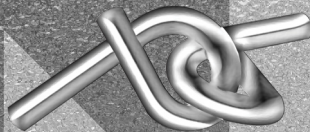


# ANNUAL REPORT 2018



**OMBUD'S** OFFICE  
UNIVERSITY OF CAPE TOWN

Independent | Impartial | Confidential

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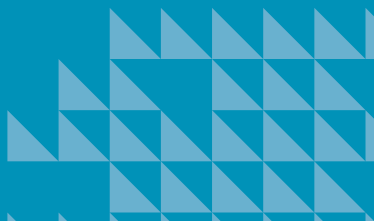
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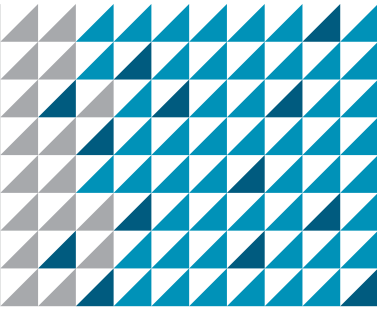
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# Message from the Ombud



## I remember Prof. Mayosi....

I am pleased to submit my 2017/18 annual report. It comes soon after the 2016/17 report, which was delayed and published only in mid-2018. This report covers the period 1 July 2017 to 30 June 2018.

The untimely passing of Professor Bongani Mayosi falls outside this reporting period. Since I have not previously said a word publicly about his tragic passing, I see fit to use the early pages of my report to remember him. While I sometimes make public commentary about issues I deem important to the university community, this time I was silent. I recognised that my silence was based on my own grief and mourning in general, which is a time of silence and withdrawal across cultures. Its length cannot be timed by any one person's standards; it varies.

I also find less talk in keeping with who Professor Mayosi was. He did not talk much, but when he did, he compelled an audience to listen and engage thoughtfully. I first met him in 2003 as a colleague in the Health Sciences Faculty (HSF) and I recall his thoughts and contributions to transformation. I engaged with him subsequently in his role as Dean of the same faculty, where my office was involved in providing support, as is the case for other faculties. Indeed, we had a meeting scheduled on the day of his passing. He did not arrive for the meeting. When I learnt about his passing later that day, the news cut like a knife. May his soul rest in peace.

As is to be expected, I got calls from people both within and external to the University wanting to know what happened. I had no answers.



"His passing left me with questions even about my role as Ombud in the university."

They were in shock and pain. I was too, but as an ombud, I suspended mine to validate and help others deal with theirs. I often said "I am sorry for your loss", especially to visitors from his faculty (some of whom were once my colleagues). I came to realise, I was talking to myself at the same time. I also discovered that grief is not just an emotion. As a process it is also a skill. His passing left me with questions even about my role as Ombud in the University. As an independent and confidential resource, it is important that I am not only independent in practice but I am also perceived as such. Hence, as a matter of principle, I do not attend university gatherings. Professor Mayosi's commemorations were the first public gathering where I felt compelled to risk not being seen as independent.

In his inauguration, back in 2007, Professor Mayosi narrowed the focus of his speech as follows:

"In this talk, I will not embark on a futuristic exploration of the impending wonders of genomic medicine, or the allures of stem cell therapy, nor the promise of the new imaging technology to penetrate the very soul of man. Neither will I address the real threats to the public's health which have been identified by the 2007 World Health Organisation Annual report. There is a long list of these dangers, including environmental threats (i.e. global warming, ozone depletion), old and new infections (HIV/AIDS, tuberculosis including drug resistant forms, malaria, SARS, "bird flu", human pandemic influenza), and socio-behavioural pathologies (i.e. violence, war, drug abuse, and mental health)."



“Prof Mayosi himself called it a “socio-behavioural pathology” which speaks to a combination of psycho-social and other complex factors. He was a teacher to the end.”

Neither we as his audience that evening nor he as the speaker knew that he would later compel us to look into mental health matters that were not his focus that day but mentioned as “a danger”. None of us knew that he would not be around long to keep contributing to the “Future of Medicine” that he mapped so eloquently. It is a wonder that he achieved as much as he did, in the little time he had with us.

The Minister of Health, Dr Aaron Motsoaledi, told the mourners at Prof Mayosi’s funeral that his death cannot be in vain. Regarding the issues of belonging, and the unequal chance of success as experienced by black students on campus – an issue Prof Mayosi raised as a concern to the Minister – the HSF and the University must intensify their transformation efforts. This type of call for transformation is an old narrative. For years now the University has been focusing on mental health issues following occasional student deaths by suicide. While Professor Mayosi may not have chosen to dedicate his speech, “The Future of Medicine”, to mental health, his untimely passing highlighted the need for the University to dedicate more resources into mental health, to destigmatise it, to educate and to support its staff and students. One of his colleagues, Professor Ntsekhe, the Chair and Head of the Division of Cardiology, added that Professor Mayosi’s death would be in vain if mental health and depression disorders are not placed front and centre of the health care curricula and agenda.

In Professor Ntusi’s (the Chair and Head of Medicine at HSF) calling Prof Mayosi a hero, it is evident that Prof Mayosi’s life impacted on others to such an extent that he lives on through them. The context within which mental illness emerges is just as important. It will not be enough to simply look at it as a pathology. Prof Mayosi himself called it a “socio-behavioural pathology” which speaks to a combination of psycho-social and other complex factors. He was a teacher to the end.

It is my hope that whatever the current inquiry into his passing yields, the University will use the findings to learn. I have heard from people who say Professor Mayosi's passing showed them how close they were to the space in which he appeared to have found himself.

The university as an employer must always discharge its legal responsibility and do what is in its power to deal fairly with its students and staff. Who constitutes "the University" in the workplace context? Every member of the university community (e.g. student, PASS staff, academic staff, parent, alumni) is part of the University, regardless of the nature of the relationship (peer/evaluative) to any other member. I am encouraged by the Vice Chancellor's words; Prof. Phakeng in her VC Desk newsletter of 7 August 2018, which said "One step we can all take immediately is to commit to responding to one another with compassion and kindness – not just to our friends, but to people at UCT we may not know. We can all benefit from a kind word and respect. This is a practice we can instil into the UCT culture, starting now."

I do not know how the University will choose to remember Prof. Mayosi. At this point I am invested in going back to the human basics highlighted above. They are free and easy to apply. For example, there is no cost attached to being kind to the next person or showing respect to the next person, whoever they may be.

The Annual Report of the Ombud's office covers a synopsis of the office activities within the reporting period, and allows me to share my observations and make commentary on some of the matters that have arisen. I am grateful to all my visitors, since it is their stories and experiences that give me information on what needs fixing, unfairness, inaction and actions by the University. Equally, I appreciate the openness of university members to help deal with emerging issues effectively. I find the University of Cape Town forward thinking and mature to allow this scrutiny and vulnerability.

Submitted with respect,



**Zetu Makamandela-Mguqulwa**

# Introduction

The University of Cape Town has demonstrated exceptional commitment as an employer and institution of learning to its students, staff and all its stakeholders by acknowledging the value and benefit of an independent office to help resolve some of its conflicts using alternative dispute resolution (ADR) mechanisms as an option alongside its “on-record” conflict management approaches. While ombudsing is not necessarily opposed to formal justice systems when they are fair, as an alternative, ADR approaches are popular because of their confidentiality, cost effectiveness, flexibility and legitimacy. To date, confidentiality and independence are among the most common reasons that people choose my office when they could easily go elsewhere. While colleagues might argue about which is most effective, ADR or formal systems, as organisational Ombud I embrace both since I firmly believe they both have a place in a conflict management system. As ombuds we would like to believe that, instead of favouring one approach over another, we provide “Appropriate” Dispute Resolution (ADR).

The University is a complex place, and given its size and character (academia) and as would be expected in other places, there will be blockages every now and then, as well as disagreements where people should ideally agree. The ombud becomes a possible avenue to help people get unstuck. For example, part of my role here at UCT is to help people understand the university policies as they are, when they are fair and relevant. Sometimes correct decisions are delivered inhumanely, making the recipient doubt if the decision is taken in good faith and that it is fair. Lack of transparency creates doubt and suspicion. It is also my role to highlight policy gaps without making the environment over-burdened with unnecessary policies.

While acknowledging the value of both formal and informal approaches, I must add though that ombudsing presents a huge departure from the traditional hierarchical command and control approach to dealing with people, or seeing people as factors of production rather than partners and stakeholders involved in the same enterprise as oneself.

## The Mandate of the Ombud’s Office

Ideally, the office of the Ombud is meant to be the office of last resort, not the early resolver of disputes. In a macro sense, the Ombud should oversee and give feedback to policy makers when necessary, comment critically on how policies are implemented and recommend changes

as appropriate. The role is the big picture one which comes from being well positioned to see all parts of the University, see what could cause harm, and provide early warning to prevent that from happening. This is often explained as seeing the forest and not just the trees.

None of the work of the Ombud can be delivered without having the organisational values against which policies and actions will be tested. For the Ombud to hear and understand issues brought to the office from diverse angles, it is critical to be granted access to all resources that will enable resolution. These include documents, meetings with members of staff and any other resource that will help with speedy resolution of an issue. I must emphasize that it is helpful for people to avail themselves to meet up with the Ombud fearlessly since my office is not an office of judgement. Whether you are an initiator of an issue or a respondent, does not really matter to me.

I do, nevertheless, understand how the respondent can easily feel herself/himself to be on the backfoot. I work hard to dispel this unfounded fear but also to give honest feedback on apparent transgressions and oversights. It is to be expected that an assumption of bias towards the complainant will be the case where there is a power differential between the parties involved. However my role is neither that of an advocate for the complainant nor that of an apologist for the University. I am grateful that a common response from faculty where students are concerned is a collegial one with openness to explore the issue fully and work towards a fair resolution.

There is a range of essential elements that enable the Ombud to perform her function. These include significant experience within the organisation, independence from power influences, power to investigate to gather necessary information, authority to inquire into fairness, correctness of findings, motivation for a particular decision, adequacy of reasons given, efficiency and insight into procedural propriety of actions or inactions by all university staff irrespective of level. Above all, very little can ever be achieved in the absence of a relationship. To explain this, in the 2017 report I said:

A key task of the Ombud is to build enough of a relationship with different stakeholder groups to be perceived as fair and indeed operate in a fair manner, and to be perceived as, and operate in a manner that is, accessible and credible. To achieve this, it is critical that an arm's-length approach is maintained in doing the work. It is for this reason that the term of ombuds ideally is finite so that incumbents do not become too comfortable, invest in relationships and end up being, or being perceived as, "captured".

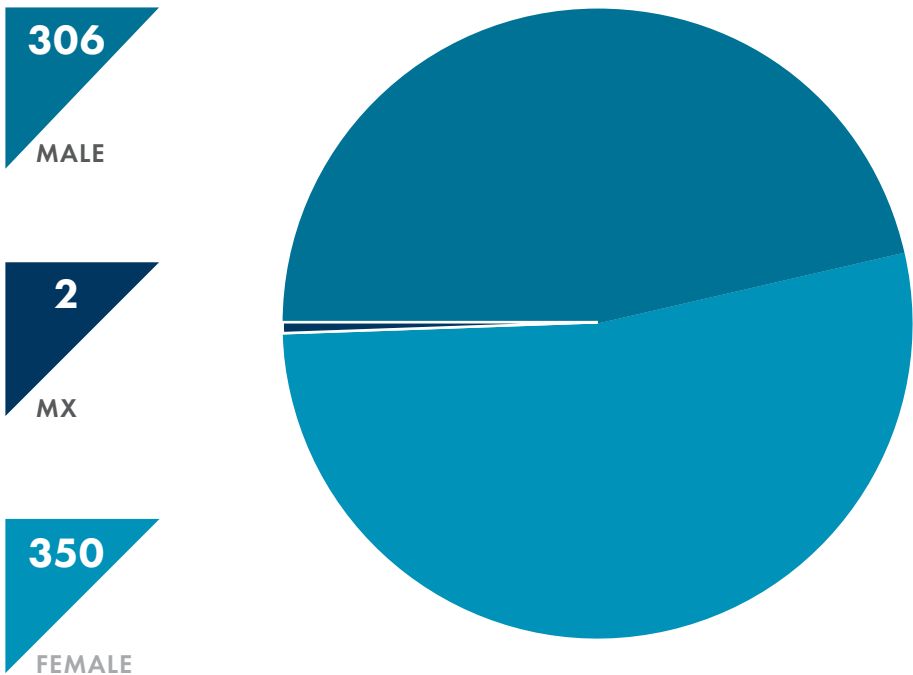
The terms of reference and the International Ombud's Association Code of Ethics according to which I practice, are attached hereto as Appendix B.



# Overview of statistics

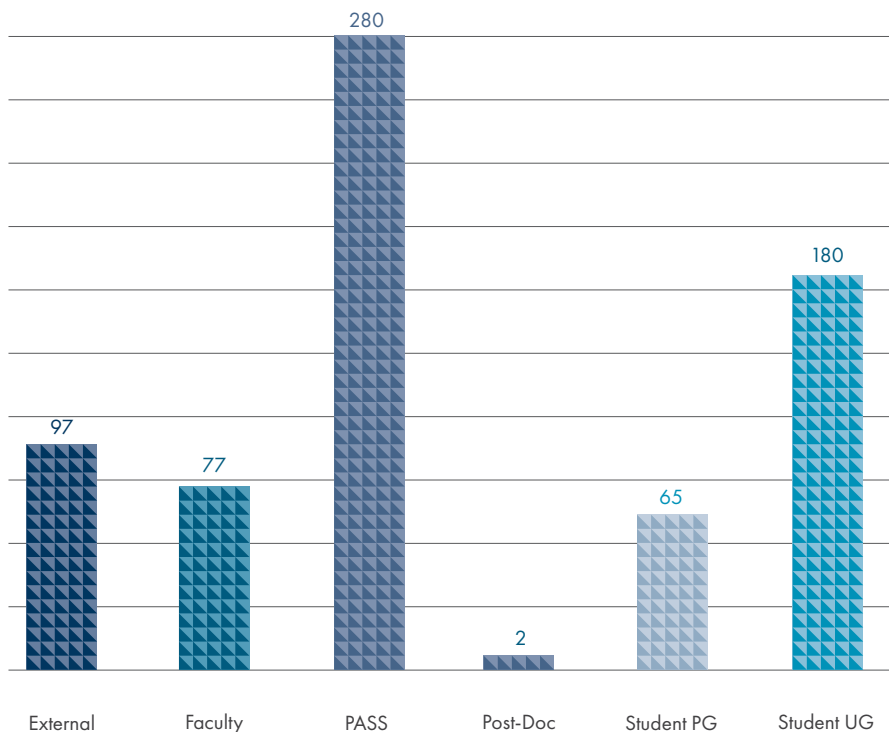
It is my role to observe the life of the University with a view to noting the trends (especially based on the visitor count) in respect of substantive or procedural unfairness and to report the trends to the University administration.

While it is unrealistic to hope to solve all of the problems that occur on campus, it is realistic to aspire to identify issues and try to manage and address conflicts once they occur. One of the ways my office does this is by keeping track of trends and patterns of issues brought to the Ombuds office. In 2018, the total number of visitors was 658, compared to 700 in 2017 preceded by 583 in 2016.



**GRAPH 1:** Gender distribution of visitors

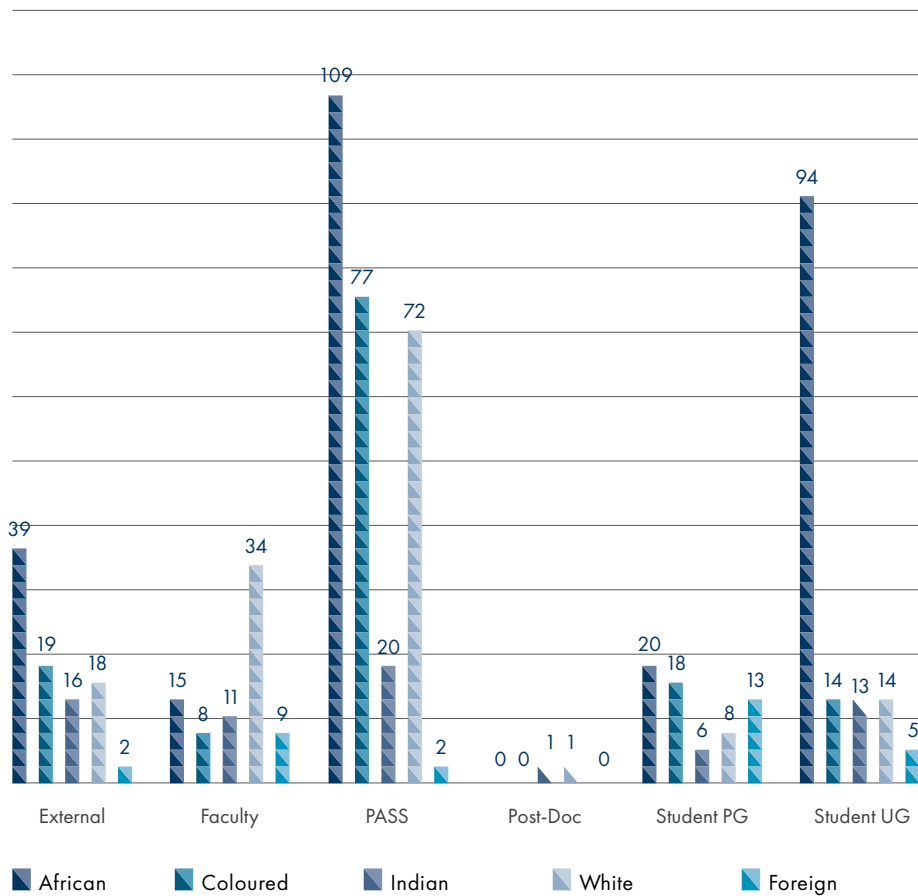
Unlike in previous reporting periods, the number of women visitors is significantly more than men. Women visitors tally to 350, and men to 306 with 2 visitors who did not self identify within the binary gender categories. The university is likely to see a rise in this latter choice, in keeping with the gender inclusivity policy.



**GRAPH 2:** Visitors by constituency

Above is a constituency breakdown of the people who made contact with the Ombud's office. They include 357 staff members (280 PASS and 77 faculty members). This year, the former "new PASS" staff members who were recently insourced staff members in the 2017 report are now included in the general PASS category. Two post-doctoral students visited. From numerous conversations with others, it appears that this low number is not by any means indicative that they have few or no problems. The two that came spoke of the fear of many others to come forward to talk about their experiences at UCT and said further that they are often kept too busy by the Principal Investigators (PI) under whom they work to even spare the time. Last year, their number was so small that I decided to categorise it together with postgraduate students. Just to be clear, while the number was small, nobody's concern is ever insignificant in the Ombud's office.

In this period, 205 students visited (65 postgraduate and 140 undergraduate students). The 94 external visitors include community members such as parents of students, prospective students, individuals from other institutions with interest to establish Ombud's office and other stakeholders such as former UCT students.



**GRAPH 3:** Visitor constituency by race

The above graph represents the race diversity of the 658 visitors who came to my office presenting a total of 1452 issues. To resolve the issues, I contacted 1228 other people through single, group, and individual consultations primarily with the permission of the primary visitor. Of the 658 visitors, 347 were consultations, where I sat down with a person raising a concern, and with her/his permission I met with one and sometimes several others, depending on the complexity of the issue. Thus 891 others were contacted to address the issues raised in 347 consultations and an additional 20 visitors to address the concerns that required information only.

“My office should be a zero-barrier office for all the University stakeholders.”

The graph above in many respects mirrors the University as a whole in terms of the demographic profile. While it shows a relatively small number of people who decided to bring their issues to the Ombud when compared to the overall University population, not all people or issues are escalated to the Ombud. Ideally speaking, issues should be resolved closest to where they had occurred. It is concerning, though, that the number might potentially be lower than it should be, if the fear that those who contacted me talk about their problems is anything to go by. Fear of retaliation is still a factor that comes up especially in addressing evaluative relationship issues. This is against the spirit within which this office was open. The university must adopt a zero tolerance for this abuse of power, if and where it occurs. My office should be a zero-barrier office for all the University stakeholders.

Against this background, I present the profile of the types of issues that were brought to me.

1	Compensation of Benefits	85	6%
2	Evaluation of Relationships	226	16%
3	Peer and Colleague Relationships	102	7%
4	Career Progression and Development	99	7%
5	Legal, Regulatory, Financial, and Compliance	200	14%
6	Safety, Health, and Physical Environment	198	14%
7	Services/Administrative Issues	201	14%
8	Organisational, Strategic, and Mission Related	205	14%
9	Values, Ethics, and Standards	136	9%
		1452	

**TABLE 1:** IOA standard reporting categories

# IOA Uniform Reporting Categories for Issues/Concerns

## Category and Subcategory (adapted to UCT)

### 1. **Compensation, Benefits , Honours and Recognition** – Questions, concerns, issues or inquiries about the equity, appropriateness and competitiveness of employee compensation, employee and student benefits and other benefit programs.

a) <b>Compensation</b> – Rate of pay, salary amount, job salary classification/level, other.	53
b) <b>Payroll</b> – Administration of pay, pay-related communication.	32
c) <b>Benefits</b> – Decisions related to medical, dental, life, vacation/sick/family leave/ study leave, sabbatical, education, hours of work, Emeritus status, etc.	32
d) <b>Retirement, Pension</b> – Eligibility, calculation of amount, retirement pension benefits, conditions of disbursement.	3
e) Performance-related benefits	38
f) <b>Insurance</b> – Health, IOD, other.	8
g) Educare, Child Care	3
h) Honours , Recognition	5

### 2. **Evaluative Relationships** – Questions, concerns, issues or inquiries arising between people in relationships (i.e. super-employee, faculty-student, colleague-colleague, student-student)

a) <b>Priorities, Values, Beliefs</b> – Differences about what should be considered important – or most important – often rooted in ethical or moral beliefs.	197
b) <b>Respect, Treatment</b> – Demonstrations of inappropriate behaviour, disregard for people, rudeness, crudeness, etc.	195
c) <b>Trust, Integrity</b> – Suspicion that others are not being honest, whether or to what extent one wishes to be honest, etc.	198
d) <b>Reputation</b> – Possible impact of rumours and/or gossip about professional or personal matters.	150
e) <b>Communication</b> – Quality and/or quantity of communication.	208

f) <b>Bullying, Mobbing</b> – Abusive, threatening, and/or coercive behaviour.	143
g) <b>Diversity-related</b> – Comments or behaviours perceived to be insensitive, offensive, or intolerant on the basis of an identity-related difference such as race, gender, nationality, sexual orientation, disability, religion, PASS vs faculty, rank, academic discipline.	178
h) <b>Retaliation</b> – Punitive behaviours for previous actions or comments, whistleblower.	105
i) <b>Violence</b> – Actual or threats of harm, placing person in danger.	103
j) <b>Assignments, Schedules</b> – Appropriateness or fairness of tasks, expected volume of work.	158
k) <b>Feedback</b> – Feedback or recognition given, or responses to feedback received.	164
l) <b>Consultation</b> – Requests for help in dealing with issues between two or more individuals they supervise/teach or with other unusual relationship situations.	75
m) <b>Performance appraisal/Grading</b> – Job performance in formal or informal evaluation.	80
n) <b>Grading</b> – Academic performance in formal or informal evaluation.	43
o) <b>Departmental climate</b> – Prevailing behaviours, norms, or attitudes within a department for which supervisors or faculty have responsibility.	150
p) <b>Supervisory including non-academic effectiveness</b> – Management of department or classroom, failure to address issues.	143
q) <b>Insubordination</b> – Refusal to do what is asked.	80
r) <b>Discipline</b> – Appropriateness, timeliness, requirements, alternatives, or options for responding.	180
s) <b>Equity of treatment</b> – Favouritism, one or more individuals receive preferential treatment.	72
<b>3. Peer and Colleague Relationships</b> – Questions, concerns, issues or inquiries arising between people in relationships (e.g. manager-employee, supervisor-student, faculty-student, faculty-PASS, faculty/PASS-outsourced, colleague-colleague, student-student)	
a) <b>Priorities, Values, Beliefs</b> – Differences about what should be considered important – or most important – often rooted in ethical or moral beliefs.	100
b) <b>Respect, Treatment</b> – Demonstrations of inappropriate behaviour, disregard for people, rudeness, crudeness, etc.	94
c) <b>Trust, Integrity</b> – Suspicion that others are not being honest, whether or to what extent one wishes to be honest, etc.	102
d) <b>Reputation</b> – Possible impact of rumours and/or gossip about professional or personal matters.	72



e) <b>Communication</b> – Quality and/or quantity of communication.	96
f) <b>Bullying, mobbing</b> – Abusive, threatening, and/or coercive behaviours.	61
g) <b>Diversity-related</b> – Comments or behaviours perceived to be insensitive, offensive, or intolerant on the basis of an identity-related difference such as race, gender, nationality, sexual orientation, disability, religion, academic discipline, etc.	90
h) <b>Retaliation</b> Punitive behaviours for previous actions or comments, whistleblower.	62
i) <b>Violence</b> – Actual or threats of harm.	52
j) <b>Departmental climate</b> – Prevailing behaviours, norms, or attitudes within a department for which supervisors of faculty have responsibility.	83

#### 4. **Career Progression and Development** – Questions, concerns, issues or inquiries about administrative processes and decisions regarding entering and leaving a job, what it entails, (i.e. recruitment, nature and place of assignment, job security and separation).

a) <b>Job application, selection and recruitment processes</b> – Recruitment and selection processes, facilitation of job applications, job application feedback, short-listing and criteria for selection, employment equity, disputed decisions linked to recruitment and selection.	32
b) <b>Job classification and description</b> – Changes or disagreements over requirements of assignment, appropriate tasks.	34
c) <b>Involuntary transfer, change of assignment</b> – Notice, selection and special dislocation rights/benefits, removal from prior duties, unrequested change of work tasks.	43
d) <b>Tenure-position security, ambiguity</b> – Security of position or contract, provision of secure contractual categories, career progression, i.e. promotion, reappointment, or tenure.	37
e) <b>Career progression</b> – Ad Hominum promotion, promotion, succession, reappointment, or tenure.	62
f) <b>Rotation and duration of assignment</b> – Non-completion or over-extension of assignments in specific settings/countries, lack of access or involuntary transfer to specific roles/assignments, request for transfer to other places/duties/roles.	29
g) <b>Resignation</b> – Concerns about whether or how to voluntarily terminate employment or how such a decision might be communicated appropriately, and the effects of others' termination.	22
h) <b>Termination/Non-renewal</b> – End of contract, non-renewal of contract, disputed permanent separation from organization.	17
i) <b>Re-employment of former or retired staff</b> – Loss of competitive advantages associated with re-hiring retired staff, favouritism.	1

j) <b>Position elimination</b> – Elimination or abolition of an individual's position.	12
k) <b>Career development/Coaching/Mentoring</b> – Classroom, on-the-job, and varied assignments as training and developmental opportunities.	58
l) <b>Private work</b>	2
m) <b>Re-deployment/Redundancy</b>	3
n) <b>Student employment</b>	4
<b>5. Legal, Regulatory, Financial and Compliance</b> – Questions, concerns, issues or inquiries that may create a legal risk (financial, sanction, etc) for the organization or its members if not addressed, including issues related to waste, fraud or abuse.	
a) <b>Criminal activity</b> – Threats or crimes planned, observed, or experienced, fraud, plagiarism.	110
b) <b>Business and financial activities</b> – Inappropriate actions that abuse or waste organizational finances, facilities, equipment or resources.	84
c) <b>Harassment</b> – Unwelcome physical, verbal, written, e-mail, audio, video, psychological or sexual conduct that creates a hostile or intimidating environment.	128
d) <b>Discrimination</b> – Different treatment compared with others or exclusion from some benefit on the basis of, for example, gender, race, age, national origin, religion, rank, etc. (being part of the Employment Equity Act – EEA – applies in South Africa).	156
e) <b>Disability, temporary or permanent, reasonable accommodation</b> – Extra time on exams, provision of assistive technology, interpreters, or Braille materials including questions on policies, etc. Role reassessment.	47
f) <b>Accessibility, access</b> – Removal of physical, technological and emotional barriers, providing ramps, elevators, access to information, etc.	100
g) <b>Intellectual property rights</b> – E.g. copyright and patent-infringement.	6
h) <b>Privacy, confidentiality and security of information</b> – Release or access to individual or organizational private or confidential information.	76
i) <b>Property damage</b> – Personal property damage, liabilities.	9
j) <b>Fee, debt, and contract</b>	155
k) <b>Visa</b>	1
l) <b>Special relationships, inappropriate partnerships, nepotism</b>	39
m) <b>Vendor and supply relationships</b>	2

<b>6. Safety, Health and Physical Environment – Questions, concerns, issues or inquiries about safety, health and infrastructure –related issues.</b>	
a) <b>Safety</b> – Physical safety, injury, medical evacuation, meeting state and university requirements for safety training and equipment.	<b>118</b>
b) <b>Physical working/living conditions</b> – Temperature, odours, noise, available space, lighting, etc.	<b>39</b>
c) <b>Ergonomics</b> – Proper set-up of workstation affecting physical functioning.	<b>34</b>
d) <b>Cleanliness</b> – Sanitary conditions and facilities to prevent the spread of disease.	<b>20</b>
e) <b>Security</b> – Adequate lighting in parking lots, metal detectors, guards, limited access to building by outsiders.	<b>36</b>
f) <b>Telework, Flexplace</b> – Ability to work from home or other location because of business or personal need, e.g. in case of man-made or natural emergency.	<b>4</b>
g) <b>Safety equipment</b> – Access to or use of safety equipment, e.g. fire extinguisher.	<b>40</b>
h) <b>Environmental policies</b> – Policies not being followed, being unfair, ineffective, cumbersome.	<b>48</b>
i) <b>Stress, study/work related stress, and study/work-life balance</b> – Wellness, post-traumatic stress, critical incidence response, internal/external stress, e.g. divorce, shooting, caring for sick, injured.	<b>196</b>
j) <b>Parking</b>	<b>24</b>
k) <b>Use of space/grounds</b>	<b>33</b>
<b>7. Services/Administrative Issues – Questions, concerns, issues or inquiries about services or administrative offices including from external parties.</b>	
a) <b>Quality of service</b> – How well services were provided, accuracy or thoroughness of information, competence, etc.	<b>155</b>
b) <b>Responsiveness, Timeliness</b> – Time involved in getting a response or return call or about the time for a complete response to be provided.	<b>144</b>
c) <b>Administrative decisions and interpretation, Application of rules</b> – Impact of non-disciplinary decisions, decisions about requests for academic or administrative services, e.g. exceptions to policy deadlines or limits, refund requests, appeals or records, etc.	<b>177</b>
d) <b>Fees and Financial Aid</b> - Fee account management, debtors, financial aid eligibility and process.	<b>92</b>
e) <b>Behaviour of service provider(s)</b> – How an administrator or staff member spoke to or dealt with a constituent, customer, client, or students, e.g. rude, inattentive, or impatient.	<b>131</b>
f) <b>Course availability, Completing degree in timely fashion</b>	<b>99</b>

<b>g) Admissions, Readmissions, Registration, RPL, NBT, and Records – undergraduate</b>	<b>77</b>
<b>h) Admissions, Readmissions and Registration and Records – postgraduate</b>	<b>36</b>
<b>i) Student, Staff Housing, Residence Life, Student Life and Recreation</b>	<b>69</b>
<b>j) Academic termination/non-renewal – progress and exit from academic plan</b>	<b>47</b>
<b>k) Academic leave and absence – LOA and special leave</b>	<b>34</b>
<b>l) DP/DPR</b>	<b>11</b>

## **8. Organizational, Strategic, and Mission Related – Questions, concerns, issues or inquiries that relate to the whole or some part of an organization.**

<b>a) Strategic and mission-related, strategic and technical management,</b> Principles, decisions and actions related to where and how the organization is moving.	<b>151</b>
<b>b) Leadership and Management –</b> Quality/capacity of management and/or management/leadership decisions, suggested training, reassignments and reorganizations.	<b>152</b>
<b>c) Authority, Victimization, use of positional power, and abuse of power –</b> Lack or abuse of power provided by individual's position.	<b>133</b>
<b>d) Communication –</b> Content, style, timing, effects and amount of organizational and leader's communication, quality of communication about strategic issues.	<b>143</b>
<b>e) Restructuring and relocation –</b> Issues related to broad scope planned or actual restructuring and/or relocation affecting the whole or major divisions of an organization, e.g. downsizing, offshoring, outsourcing.	<b>18</b>
<b>f) Organizational climate –</b> Issues related to organizational moral and/or capacity for functioning.	<b>64</b>
<b>g) Change management –</b> Making, responding or adapting to organizational changes, quality of leadership in facilitating organizational change.	<b>170</b>
<b>h) Priority setting and/or Funding/ Focus –</b> Disputes about setting organizational/departmental priorities and/or allocation of funding within programs, teaching versus research	<b>22</b>
<b>i) Data, Methodology, Interpretation of results –</b> Scientific disputes about the conduct, outcomes and interpretation of studies and resulting data for policy.	<b>13</b>
<b>j) Interdepartment, Interorganization work, territory –</b> Disputes about which department/organization should be doing what/taking the lead.	<b>32</b>
<b>k) Transformation</b>	<b>179</b>

<b>9. Values, Ethics, and Standards</b> – Questions, concerns, issues or inquiries about the fairness or organizational values, ethics, and/or standards, the application of related policies and/or procedures, or the need for creating or revision of policies, and/or standards.	
<b>a) Standards of Conduct</b> – Fairness, applicability or lack of behavioural guidelines, administrative processes and/or codes of Conduct, for Academic Honesty, plagiarism, Code of Conduct, conflict of interest, debtors, etc.	<b>100</b>
<b>b) Values and Culture</b> – Questions, concerns or issues about the values or culture of the organization.	<b>95</b>
<b>c) Scientific conduct, Integrity</b> – Scientific or research misconduct or misdemeanours, e.g. authorship, falsification of results.	<b>7</b>
<b>d) Policies and Procedures not covered in broad categories 1 to 8</b> – Fairness or lack of policy or the application of the policy, policy not followed, or needs revision, e.g. appropriate dress, use of internet or cell phones.	<b>105</b>

**TABLE 2:** IOA Uniform subcategories

# Data Analysis

The first table above presents a summary categorisation of the issues brought to the Ombud in the past year using the standard IOA categories. The second table presents the same information, but this time using the more detailed categorisation.

As clarified in the 2017 report, the sums of subtotals shown per category in Table 2 do not match the totals shown for each category in Table 1. This is because a visitor might have more than one issue as reflected by the subcategories per main category in Table 2 but be counted once only for the main category in Table 1. An illustrative example is that Bob consults the Ombud pertaining to issues such as retirement and pension as well as compensation under the first category (compensation, benefits, honours and recognition), as well as quality of service, and responsiveness, and behaviour of service provider within the seventh main category (services and administration issues). This means he is counted twice within subcategories belonging to the first main category (compensation, benefits, honours and recognition), and three times within the seventh main category (services and administration issues) in Table 2. Thus Bob receives 5 counts in Table 2. In Table 1 he would be reflected as one count under the first main category (compensation, benefits, honours and recognition), and one count under the seventh main category (services and administration issues). Thus Bob receives 2 counts in Table 1.

Evaluative relationships in Table2, as in previous years, continue to record the highest numbers compared to the other eightcategories. It is also worth noting that while the total visitor number

(658) is marginally less than 2017 totals (700) there is a significant decrease in this category. For example, in 2017 “Communication” under this category recorded the highest number at 259 followed by “Trust and Integrity” also at 259 in the same category. Slightly lower were “Priorities, Values, Beliefs” recording 256 and “Respect, Treatment” at 255.

This year, the relative pattern remains the same. “Communication” leads by 208, followed by “Trust and integrity” at 198, which is just a digit less than “Priorities, Values, Beliefs” at 197. The second highest scoring category is Services/Administrative Issues with “Administrative Decisions and Interpretation” scoring 177 followed by “Quality of Service” at 155 while “Responsiveness and Timeliness” is at 144. This category primarily involves students with concerns related to a myriad of social and academic services.

The Human Resources (HR) Department, in particular, is to be commended for there being significantly fewer compensation and benefits issues especially for insourced PASS members. However, delays in completing HR processes increases “Contract” under 5 (j). As a disclaimer it is not just PASS members’ concerns that pushed this category from 21 in 2017 to 155 in 2018.

Bullying continues to be a concern. In 2017, bullying issues (as recorded in both Evaluative and Peer Relationships) added up to 193, while they are 204 in this reporting period.

It is in the University’s interest to look at how and where these numbers change and ask the question, “why”. The Ombud, in this regard, functions as an early warning system, hoping that the institution will care enough to invest in digging deeper, asking questions and generating lasting and meaningful solutions. The Ombud’s role should not be mistaken for that of a researcher. On the contrary, where the University sees fit, it should undertake its own research on the basis of what the Ombud sees or hears across the organisation.

## Outreach and other Ombud activities

In addition to the work I do on campus, as an International Ombudsman Association (IOA) member, I am involved in International Committee volunteer work (Refer to the letter attached as Appendix A).

In the 2018 IOA conference in Richmond, I made a presentation on “The Overview of Gender Based Harm”. I am grateful to the UCT Office of Inclusivity and Change for helping me prepare this presentation.





I continue to be approached by other institutions to help them set up their own Ombud's offices (University of Zululand; Nelson Mandela University; North West University; University of Free State)

- ▶ I was visited by the new City of Cape Town Ombudsman.
- ▶ I continue to have a working relationship with stakeholders such as the SRC and Unions.
- ▶ I again visited the UCT Desmond Tutu eMaVundleni Research Centre in Crossroads.
- ▶ I was invited to attend a "thinking meeting" to help deal with the HSF strategy to respond effectively to student demands.
- ▶ I was interviewed by UCT Radio.
- ▶ I accepted an invitation to present my report to the PASS forum.
- ▶ I offered 12 presentations to the entire university community.
- ▶ I was invited by the ICTS Transformation Forum to discuss their role within transformation.
- ▶ I was also invited by the HSF Transformation group to discuss diversity with them.

A participant in one of these meetings wrote:

**Dear Zetu**

*I would very much like to thank you for your help over the years regarding student tensions and transformation initiatives. Your insight and guidance has proven invaluable and I believe the Office of the Ombud plays a very important role in creating a nurturing atmosphere at UCT. I am still in the process of organising the transformation seminars in the Department of XXX and thank you again for agreeing to mediate discussions.*

**Warm regards**

**XXX**

- ▶ I visited the UCT South African Tuberculosis Vaccine Initiative SATVI (Worcester) to introduce my role within the university community.
- ▶ I was invited by several UCT faculties and units to present my 2017 report and recommendations.
- ▶ I was requested by a number of areas within the University structures to assist in leading their strategy conversations. Due to office pressures, I was not not always able to accept these requests.
- ▶ Apart from the above, I presented the annual report to the UCT Council and responded to their questions.

# Observations and Recommendations

The Ombud, as a repository of organisational pulse data, is in a unique position to paint a picture of what life is like at the University at any given moment. It is my role to alert the University to what requires fixing, looking into and taking notice of. I want also to point out that my work is shaped by the mission and the values of the UCT as well as the standards of practice and code of ethics of the International Ombudsman Association (IOA). Nobody, in good faith, could serve as an ombud in any sector, without being committed to its basic mission and values. They become the framework within which we look into and analyse situations, alongside the policies, procedural guides and processes, which themselves are drawn from the rule of law of the country.

Before discussing additional systemic issues and to avoid repeating myself, I would like to request two things:

1. That Council and the Executive arrive at a workable mechanism to review the extent to which institutional attention and resources have been focused on the concerns identified by the Ombud's report beyond the Executive response. Up to now, the University has responded by explaining what is available and what more there is to do. The missing link is in following up on what the University alleges it will do.
2. I further request that the 2018 recommendations be read alongside those of 2016 and 2017. Many of the latter remain key concerns of the Ombud for the current reporting period. I will therefore call the recommendations and observations below "additional".

To illustrate where I am coming from, in 2017 I had the following recommendation:

*"The statistics in this report indicate that levels of care and support on campus (especially in evaluative and administrative interactions) could be improved upon. I have noticed that often aggression is camouflaged. What people say, and how they say it, are potential triggers to pre-existing wellness conditions, which may not be evident at that point since mental illness is often invisible. Fairness is everybody's business. Furthermore, often communication provided by the University to current and prospective students as well as staff could be improved upon by communicating with empathy. I suggest that the wording of all standard correspondence be reviewed and that staff be encouraged to communicate thoughtfully and empathetically, whether the content is positive or negative".*

The additional concerns for 2018 are as follows:

1. In this period I have had complaints from external people about a lack of empathy from administrators in dealing with their queries. They report, for example, that a UCT staff member would say:

***“Don’t shoot the messenger. My job is to tell you what the situation is; do not make your problem mine”.***

This is contrary to any standard of customer service, and not in keeping with the values of the University which talk about respect, compassion and generosity. In this interaction, the UCT person represents the University, which should always be seen as a huge responsibility that should be handled in accordance with the mission and values. While many people do the right thing and go well beyond the call of duty, encounters such as this one or the two that follow, erode the good work of others and are not only irresponsible, but risky to the University.

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A professor tells a parent not to send his daughter to UCT for postgraduate studies as UCT standards are high and the daughter will not cope.

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UCT colleagues doubt the capacity and abilities of a colleague who qualifies at another institution and insist on assessing her fitness and ability to do the job despite her being qualified for it and appointed through a credible UCT recruitment process.

2. In this reporting period, a number of my visitors have complained about bullying and abrasive behaviour especially in hierarchical relationships. At the risk of dwelling on the still unfinalised bullying policy, I observe that, in its absence, and without any change in behaviour, a common perception is that people in higher positions are allowed to treat others disrespectfully without any consequence. What needs to be noted is that bullying can occur from any part of the University structure and hierarchy, affecting any other person within it.

Below is an example illustrating potential triggers that may push people over the edge, since depression is often linked to bullying, as contained in the 2017 report.

*"Dear Mrs Zetu Makamandela-Mguqulwa*

*I am writing this e-mail to thank you for being the light that shined in the darkness, when I was facing challenges in my workplace between 2017 and 2018, while in the employ of UCT. I want you to know that you have made a huge difference in how I approach workplace challenges and conflicts in my everyday life.*

*The unfortunate passing of Prof. Bongani Mayosi made me reflect so hard and I realised that I might have been a quarter to sinking into depression as a result of those toxic working conditions that I was subjected to. I believe that had I not engaged with you about the issues I was facing, I would still feel stuck until today and without having found closure and peace."*

Namie and Namie<sup>1</sup> define bullying as follows, "Bullying at work is repeated, health-harming mistreatment of a person by one or more workers that takes form of verbal abuse; conduct or behaviours that are threatening, intimidating, or humiliating; sabotage that prevents work from getting done; or some combination of the three".

The bullying reported to me is done behind closed doors, in meetings, and/or in front of colleagues. It is sometimes verbal and sometimes not. Known characteristics of bullies are that they are controlling and malicious, aggressive, impatient, insecure, volatile, temperamental, competitive, constantly criticise, humiliate, demean, disrespect and usually target one individual at a time and then move on to another.

The literature tells us that bullying can be personally devastating to the targeted individual, causing serious health issues (stress, flare-up of auto immune illness, lowered self esteem, depression).

3. Complaints about flouting selection committee processes have been reported and include:

- ▶ Shortfalls in managing and guiding the selection committee process.
- ▶ Who gets feedback communication and when.
- ▶ Non-uniform handling of appointments within some units, for example performing the HR role internally outside of the University's HR structure.
- ▶ Not following the recruitment process when dealing with internal appointments, especially when dealing with candidates who were unsuccessful in their application.

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1 Namie, G. & Namie, R. (2009) *The Bully at Work: What You Can Do to Stop the Hurt and Reclaim Your Dignity on the Job*. Naperville, IL: Sourcebooks.

There have been reports of discomfort when a person is appointed to a role that makes her/him senior to people who were former peers. The discomfort is exacerbated if some of the others had applied for the same job and assume that the hired person should not have been appointed. Units in this situation require support from HR, helping peers to cope and the newly appointed person to be resilient enough to perform his/her job.

4. The University's approach to Recognition of Prior Learning (RPL) is not clearly defined and it is therefore difficult to understand and apply accurately.

## In closing

The Ombud's Office relies on everybody's commitment to make UCT a fair academic community. I am grateful to all the members of the University who have approached my office with their concerns and I thank those members whom I contacted as "respondents" and others whose perspectives assisted towards the realisation of fair outcomes. I continue to appreciate Ms Birgit Taylor for her support and for being the first person my visitors experience in the office. I continue to find my role here rewarding. It is a privilege to serve the UCT community in this capacity.

# Appendix A

June 13, 2018

Zetu Makamandela-Mguqulwa  
University of Cape Town  
Ombuds Office, Old Staff Cottages, Lovers' Walk, Lower Campus  
Cape Town, 7701  
Suid-Afrika

Dear Zetu Makamandela-Mguqulwa

On behalf of the International Ombudsman Association (IOA), we want to say THANK YOU for all your contributions as a volunteer of IOA! We are fortunate to have such an outstanding group of volunteers who are willing to give their time and expertise to help advance our profession. We truly appreciate your contribution to the following committee(s) and IOA as a whole:

## International Outreach

We recognize that you have many professional demands, yet you manage to give of your time and expertise to make IOA so successful.

We can't thank you enough for the important work that you do! Please accept our sincerest gratitude for an excellent job!

In Gratitude,

**Stephanie Luckam**  
Volunteer Coordination Committee Chair

**Marcia Martinez-Helfman**  
2019 IOA President



# Appendix B

## UNIVERSITY OF CAPE TOWN

## OFFICE OF THE OMBUD

### TERMS OF REFERENCE

#### 1. Introduction and Mandate

To demonstrate commitment to the just, fair and equitable treatment of each and every member of the University community, the Office of the Ombud at the University of Cape Town was established in 2011.

Its mandate is to provide informal dispute resolution service to the University community (all staff; current and past students; visitors to the University and contractors) predicated on the principles of fairness. The Office of the Ombud is outside of the usual university academic and administrative structures. It is a neutral, independent, informal and confidential resource to facilitate fair and equitable resolutions to concerns and problems raised by any member of the university community.

#### 2. Purpose and Scope of Services

The principal role of the Office is to be available as an impartial resource for the review of all decisions and actions that fall within the ambit of university life.

The Ombud seeks to provide a neutral, informal, confidential and independent environment within which complaints, inquiries or concerns about alleged acts, omissions, and any problems as they are experienced by university members may be surfaced.

The Office of the Ombud performs a variety of functions. These include listening and providing a respectful and safe place for people to discuss their problems freely, helping them to clarify concerns and develop options, explaining university policies and procedures, making referrals to other offices and coaching visitors on how to help themselves, looking into issues by gathering data and perspectives of others and engaging in shuttle diplomacy. In addition, the Office of the Ombud serves as a resource for information and makes available to the University dispute resolution expertise. It also seeks to be a catalyst for institutional change. The Ombud assists parties in reaching resolutions that are consistent with the ideals of the University.

The Office of the Ombud supplements but does not replace or substitute the formal, investigative or appeals processes that are currently in place in the University. Use of the office is voluntary. The office of the Ombud reports general trends of issues and provides organisation wide feedback while recommending system change when appropriate without disclosing confidential information.

### 3. Reporting

The Ombud reports to the University Council through the Chair of Council. A written report is submitted annually to Council through the Chair on a date agreed upon by the Council and the Ombud. The Office of the Ombud functions independently with respect to case handling and issue management but it reports to the Vice-Chancellor for administrative and budgetary purposes. To fulfil its functions, the Office of the Ombud shall have a specific allocated budget, adequate and functional space and sufficient resources to meet operating needs and pursue professional development. On an ongoing basis, the Ombud will provide feedback, while maintaining confidentiality, to the Vice-Chancellor and other leadership team members to inform them of the kinds of issues and trends the Ombud may be hearing about and to explain the relevance of such information, and to provide guidance.

### 4. Standards and Ethics

The Office of the Ombud staff shall adhere to The International Ombudsman Association (IOA) Code of Ethics and Standards of Practice. This code requires that the Ombud shall function independently of the organization, to be confidential and neutral, and to limit the scope of its services to informal means of dispute resolution. The IOA Standards, Code, and Best Practices delineate minimum standards, and the Office of the Ombud shall always strive to operate to "best practices" and to serve the best interests of all concerned. The Ombud shall establish consistent procedures which shall be made available upon request. The Ombud shall publicise the confidential, independent, neutral and informal nature of her services through promotional materials, a website, and visible wall postings and provide a copy of the Standards to each visitor.

#### A. Independence

Independence is essential to the effective functioning of the Office of the Ombud. The Office of the Ombud shall be, and shall be seen to be, free from interference in the performance of its duties. This independence is achieved primarily through the reporting structure of the office, neutrality and organizational recognition and respect for its independent role. To ensure objectivity, the Office of the Ombud shall function independently from administrative authorities. This includes not disclosing confidential information about matters discussed in the Office of the Ombud with anyone in the organization, including the person to whom the Office of the Ombud reports.

## B. Confidentiality

The Office of the Ombud holds all communications with those seeking assistance in strict confidence and takes all reasonable steps to safeguard confidentiality. The Ombud does not reveal and must not be required to reveal the identities of the people who contact her. Communications between the Ombud and others (made while the Ombud is serving in that capacity) are considered privileged. The privilege belongs to the Ombud and her Office, rather than to any party to an issue. Others cannot waive this privilege. The only exception to this pledge of confidentiality is where the Ombud determines that there is an imminent risk of harm to human life. The Ombud shall not be required to give evidence before a University tribunal about anything that she may have learnt in the exercise of her duties. The University will endeavour to protect the Ombud from subpoena by others, both inside and outside the University.

## C. Impartiality and Neutrality

The office of the Ombud shall not take sides in any conflict, dispute or issue but shall consider the interests and concerns of all parties involved in a situation impartially with the aim of facilitating communication and assisting the parties to reach mutually acceptable agreements that are fair and equitable, and consistent with the policies of the University.

## D. Informality

The Ombud functions on an informal and off-the-record basis and shall be a resource for informal dispute resolution services. The Office of the Ombud shall not investigate, arbitrate, adjudicate or in any other way participate in any internal or external formal process or action. Whenever practical, the Ombud shall seek the resolution of the problem at the lowest level within the organisation. The Office of the Ombud does not keep records about individual cases for the University. Use of the Office of the Ombud shall always be voluntary and not a compulsory step in any grievance or University policy.

# 5. Exclusions, Authority and Limits of the Office of the Ombud

## A. Authority of the Office of the Ombud

### 1. Initiating Informal Inquiries

The Ombud will be entitled to inquire informally about any issue concerning the University and affecting any member of the University community. Therefore, the Ombud may initiate informal inquiries into matters that come to her attention.

## 2. Access to information

The Ombud may request access to information related to visitors' concerns from files and offices of the University, and will respect the confidentiality of the information. Requests by the Ombud for information should be handled with reasonable promptness by the University departments.

## 3. Ending involvement in matters

The Office of the Ombud may decline to inquire into a matter or may withdraw from a case if the Ombud believes involvement is inappropriate for any reason.

## 4. Discussion with visitors

The Office of the Ombud has the authority to discuss a range of options available to the visitor, including both informal and formal processes. However, the Office of the Ombud will have no actual authority to impose sanctions or to enforce or change any policy, rule or procedure.

## 5. Access to Legal Counsel

The Office of the Ombud may require legal or other professional advice, from time to time, in order to fulfill its required functions. The Office of the Ombud may be provided legal counsel separate and independent from the University in the event it is asked for, documents or testimony related to any litigation or other formal process, or when a conflict of interest arises between the Office of the Ombud and the administration or the University.

# B. Limitations on the Authority of the Office of the Ombud

## 1. Receiving Notice for the University

Communication to the Office of the Ombud shall not constitute notice to the University. The Office of the Ombud shall publicize its non-notice role to the University. If a user of the Office of the Ombud would like to put the University on notice regarding a specific situation, or wishes for information to be provided to the University, the Ombud will provide that person with information so that the person may do so her/himself. In extremely rare situations, the Office of the Ombud may have an ethical obligation to put the University on notice. This will take place only when there is no other reasonable option.

## 2. Collective Bargaining Agreements

The Office of the Ombud shall not address any issues arising under a collective bargaining agreement ("CBA"), unless allowed by specific language in the CBA. This means that while the Office of the Ombud may provide services to union members, those services may not include addressing issues that are covered in the CBA. The Office of the Ombud may work with union members regarding all other issues not covered by the contracts, such as communication issues with co-workers.

## 3. Formal Processes and Investigations

The Office of the Ombud shall not conduct formal investigations of any kind. The Office of the Ombud staff shall not willingly participate in formal dispute processes or outside agency complaints or lawsuits, either on behalf of a user of the Office of the Ombud or on behalf of the University. The Office of the Ombud provides an alternate channel for dispute resolution.

## 4. Record Keeping

The Office of the Ombud does not keep records. Notes, if any, taken during the course of working on a case are routinely destroyed at regular intervals and at the conclusion of a matter. All materials related to a case should be maintained in a secure location and manner, and should be destroyed once the case is concluded. The Ombud may maintain non-confidential statistical data to assist in reporting trends and giving feedback.

## 5. Advocacy & Psychological Counselling

The Office of the Ombud shall not act as an advocate for any party in a dispute, nor shall they represent management or visitors to their office. In addition, the Office of the Ombud does not provide legal or psychological assistance.

## 6. Adjudication of Issues

The Office of the Ombud shall not have authority to adjudicate, impose remedies or sanctions, or to enforce or change policies or rules.

## 7. Conflict of Interest

The Ombud shall avoid involvement in cases where there may be a conflict of interest. A conflict of interest occurs when the Ombud's private interests, real or perceived, supercede or compete with his or her dedication to the impartial and independent nature of the role of the Ombud. When a real or perceived conflict exists, the Ombud should take all steps necessary to disclose and/or avoid the conflict.

### C . Retaliation against the Ombud or Service Users

1. All members of the constituencies served by the Office of the Ombud shall have the right to consult the Office of the Ombud without fear of retaliation or reprisal.
2. The Office of the Ombud should be protected from retaliation (such as elimination of the Office or the Ombudsman, or reduction of the Ombud budget or other resources) by any person who may be the subject of a complaint or inquiry.



# References

1. IOA Standards of Practice
2. IOA Code of Ethics
3. IOA Best Practices: A Supplement to IOA's Standards of Practice

## OFFICE OF THE OMBUD

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7701**

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Email: [ombud@uct.ac.za](mailto:ombud@uct.ac.za)  
Website: [www.ombud.uct.ac.za](http://www.ombud.uct.ac.za)**

The office of the OMBUD is  
Independent, Impartial, Confidential  
and works outside of formal structures