. That the PFR forthwith issue a written directive to its staff that when deciding to issue a ban or trespass notice against a member of the public from its premises or programs under the Suspension, Ban and Trespass Policy they must:
 - i. document the conduct and incident(s) complained of contemporaneously or as soon as is reasonably possible thereafter;
 - ii. ensure that the documentation is factual, precise and objectively descriptive and avoids the use of general or subjective terms;
 - iii. before issuing the ban, suspend the individual complained of and provide an opportunity to that person to respond to the allegations. Specific and sufficient information on the grounds and allegations must be provided to that person. When it is not reasonably possible or safe to do so, due to factors such as criminal charges, the presence of weapons or apprehension by the police, PFR staff must document the circumstances;
 - iv. complete an incident report;
 - v. consider the extent and gravity of the threat to safety posed by the individual, extenuating circumstances if any, and alternative measures in determining both the length and extent of the ban;
 - vi. when issuing a ban or trespass order, provide a clear rationale for the decision, including the reason for the length and extent of the ban imposed;

- vii. issue a ban for a finite period of time which must be clearly specified in the notice to the individual.
 - viii. in the decision or notice to the banned individual indicate whether there is a review and if so, what the process entails;
 - ix. ensure that documentation relating to a banned individual be properly maintained and included in one file.
2. That a copy of the above directive be provided to the Ombudsman.
 3. That the Suspension, Ban and Trespass Policy be amended no later than November 2010 to incorporate the above directive and in addition include a clear definition of “serious incidents” justifying the issuing of a trespass notice.
 4. That the Ombudsman be provided with a status report on the development of the amendments to the policy by August 2010, and a copy of the policy when completed.
 5. That the PFR develop a system whereby suspensions, bans and trespass notices issued can be accurately ascertained, monitored and evaluated.
 6. That PFR make available to the complainant a mediated review of the current ban. The mediation, if agreed to by the complainant, is to be conducted by an externally appointed mediator with experience in community conflict resolution.

(Original Signed)

Fiona Crean
Ombudsman
March 5, 2010