

ANNUAL REPORT 2017



OMBUD'S OFFICE
UNIVERSITY OF CAPE TOWN

Independent | Impartial | Confidential

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Message from the Ombud

The higher education landscape is changing; the signs of this are everywhere. Experiences of the last three years suggest that campuses across the country are not friendly places for many people. Due to three continuous years of major disruption caused by mass protests, at the end of 2017, UCT and other higher education institutions, for the first time in recent history, produced 3-year programme graduates who had not experienced a full “normal” academic year. The circumstances resulted in definite losses but also generated some lessons.

It is my hope that students, especially those who remain at the university, accept the responsibility to present their ideas and views in a reasonable, persuasive and non-threatening manner. On the part of the universities, I hope that by listening and being self-critical, responsive to legitimate concerns, and ready to change, universities can remove some of the conditions that give rise to student protests in the first place.

The protests left the University of Cape Town (UCT) with several consequences. One of these is a heightened race-based sense of suspicion, blame and low trust. All these undermine the fundamental goal of diversity on campus, and result in reduced tolerance of diverse views, an undercurrent of divisiveness, and a growing number of complaints to the Ombud.

One possible response to problems is an attempt to “fix” them and return the situation back to “normal”. This tendency isolates issues rather than seeing them as a symptom of a breakdown in the community as a whole.



Some parts of the university, knowing that it is difficult for staff to pick up the pieces and move on, facilitated debrief meetings and conversations. Participants often experienced these as safe environments that enabled truth to be expressed and, in the words of one participant, “opened a way to real healing in a profoundly transformative way”. I enjoyed facilitating some of these meetings.

The success of any institution rests in large measure on the degree to which it is responsive to the needs of all its constituencies so that the people within the institution are able to work together. A sense of community in institutions is essential for optimal performance and also for the institution’s own learning and development. Without a sense of community, it is impossible to create an institution that coherently works towards shared goals and objectives.

In saying this, I am not saying that the university should strive to be a perfect community in which everyone agrees. I am yet to see a perfect family, whether at the personal or institutional level. Perfection would be problematic as people would cease to learn or strive for a better community. It would be particularly problematic in a university, which by its nature is meant to stimulate and encourage questioning and debate.

My view is that, in going forward from this difficult place, the university can build on what already exists in some form. Michael Ray¹ uses a metaphor of a children’s play poem that many may remember, to explain the stages of community, as follows.

1 Michael L. Ray “A metaphor for a worldwide paradigm shift”
Stanford University

“One for the money; Two for the show; Three to get ready; Four to go”

In using this analogy I would say the university is in stage 3, “to get ready”. Ray defines this as a stage of community building where “we are dropping all the pretension and mind chatter to go into a deeper and honest place where the core of human relationship exists.”

In my view, up to now one of the major obstacles has been the acceptance of false images of reality, relying on what is on paper and what individuals think over what is. It is not what the vision is, but what the university does that matters. Community at UCT will not be a gift that the university altruistically offers its people; instead it will be a gift that the university gives to itself.

As noted in previous reports, the Annual Report is an important publication for my office. It enables me to provide an account of the work of the office and at the same time educate the university about the availability of the service. I hope this report contributes through its recommendations to the ongoing improvement of fairness of decisions as well as the degree of civility of the interactions between members of the university community. Lastly, I hope that this document makes for useful and reflective reading.

Submitted with respect,



Zetu Makamandela-Mguqulwa

Introduction

The Ombuds office at the University of Cape Town is a small office with a large mandate. Whilst it is repeatedly necessary for the role to be explained and sometimes justified, the intellectual argument for the initiative in organisations has long been won. Professor Stephen Owen, a distinguished Canadian academic and former ombuds, observed that the concept of an ombuds “has taken firm hold as an instrument of accountability between the individuals and the organisation within which the ombud serves.” The Ombud’s office is an odd duck, perhaps the only office whose line reporting is outside the university’s internal reporting structures.

The main objective of the Ombud’s office is to help seek fair and satisfactory action for the individual against bureaucratic unfairness and ensure that university management and all staff fulfil their obligations. Central to the job is being an accessible, objective and responsive auditor (in the sense of listener) in dealing with complaints from the diverse members of the university community. In this role, I often step in to secure either a satisfactory explanation of actions taken or speedy redress and review. In the latter case, I may recommend steps that will prevent a recurrence of the problem.

My work is achieved on the basis of principles of confidentiality, independence and working outside of formal structures. In pursuing an informal investigation to gather facts on an issue, I ask a lot of questions while treating both parties with respect. The following email from a user reflects appreciation of this role:

“Thank you for saving my crazy mind this year, and for hearing me. No one [else] ever said to me “, what is it you want?” when I have been angry, and then listened patiently. And then made everything magically just go away”.

Even though ombuds do not weigh issues as more or less important, the issues that are presented to me vary from very serious to routine complaints. They range across classroom issues, exclusion, funding, fraud, arrests, supervision, a bullying colleague and parking tickets. Most ombuds are grateful for parking ticket-type issues, as they bring welcome variety in our days in the office.

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 terms 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”.

As the UCT Ombud, I am well placed to “hear” across the organisation and across boundaries. Visitors tell me that it is especially the standard of confidentiality and independence that draws them to talk to me in confidence about their issues. As a non-aligned office, my role includes keeping the university accountable and better oriented to its own values. The role requires a measure of independence and flexibility as well as a great deal of creativity, courage and integrity.

Often the visitor who brings me a complaint is in an unequal relationship with the person complained about. In the reporting categories below, many of these relationships would be classified as “Evaluative relationships”. My role as Ombud is to be a regulatory agent in the power relationship, drawing on the university values and natural justice. I must, however, also be guided by the principles set out in the Office’s terms of reference, namely independence, confidentiality, working outside of formal structures and impartiality. [For complete terms of reference see appendix A]

Working outside of formal structures

The office holds firm to its adherence to this standard of practice to ensure that visitors feel safe to talk knowing that the information will remain confidential and that it cannot be challenged in formal proceedings. Sometimes staff within the bureaucracy are frustrated when hearing that no information can be divulged from the office on matters they want to understand for record purposes and to be in a better position to address the problem beyond the individual case. I hope that through my outreach efforts the various roleplayers will understand the reasons that I am unable to provide information on individual cases.

How people find their way to the office

After all these years and despite the outreach efforts, there are students and staff who do not know about the office of the Ombud until they get stuck in some way. This is not surprising in the case of new students and staff, but is also the case for some who have been at UCT for some years. In these cases, a friend or colleagues may suggest the office as a useful resource.

Not every complaint is resolved to the satisfaction of the complainant, but irrespective of the outcome, this Office strives to ensure that the people who come to it feel that they are listened to and that they have had, at the very least, an independent consideration of their complaint. That listening ear is all the more important when times are tough. I also strive to ensure that faculties and departments have confidence in the fairness and independence of the Office’s work. When the relationship between these units and the ombud works well the outcome is good not only for a complainant but also for the person complained about who can use my recommendations and feedback to improve the service they offer

“Dear Zetu

The following students will be reimbursed for their 2016 XXXX fees. Our Faculty Office is processing this as a matter of urgency and will send detailed notifications to the students. I have contacted the following students to inform them of the decision:

A, B and C

I think only two students appealed to your offices but all three owe you a vote of thanks for bringing this to our attention. Thank you for doing so in a collegial, problem solving manner. At first glance it did not seem that the students had any grounds for their claim but further investigation and discussion showed that they do”.

**Kind regards,
XXX**

Putting it right is at the heart of the work of my Office. In the first instance, this is about individuals who have complained about the university services and not had a response they are happy with. I look at their complaint and if I find that things have gone wrong, I will aim to put them back in the position they would have been in had the failings not occurred. If I find that there has not been a failure on the part of the university, I aim to offer a better explanation to the complainant of the events leading to their dissatisfaction. The latter cases are among the many examples where it is clear to me that generally trust is low and that fairness of outcome in a situation is not a given, like it should be.

When I look at complaints that reveal failings, I also try to establish why things have gone wrong. If it is a once-off shortcoming, then other than recommending redress for the individual, there may be nothing more to be done. However, quite often, it is evident that what happened to one individual could easily happen to others. In other instances, there may be flaws in processes or procedures which need to be changed, and I will then work with the body responsible to ensure that these changes happen. Finally, on some occasions it will be obvious that the rule or absence of it is inadvertently causing injustice, and I will draw this to the attention of the relevant Dean, Executive Director or Registrar etc. to ask for changes to be made.

The cases outlined below also highlight another aspect of our work, which is to seek to resolve matters rather than to instigate formal investigations. The university conducts formal investigations; my mandate is to do informal investigations to arrive at an informed understanding of the complaint brought to my office. There are times when my questions are met with hostility and defensiveness including advising others not to heed my call as respondents. This I object to in the strongest terms possible since my office has a particular role to play and cannot be constrained by personal egos and ill-informed assumptions about my office's motives. This shortsightedness can damage the image of my office and delay redress. It is not in my mandate to stroke egos or understand rude personalities that others have decided to put up with for too long. It is not fair to subject one's colleagues to these behaviours and also not necessary for colleagues to accept bullies and thus be miserable in their roles and blame the university for not protecting them.

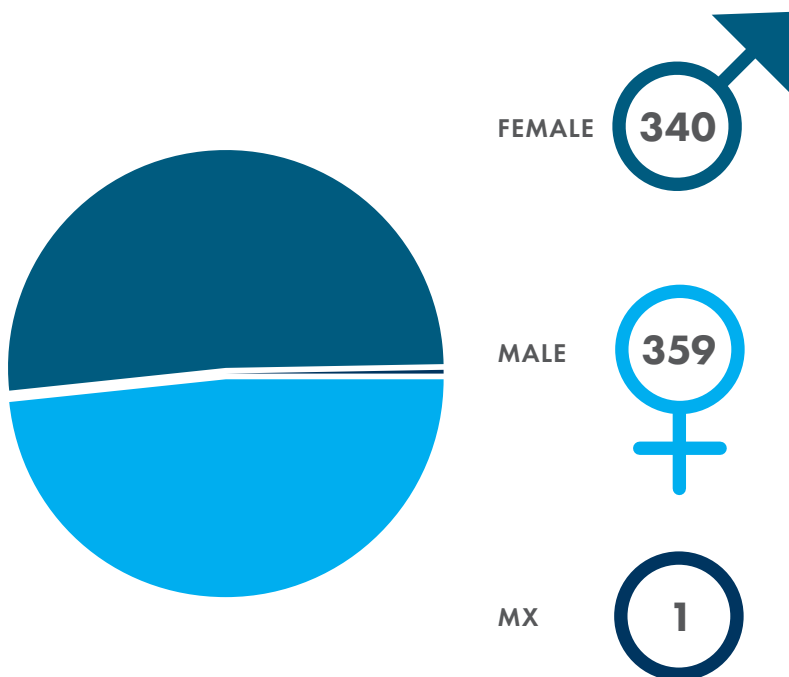
There's an IsiXhosa idiom that says "usana olungakhaliyo lufela embelekweni". (A child who does not cry dies on its mother's back). Assuming people cry in due course, is the university leadership – whether at faculty, department or another level – available to listen and intervene? Is the university leadership available to support its leaders to put things right through tools such as policies and procedures? Unfortunately I am not always convinced of the university support in this regard. For example, it has been four years since I recommended that UCT develop a policy on bullying. Yet at this point it is still at the stage of consulting constituencies. In the absence of an authoritative document such as a policy bullies thrive and add on to their list of victims while others suffer, leave or deflect anger to other people leading to conflicts that are intractable.

I must add that my office enjoys excellent co-operation from the vast majority of the university staff and its leadership and that those who work with and support my office know its value. It is not wrong to ring one's own bell, but a gong reinforced by data rings much louder. In this light, I present below some statistics that reflect in quantitative terms the work done during 2017.

Overview of statistics

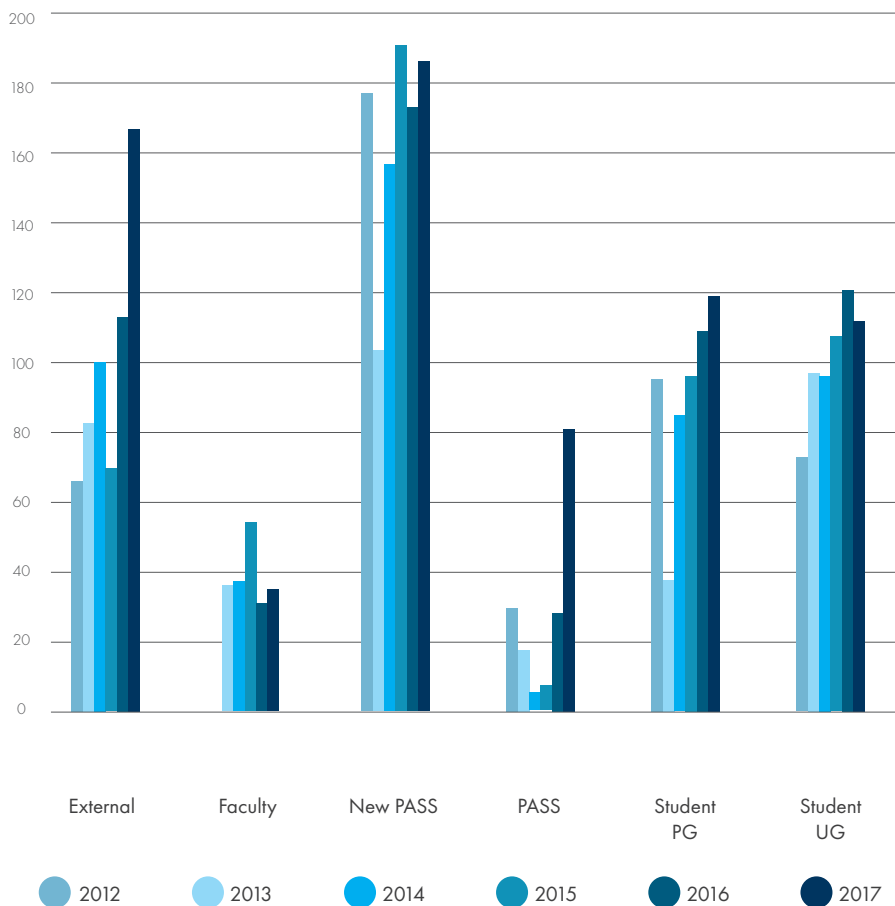
In the 2016 report, I outlined three reasons for generating the Annual Report. The second one was to serve as “an administrative audit of the university in that it contributes information that allows administrators and executives to be held accountable for actions taken or not taken throughout the year”.

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 2017, the total number of visitors was 700 compared to 583 in 2016.



GRAPH 1: Gender Distribution of Visitors

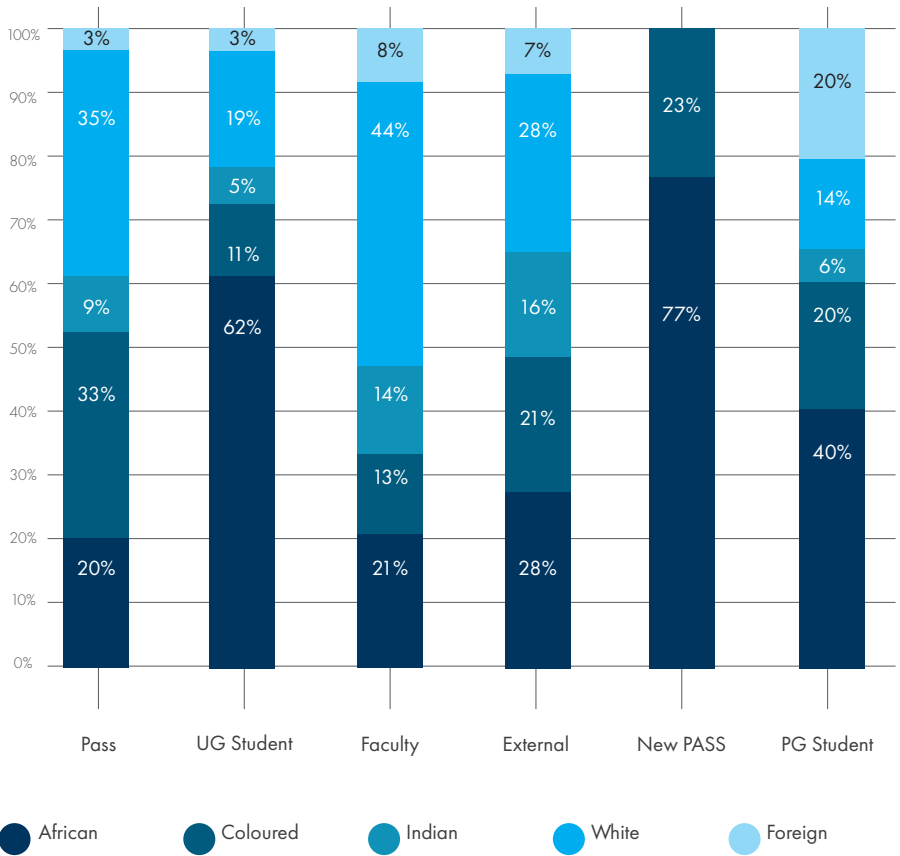
Similarly to the previous years, the gender breakdown is close to 50% male and female with one visitor who did not self identify within the binary gender categories.



GRAPH 2: Visitors by constituency, 2012 to 2017

Graph 2 shows that the distribution of visitors across constituencies is similar to that for 2016, but with some variation. In terms of similarities, PASS staff account for the largest number of visitors in both years while post-docs and postgraduate students (reflected together in the “Student – PG” category) account for the smallest numbers. In both years, PASS staff, undergraduates and faculty (academics and most researchers) together account for two thirds of all visitors.

In terms of differences between the two years, there are disproportionate increases for undergraduate students and “new” (insourced) PASS staff in 2017, but a disproportionate decrease in the external category. Many of the visitors in the latter category are parents of students.



GRAPH 3: Visitor constituencies by race, 2017

Graph 3 shows the race distribution for 2017 within each of the main visitor categories. (Post-docs are categorised together with postgraduate students as their numbers are too small to be analysed in this way separately.) The graph shows very different race profiles for the different groups. Among the new PASS staff, more than three-quarters of visitors were African, as were nearly two-thirds of undergraduate student visitors and 40% of postgraduate students. In contrast, only about a fifth of PASS and faculty visitors were African. Coloured visitors are most common in the PASS categories. White visitors are most common among faculty and PASS staff, followed by external visitors. Indian visitors account for more than 10% of visitors only in the external and faculty categories. Many of these patterns in large part reflect the profiles of the different constituencies.

International Ombudsman Association 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, benefits and other benefit programs.	
a. Compensation – Rate of pay, salary amount, job salary classification/level, other.	78
b. Payroll – Administration of pay, pay-related communication.	11
c. Benefits – Decisions related to medical, dental, life, vacation/sick/family leave/study leave, sabbatical, education, hours of work, Emeritus status, etc.	87
d. Retirement, Pension – Eligibility, calculation of amount, retirement pension benefits, conditions of disbursement.	4
e. Performance – related benefits	71
f. Insurance – Health, IOD, other.	3
g. Educare, Child Care	0
h. Honours, Recognition	7
2. Evaluative Relationships – Questions, concerns, issues or inquiries arising between people in relationships (i.e. super-employee, faculty-student, colleague-colleague, student-student).	
a. Priorities, Values, Beliefs – Differences about what should be considered important – or most important – often rooted in ethical or moral beliefs.	256
b. Respect, Treatment – Demonstrations of inappropriate behaviour, disregard for people, rudeness, crudeness, etc.	255
c. Trust, Integrity – Suspicion that others are not being honest, whether or to what extent one wishes to be honest, etc.	259

d. Reputation – Possible impact of rumours and/or gossip about professional or personal matters.	219
e. Communication – Quality and/or quantity of communication.	259
f. Bullying, Mobbing – Abusive, threatening, and/or coercive behaviour.	104
g. Diversity-related – 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.	244
h. Retaliation – Punitive behaviours for previous actions or comments, whistleblower.	62
i. Violence – Actual or threats of harm.	51
j. Assignments, Schedules – Appropriateness or fairness of tasks, expected volume of work.	227
k. Feedback – Feedback or recognition given, or responses to feedback received.	239
l. Performance appraisal/Grading – Job performance in formal or informal evaluation.	122
m. Grading – Academic performance in formal or informal evaluation.	78
n. Departmental climate – Prevailing behaviours, norms, or attitudes within a department for which supervisors or faculty have responsibility.	205
o. Supervisory incl. non-academic effectiveness – Management of department or classroom, failure to address issues.	162
p. Insubordination – Refusal to do what is asked.	112
q. Discipline – Appropriateness, timeliness, requirements, alternatives, or options for responding.	122
r. Equity of treatment – Favouritism, one or more individuals receive preferential treatment.	156
3. Peer and Colleague Relationships – 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. Priorities, Values, Beliefs – Differences about what should be considered important – or most important – often rooted in ethical or moral beliefs.	100
b. Respect, Treatment – Demonstrations of inappropriate behaviour, disregard for people, rudeness, crudeness, etc.	100
c. Trust, Integrity – Suspicion that others are not being honest, whether or to what extent one wishes to be honest, etc.	101

d.	Reputation – Possible impact of rumours and/or gossip about professional or personal matters.	98
e.	Communication – Quality and/or quantity of communication.	101
f.	Bullying, Mobbing – Abusive, threatening, and/or coercive behaviours.	89
g.	Diversity-related – 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.	104
h.	Retaliation – Punitive behaviours for previous actions or comments, whistleblower.	25
i.	Violence – Actual or threats of harm.	22
j.	Departmental climate – Prevailing behaviours, norms, or attitudes within a department for which supervisors of faculty have responsibility.	96
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.	Job application, Selection and Recruitment processes – 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.	81
b.	Job classification and description – Changes or disagreements over requirements of assignment, appropriate tasks.	89
c.	Involuntary transfer, Change of assignment – Notice, selection and special dislocation rights/benefits, removal from prior duties, unrequested change of work tasks.	84
d.	Tenure-position security, Ambiguity – Security of position or contract, provision of secure contractual categories, career progression, i.e. promotion, reappointment, or tenure.	32
e.	Career progression – Ad Hominum promotion, promotion, succession, reappointment, or tenure.	18
f.	Rotation and duration of assignment – 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.	79
g.	Resignation – Concerns about whether or how to voluntarily terminate employment or how such a decision might be communicated appropriately.	25

h. Termination/Non-renewal – End of contract, non-renewal of contract, disputed permanent separation from organization.	13
i. Re-employment of former or retired staff – Loss of competitive advantages associated with re-hiring retired staff, favouritism.	7
j. Position elimination – Elimination or abolition of an individual’s position.	69
k. Career development/Coaching/Mentoring – Classroom, on-the-job, and varied assignments as training and developmental opportunities.	16
l. Private work	2
m. Re-deployment/Redundancy	4
n. Student employment	7
5. Legal, Regulatory, Financial and Compliance – 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. Criminal activity – Threats or crimes planned, observed, or experienced, fraud, plagiarism.	93
b. Business and financial activities – Inappropriate actions that abuse or waste organizational finances, facilities, equipment or resources.	108
c. Harassment – Unwelcome physical, verbal, written, e-mail, audio, video , psychological or sexual conduct that creates a hostile or intimidating environment.	116
d. Discrimination – 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).	177
e. Disability, temporary or permanent, reasonable accommodation – Extra time on exams, provision of assistive technology, interpreters, or Braille materials including questions on policies, etc. Role reassessment.	39
f. Accessibility, Access – Removal of physical, technological and emotional barriers, providing ramps, elevators, access to information, etc.	106
g. Intellectual property rights – E.g. copyright and patent-infringement.	14
h. Privacy and security of information – Release or access to individual or organizational private or confidential information.	75
i. Property damage – Personal property damage, liabilities.	25
j. Fee, debt, and contract	21
k. Visa	0
l. Special relationships, inappropriate partnerships, nepotism	77

6. Safety, Health and Physical Environment – Questions, concerns, issues or inquiries about safety, health and infrastructure –related issues.	
a. Safety – Physical safety, injury, medical evacuation, meeting state and university requirements for safety training and equipment.	134
b. Physical working/living conditions – Temperature, odours, noise, available space, lighting, etc.	87
c. Ergonomics – Proper set-up of workstation affecting physical functioning.	69
d. Cleanliness – Sanitary conditions and facilities to prevent the spread of disease.	66
e. Security – Adequate lighting in parking lots, metal detectors, guards, limited access to building by outsiders.	24
f. Telework, Flexplace – Ability to work from home or other location because of business or personal need, e.g. in case of man-made or natural emergency.	1
g. Safety equipment – Access to or use of safety equipment, e.g. fire extinguisher.	69
h. Environmental policies – Policies not being followed, being unfair, ineffective, cumbersome.	70
i. Stress, study/work related stress, and study/work-life balance – Wellness, Post-Traumatic Stress, Critical Incidence Response, internal/external stress, e.g. divorce, shooting, caring for sick, injured.	238
j. Parking	7
k. Use of space/grounds	19
7. Services/Administrative Issues – Questions, concerns, issues or inquiries about services or administrative offices including from external parties.	
a. Quality of service – How well services were provided, accuracy or thoroughness of information, competence, etc.	251
b. Responsiveness, Timeliness – Time involved in getting a response or return call or about the time for a complete response to be provided.	231
c. Administrative decisions and interpretation, Application of rules – 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.	265
d. Fees and Financial Aid – Fee account management, debtors, financial aid eligibility and process.	57

e. Behaviour of service provider(s) – How an administrator or staff member spoke to or dealt with a constituent, customer, client, or students, e.g. rude, inattentive, or impatient.	136
f. Course availability, Completing degree in timely fashion	116
g. Admissions, Readmissions, Registration, RPL, NBT, and Records – undergraduate	31
h. Admissions, Readmissions and Registration and Records – postgraduate	21
i. Student, Staff Housing and Residence Life	26
j. Academic termination/non-renewal – progress and exit from academic plan	27
k. Academic leave and absence – LOA and special leave	17
l. DP/DPR	4
8. Organizational, Strategic, and Mission Related – Questions, concerns, issues or inquiries that relate to the whole or some part of an organization.	
a. Strategic and mission-related, strategic and technical management , Principles, decisions and actions related to where and how the organization is moving.	85
b. Leadership and Management – Quality/capacity of management and/or management/leadership decisions, suggested training, reassignments and reorganizations.	138
c. Authority, Victimization, use of positional power, and abuse of power – Lack or abuse of power provided by individual's position.	121
d. Communication – Content, style, timing, effects and amount of organizational and leader's communication, quality of communication about strategic issues.	136
e. Restructuring and relocation – 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.	12
f. Organizational climate – Issues related to organizational moral and/or capacity for functioning.	108
g. Change management – Making, responding or adapting to organizational changes, quality of leadership in facilitating organizational change.	130

h. Priority setting and/or Funding/ Focus – Disputes about setting organizational/departmental priorities and/or allocation of funding within programs, teaching versus research	74
i. Data, Methodology, Interpretation of results – Scientific disputes about the conduct, outcomes and interpretation of studies and resulting data for policy.	7
j. Interdepartment, Interorganization work, territory – Disputes about which department/organization should be doing what/taking the lead.	76
k. Transformation	224
9. Values, Ethics, and Standards – 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.	
a. Standards of Conduct – 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.	40
b. Values and Culture – Questions, concerns or issues about the values or culture of the organization.	34
c. Scientific conduct, Integrity – Scientific or research misconduct or misdemeanours, e.g. authorship, falsification of results.	6
d. Policies and Procedures not covered in broad categories 1 to 8 – 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.	55

TABLE 2: IOA Uniform Subcategories

IOA Category	AR2016 no of issues	% AR2016	% AR2017	AR2017 no of issues
1. Compensation and Benefits	22	3	5	94
2. Evaluative Relationships	110	16	16	271
3. Peer and Colleague Relationships	54	8	6	106
4. Career Progression and Development	57	8	7	123
5. Legal, Regulatory, Financial, and Compliance	104	15	16	272
6. Safety, Health, and Physical Environment	62	9	14	243
7. Services and Administration Issues	170	24	16	282
8. Organisational, Strategic, and Mission Related	80	11	15	253
9. Values, Ethics, and Standards	47	7	4	71
	706			1715

TABLE 3: Categories Compared between 2016 and 2017 Reports

Data Analysis

The sums of subtotals shown per category in table 2 do not match the totals shown for each category in table 3. 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 3. For example, 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 3 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 3.

Similar to previous years, Evaluative Relationships records the largest increase – 255 for “Respect/Treatment”, compared to 100 in the previous report, followed by “Communication” which yielded 259 in the current report compared to 100 in the previous report. Communication issues in “Evaluative Relationships” have remained by far the most frequently identified concern for three years in a row. “Priorities, Values and Beliefs” gets 256 mentions (100 in 2016), 259 for “Trust and Integrity” (98 last year), 244 for “Diversity” (93 in the previous report) and 219 for “Reputation” (84 in the previous report).

Under Services and Administrative issues, “Quality of Service” currently stands at 251, compared to 104 in the previous report. Departmental climate is also very high, standing currently at 205 compared to 62 in the previous report, especially considering that this relates to people who speak about their own home departments. Highest of all is “Administrative decisions and interpretation, application of rules” at 265 in the current report, compared to 98 in the previous report. These numbers cannot be compared in the strict sense since the number of visitors bringing the different issues is not the same in both reporting periods. For the sake of comparison, viewing the nine IOA issues categories as percentages would provide the most accurate observation, for example see table 3 above.

Notwithstanding the fact that the bullying policy is underway, it is significant to mention in this reporting period that I have been told many times about poor communication, bullying and being

shouted at – a student by faculty, a colleague by another, a student by Administration staff, and Administration staff too have not been kind to one another. The Faculty/Support staff divide is often spoken about as problematic on campus. Too often, especially with in-sourcing, it cannot be ignored that beyond the business of teaching students and doing cutting-edge research, there are staff members supporting the teaching and research enterprise, managing buildings, cleaning, administering budgets, capturing marks etc. These staff members outnumber faculty but are often treated as less important and easily replaceable.

A significant number of visitors indicated that the person with whom they had a reporting or otherwise administrative yet subordinate relationship showed a lack of interest, respect and care treating them poorly.

Bullying, in both Evaluative and Peer and Colleague relationships went up significantly and is at 104 and 101 respectively. Bullying is used to describe any form of aggressive abrasive behaviour. In the current literature on bullying, certain characteristics of the behaviour such as repetition and persistency are considered requirements for designating behaviour as “bullying”. Namie and Namie¹ define it as repeated, health-harming mistreatment of a person by one or more workers that takes the form of verbal abuse; conduct or behaviours that are threatening, intimidating, or humiliating”. A few years ago, I recommended that a policy on bullying be developed. In the 2016 report I wrote:

“The number of bullying complaints doubled in this reporting period. The university, in failing to address the problem of staff who bully others, is losing staff it would be beneficial to retain, as well as not providing the protection staff should be able to expect”

UCT responded:

“ We have developed a draft bullying policy which is being consulted on by the Staff Trade Unions”.

Without belabouring the issue I think it is fair to highlight that it is negligent on the part of the university to delay a process that will address a phenomenon that leads to devastation and serious health issues among its members.

A new element in the categories is the transformation subcategory under “Organisational, Strategic and Mission related”. This subcategory is fitting with various efforts of the university to transform such as the UCT Institutional and Transformation Commission (IRTC), the current strategy plan, the Curriculum Change Workgroup and many other transformation efforts across the university.

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.

Outreach and Other Ombud Activities

- Towards the end of 2016 I facilitated three Imbizos at the College of Music for the purpose of mediating between the staff and the students during the period of protests around fees and decolonialisation of the curriculum.
- In September 2016 I made a presentation to the Family Mediators' Association of the Cape conference (FAMAC); 85 attendees were present.
- In November 2016 I participated in an Ombuds Indaba at UNISA in Pretoria. The Indaba was chaired by the UNISA Ombudsman as part of our Ombudsing Network.
- In this reporting period, I made presentations on the nature and role of the Ombud's Office to various constituencies of the university, including remote sites such as Emavundleni (Crossroads) and SATVI (Worcester).
- In this reporting period, I offered advice and assistance to the University of the Free State (UFS) on the setting up of an Ombud's Office.
- In June 2017 I participated as a member of the Local Organising Committee and as a panellist for the Global Pound Conference, held in Johannesburg.
- In this reporting period my office initiated several conference calls in the format of Ombudsing Network meetings. The Ombudsing Network is an initiative of our office, and includes Ombuds from other South African universities and government institutions.
- I continue to play my role as the IOA IC (International Committee) Africa Regional Chairperson, and thus oversee the IOA (International Ombudsman Association) activities on the African continent.

Observations and Recommendations

- The university has covered some ground in dealing with mental illness on campus but a dedicated effort must be made to train those directly responsible in supporting students and staff to know what is available and how to access assistance; the same applies to sexual harassment and rape prevention workshops, and what to do should this be necessary.
- 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.
- While the university is complex and has numerous processes, often these are experienced as being cumbersome and even at times intimidating. It would be beneficial to explain more clearly the need for and application of different processes so that there is better understanding on the part of both staff and students.
- The university is to be commended for partnering with the City of Cape Town in securing security services for the campus and surrounding suburbs. Even so, particular emphasis must be dedicated to campus safety and security and new students and staff need to be adequately advised while existing students and staff ought to be reminded to be vigilant. Unfortunately, the campus is becoming increasingly unsafe.
- There have been complaints for many years about perceived covert discrimination that happens within faculties such as HSF and Humanities in courses where the student is alone with the examiner or supervisor. Further thinking on how to protect both parties, especially the students, in these spaces would be beneficial.
- I hear concerns that the university does not invest in debriefing efforts following events such as protests, as if it expects people to find their own way, heal, forgive and move on without assistance. Apart from one-on-one counselling for both staff and students, UCT needs to address these issues in the format of group settings. I would like to applaud the university for setting up the Institutional Reconciliation and Transformation Commission (IRTC) which will assist in this respect.

- I recommend that the university develops a policy on the Office of the Ombud that explains the service, the requirements for the Office to do its work (information etc.), and the sanction that will follow if staff or students who use the services of the Office are victimised.
- It is unreasonable to expect that everyone with an issue will seek help from the Office of the Ombud or anywhere else for that matter. The challenges of coming forward and seeking help are far greater than generally understood. I encourage every person providing service to another to do it well, respectfully and with empathy and transparency. It is said that it is mushrooms, not people, that grow in the dark.
- I still get visitors who, despite having been at UCT for some time, did not know about my office until they got stuck, or heard from a friend at the time of seeking help. I suggest that Faculty websites include a link to the Office of the Ombud for convenience.
- The university should invest in regular training and retraining of Transformation Committees on the EE Representative function, Selection Committee Chairs on the Selection process, and people who chair disciplinary processes on their responsibilities.
- The needs of newly insourced staff as UCT staff must be further investigated. The needs range from access to basics such as email, full induction to understand the university as a system, as well as access to computer training and computers for use within their vicinity, and all the support available to other UCT staff members. Additionally, the university is encouraged to improve their methods of welcoming and ensuring a sense of belonging to all new staff, especially new insourced staff.

In closing

I am grateful to my many visitors and to the various members of the university who during the reporting period assisted in different ways to help effect a change where necessary. My office is greatly enriched by their support. I am grateful to Birgit Taylor, my administrative assistant, for her welcoming demeanor and support to me and my visitors without violating the independence or confidentiality of the ombudsing process.

Appendix A

Terms of Reference

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 for 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**



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