

# ANNUAL<sup>2</sup> REPORT<sup>2</sup>

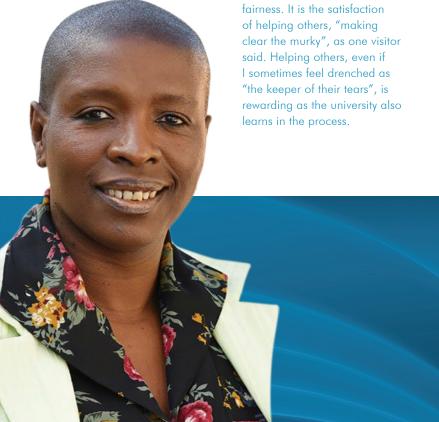
Independent Impartial Confidential

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# Message from the **Ombud**

The nature of my role is such that nobody tells me about what works at UCT. Instead people come to me to complain about gaps in the system, injustices, inefficiency and all sorts of complications. This makes the role challenging, but, I must hasten to add, it is an immensely satisfying role to perform. In looking into things that do not work. I came across things that work well. The value of Ombuds lies in the feedback I receive from visitors in the many roles I play to help UCT deliver fairness. It is the satisfaction of helping others, "making clear the murky", as one visitor said. Helping others, even if I sometimes feel drenched as "the keeper of their tears", is rewarding as the university also learns in the process.



"I see the bigger picture including systemic trends and patterns in the conflict, root causes and plaguing conditions that perpetuate the conflict."

On 12 August (which falls outside of this reporting period), I was invited by the Student Orientation and Advocacy Service to talk about my role. I realised something was different in being with this large group of students. I soon figured it out, it was their happy and joyful disposition. This is something I don't see a lot of in my work day.

A university is a complex system with many stakeholders and competing interests. Due to their nature, they are bound to experience conflict, large and small. As Ombud, I get to see all sides of the complexities as presented by my visitors and respondents. I see the bigger picture including systemic trends and patterns in the conflict, root causes and plaguing conditions that perpetuate the conflict.

I am also well positioned to see the detrimental impact of conflict on different constituencies. My role as Ombud is to enhance the university's conflict competence.

This report covers the period from 1 July 2015 to 30 June 2016. Five cases included in this report started in the period covered by the previous report and were closed in the current reporting period.

Submitted with respect

Monne

Zetu Makamandela-Mguqulwa

### Introduction

The Ombud's office serves as a campus resource where individuals from various constituencies of the university can seek guidance regarding concerns related to individual situations as well as broader systemic issues. The response of the Ombud on matters brought to her office is tailored to the particular dynamics of the presenting situation. Ideally speaking, the office of the Ombud should be an office of last resort; that is it should be utilised after people have exhausted the internal mechanisms and still feel that the outcome was not fair. However, often people come to the office before they have attempted all other methods of addressing their concerns because they are unsure of the options available to them or they feel that they will not be listened to or treated fairly. Frequently these individuals remark that the Ombud's office was the first to really listen to their concerns. I have indeed seen how reporting has led to secondary (new) complaints in some cases because of deficiencies in the available avenues for having problems addressed.

When visitors come, all issues are urgent. As a solo practitioner you cannot help but spread yourself thin managing a large case load, building relations but remaining at arm's length with the stakeholders. Later in the report a complete picture of who visited the office and the nature of the concerns will be outlined. This will be followed by recommendations to the university.

#### A backward glance

The University of Cape Town's Office of the Ombud was established by the Council of the University in 2010, and introduced as follows "A university Ombud – a position vice-chancellor Dr. Max Price has touted since his installation – is a designated neutral or impartial dispute resolution practitioner, whose major function is to provide

confidential and informal assistance to members of the university community. including students and staff. The role of the Ombud, said a recent announcement by the chair of Council, Archbishop Njongonkulu Ndungane, has a long and honorable tradition as a safeauard against abuse, bias and other improper treatment or unfairness. In this position, Makamandela-Mguqulwa will be "an advocate for fairness", acting as a source of information and referral; aiding in answering an individual's questions; and assisting in the resolution of concerns and critical situations." (Monday Paper, Volume 29, 16, 22 October 2010)

In many parts of the world, university Ombuds positions emanate from unrest and visible challenges and the office becomes one of the resolutions to not only function as a complaints clearing house but to help effect new thinking and change in the institution. The UCT Ombud's office was not necessitated by any visible conflict but instead by foresight that an independent and impartial office would further UCT's transformation efforts through doing the following among other things:

- Listening to concerns and responding to complaints.
- Conflict coaching, resolution or classic mediation.
- Ensuring fairness in campus experiences and decisions.
- Analysing problems and exploring options.
- 5. Providing both sides to a dispute a fair opportunity to be heard.
- Ensuring accessibility of the Ombud's office (promotion of service and user convenience).
- Providing information about UCT policies and also looking into the fairness of processes, procedures or possible gaps.
- Noting trends and, as a change agent, recommending changes to university leadership.

The Ombud provides a safe space for individuals and groups to express their concerns and know that they will be heard. To date I have listened to 5483 people talking about their experiences at UCT. When I assumed office back in 2011, I said "Listening is a rare attribute; it comes from practice over the years. I'm a student of listening". Some five years later at UCT, I have not graduated yet. Instead, increasingly I am realising that graduating from listening would

be dangerous as I have to listen like a beginner every time and to all visitors. I dare say Ombuds offices are one of the few offices that are mandated to listen without judgement and can only be effective if they hear. This is often sincerely appreciated. While it may seem small, it humanizes the university.

One visitor who has since left the university wrote to say.

#### Dear Zetu,

#### I hope you are well.

I was thinking about you the other day – and your wonderful ability to make clear the murky. I am now with XXX in London. I so appreciated your support and understanding in a very dark hour.

#### Best regards

#### XXX

Often, the people who approach the office for help are fearful that others may know that they have made contact with the Ombud's office.

This is especially true for post-graduate students experiencing conflict with their supervisors or unconfirmed faculty members experiencing conflict with senior staff members, fearing that personal conflict will lead to their not being confirmed by the department concerned. A masters student who came to complain about being "neglected" by her supervisor expressed her wish to graduate in that particular

year. She took days to decide whether or not I should contact the professor in question for us to talk about this as she clearly was not going to succeed alone. She was afraid. She requested to go pray about it, sleep over it, fast and went back and forth about four times with no conclusive answer. She did not want to rock the boat. She said that the professor is a leader in the field and someone she would want to work with in the future. Eventually she agreed and I met with the professor and gave her feedback. The professor called her to meet soon thereafter. The student gave me feedback that the meeting went well, there was an explanation for the "slip" on the side of the professor and that this misunderstanding gave them time to talk about her project including future plans to collaborate in projects. A happy ending.

The Ombud's office, in a classical sense should not be the first stop as the office does not replace but supplements existing university appeals processes. Ombud's offices can listen across the entire organisation and across all boundaries. This access is encouraged by the standards of confidentiality, neutrality, independence and working outside of formal structures. This is a key office where members of the university are welcome to speak freely about any issue, at any time, and without judgment.

The Ombud adheres to the four Standards of Practice promulgated by the International Ombud's Association. These are:

#### Independence

To ensure objectivity, the office is independent of all university entities in structure, function and appearance. The Ombud's Office reports to the Office of the Chair of Council but has access to the Senior Leadership Group of the university to discuss emerging issues and conflicts. The Ombud is empowered to gather all the information she may require from all the university members to help provide insight into an issue.

### Working outside of formal structures

In my previous reports, this read "informal". As African Region Chair of the International Ombud's Association, I soon challenged this standard as having potential to be misunderstood in South Africa, Here in South Africa when interactions or approaches are informal, at least in some cultures, it can mean that they are nonstandard. The Office of the Ombud, in contrast, is an established part of the University of Cape Town. The office encourages people to solve problems at the lowest level possible before they escalate. While it is an off-the-record resource, the Ombud identifies trends, issues and concerns about policies and procedures, including potential future issues without breaching confidentiality, and provides recommendations to address them.

#### **Impartiality**

The office of the Ombud considers the interests of all parties involved in a situation in order to assist them in reaching mutually acceptable agreements that are fair, as well as consistent with the university's mission and values. This office will not serve as an advocate for the university or the individual. An Ombud advocates for fairness and justice.

This Standard of Practice is seemingly confused with neutrality, where some members of the university expect the Ombud to be indifferent on transformation in particular. As I have already said, an Ombud must reflect the values of the organisation it serves. Transformation is one of the five pillars of UCT's Strategic plan for 2010–2014.

#### Confidentiality

Probably the most important thing about the Ombud's office is the fact that it is a safe place to visit. The Ombud treats all communications with those seeking assistance in strict confidence. The identity of visitors and the substance of concerns raised will not be shared without consent. The commitment to confidentiality is unwavering; the only exception occurs where there is imminent threat of harm.

For Terms of Reference see Appendix A.

#### Getting buy-in

As a conflict resolution specialist, I was and still am aware that organisational systems, like the system we call the human body, may reject organs that are transplanted from outside. Since my appointment, I have developed Ombud's Terms of Reference based on the Ombud's Policy that the university had prepared. I meet with the Executive team, all Deans, Executive Directors and other kev stakeholders such as the Unions and the Students Representative Council (SRC) to create and maintain a relationship. I strive to have such meetings twice a year. I also make presentations to Forums such as Professional and Administrative Support Staff (PASS) (by invitation), and at staff orientation meetings in collaboration with the Human Resources (HR) Department, I visit faculties to talk about the role, occasionally publish articles using the UCT Monday Paper or Varsity and we also send information to faculties, residences, SRC, unions and faculty managers. We update the office website as a further resource to keep the availability of the service in people's minds, ideally even before they need it. I am particularly thankful to the departments who invite us for presentations. In looking at all our efforts to publicise the office, word of mouth seems to be the leading source while advice from faculty is also growing. I recall saying to a student visitor who was advised by a friend to visit the office that we try not to be the "best kept secret on campus". Satisfied with the resolution to the problem, she wrote:

#### Dear Ms Makamandela-Mguqulwa

The following pertains to your assisting me to XXX at the beginning of this year.

Thank you. I do not know what I would've done if you had not helped me when I came to your office scared and worried on the morning of 25 January, just as I was about to XX. In the 2 weeks that I spent trying to get someone from XXX to hear me you were the first person to listen. The first person who was not ready to refer me elsewhere and tell me that there was nothing that could be done. I am forever grateful that you took the time to hear me out and understand my situation and make a way for me to XXX, but it is sad that it took someone outside of XXX to do this. You are invaluable to the students who come into conflict with the Goliath of UCT and its Departments and I will continue to refer anyone who has a problem with UCT to your office. That said, I fear that you are indeed as you said 'UCT's best kept secret'. This is a problem for everyone who believes they have been wronged by UCT but feels alone and without anyone on their side. Thus I believe more must be done to advertise your office, such as presentations during Orientation or airtime on UCT Radio. You were a beacon of light to me in my trouble and I believe you can be that for many more people.

Many thanks and God bless.

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#### **Reporting Strategy**

In addition to written reports, there are other ways of providing systemic feedback especially to Departments in Faculties. The annual report serves at least three important functions:

- First and most importantly, it ensures accountability between the Office and the community it serves.
- Secondly, it provides an administrative audit of the university and contributes information that allows administrators and executives to be held accountable for actions taken or not taken throughout the year.
- Thirdly, it provides a public medium to outline, discuss and advocate for use of the service on campus.
- 4. The final thing to point out about the Annual Report is that it is the one activity that the Ombud's Office performs that benefits the entire organisation. Recommendations contained in the Annual Report are general in nature and call for policy changes or changes in administrative practice that benefit all individuals within the organisation without their having visited the Ombud to complain.

# This year in review

#### Caseload

The number of people visiting the Ombud increased significantly in this reporting period, from 498 in 2015 to 583 in 2016, where during the current reporting period 706 issues were brought to the office.

Table 1

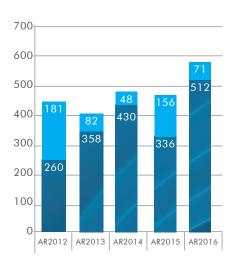
Visitors for consultation	512
Visitors for information only	71
TOTAL VISITORS	583

#### Classification of issues

Since 2012, the office has used uniform reporting categories developed by the International Ombudsman Association (IOA) to describe the reasons visitors make contact with the office. This system comprises nine broad categories and 99 sub-categories used to classify issues, questions or concerns. The UCT Ombud's office has over the years adapted these categories to suit UCT problems.

Table 3 below shows the number of cases relating to each of the standard categories over the last five years. Table 4 gives the number of cases in 2016 according to the more detailed uniform sub-categories for issues and concerns.

Graph 1: Total number of visitors AR 2012 to AR2016



- Visitors for consultation
- Visitors for information only
- \*\* AR2012 refers to the Annual Report 2012, AR2013 to that of 2013, and so forth

IOA Issues Category	AR2016	AR2015	AR2014	AR2013	AR2012
Compensations and Benefits	22	23	17	42	53
Evaluative Relationships	110	87	81	136	196
Peer and Colleague Relationships	54	46	43	38	60
Career Progression and Development	57	55	41	67	60
Legal, Regulatory, Financial, and Compliance	104	45	51	73	49
Safety, Health, and Physical Environment	62	45	23	50	48
Services/Administration Issues	170	142	157	218	33
Organisational, Strategic, and Mission Related	80	83	52	30	72
Values, Ethics, and Standards	47	79	87	117	71
	706	605	552	771	642

Table 2: Number of cases by IOA standard reporting categories from AR2012 to AR2016

<sup>\*\*</sup> The reporting period for AR2012 comprised 14 months, whereas the other reports spanned a period of 12 months.

#### **IOA Uniform Reporting Categories for Issues/Concerns**

Category and Subcategory (adapted to UCT)

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

ber	nefits and other benefit programs.	
a.	<b>Compensation</b> – Rate of pay, salary amount, job salary classification/level, other.	7
b.	Payroll – Administration of pay, pay-related communication.	2
C.	<b>Benefits</b> – Decisions related to medical, dental, life, vacation/sick leave/study leave, sabbatical, education, hours of work, Emeritus status, etc.	15
d.	<b>Retirement, Pension</b> – Eligibility, calculation of amount, retirement pension benefits, conditions of disbursement.	3
e.	Performance-related benefits	5
f.	Insurance – Health, IOD, other.	2
g.	Educare, Child Care	0
h.	Honours , Recognition	1

# 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.	95
b.	<b>Respect, Treatment</b> – Demonstrations of inappropriate behaviour, disregard for people, rudeness, crudeness, etc.	100
c.	<b>Trust, Integrity</b> – Suspicion that others are not being honest, whether or to what extent one wishes to be honest, etc.	98
d.	<b>Reputation</b> — Possible impact of rumours and/or gossip about professional or personal matters.	84
e.	Communication – Quality and/or quantity of communication.	100
f.	<b>Bullying, Mobbing</b> – Abusive, threatening, and/or coercive behaviour.	68

<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.	93
<b>Retaliation</b> – Punitive behaviours for previous actions or comments, whistleblower.	50
Violence – Actual or threats of harm.	11
Assignments, Schedules – Appropriateness or fairness of tasks, expected volume of work.	56
<b>Feedback</b> – Feedback or recognition given, or responses to feedback received.	65
<b>Performance appraisal/Grading</b> – Job performance in formal or informal evaluation.	33
<b>Grading</b> – Academic performance in formal or informal evaluation.	24
<b>Departmental climate</b> – Prevailing behaviours, norms, or attitudes within a department for which supervisors or faculty have responsibility.	62
<b>Supervisory effectiveness</b> – Management of department or classroom, failure to address issues.	58
Insubordination – Refusal to do what is asked.	26
<b>Discipline</b> – Appropriateness, timeliness, requirements, alternatives, or options for responding.	17
<b>Equity of treatment</b> – Favouritism, one or more individuals receive preferential treatment.	48
	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.  Retaliation – Punitive behaviours for previous actions or comments, whistleblower.  Violence – Actual or threats of harm.  Assignments, Schedules – Appropriateness or fairness of tasks, expected volume of work.  Feedback – Feedback or recognition given, or responses to feedback received.  Performance appraisal/Grading – Job performance in formal or informal evaluation.  Grading – Academic performance in formal or informal evaluation.  Departmental climate – Prevailing behaviours, norms, or attitudes within a department for which supervisors or faculty have responsibility.  Supervisory effectiveness – Management of department or classroom, failure to address issues.  Insubordination – Refusal to do what is asked.  Discipline – Appropriateness, timeliness, requirements, alternatives, or options for responding.  Equity of treatment – Favouritism, one or more individuals receive

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.	<b>Priorities, Values, Beliefs</b> – Differences about what should be considered important – or most important – often rooted in ethical or moral beliefs.	51
b.	<b>Respect, Treatment</b> – Demonstrations of inappropriate behaviour, disregard for people, rudeness, crudeness, etc.	51
C.	<b>Trust, Integrity</b> – Suspicion that others are not being honest, whether or to what extent one wishes to be honest, etc.	48
d.	<b>Reputation</b> – Possible impact of rumours and/or gossip about professional or personal matters.	50
e.	Communication – Quality and/or quantity of communication.	52
f.	<b>Bullying, Mobbing</b> – Abusive, threatening, and/or coercive behaviours.	41
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.	45
h.	<b>Retaliation</b> Punitive behaviours for previous actions or comments, whistleblower.	29
i.	Violence – Actual or threats of harm.	14
j.	<b>Departmental climate</b> – Prevailing behaviours, norms, or attitudes within a department for which supervisors of faculty have responsibility.	36

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).
	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.	20
b.	<b>Job classification and description</b> – Changes or disagreements over requirements of assignment, appropriate tasks.	16
c.	Involuntary transfer, Change of assignment – Notice, selection and special dislocation rights/benefits, removal from prior duties, unrequested change of work tasks.	10
d.	<b>Tenure-position security</b> – Security of position or contract, provision of secure contractual categories, career progression, i.e. promotion, reappointment, or tenure.	17
e.	<b>Career progression</b> – Ad Hominum promotion, promotion, succession, reappointment, or tenure.	20
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.	10
g.	<b>Resignation</b> – Concerns about whether or how to voluntarily terminate employment or how such a decision might be communicated appropriately.	14
h.	<b>Termination/Non-renewal</b> – End of contract, non-renewal of contract, disputed permanent separation from organization.	15
i.	<b>Re-employment of former or retired staff</b> – Loss of competitive advantages associated with re-hiring retired staff, favouritism.	4
j.	<b>Position elimination</b> – Elimination or abolition of an individual's position.	11
k.	Career development/Coaching/Mentoring – Classroom, on-the-job, and varied assignments as training and developmental opportunities.	8
I.	Private work	5
m.	Re-deployment/Redundancy	9
n.	Student employment	6

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.	<b>Criminal activity</b> – Threats or crimes planned, observed, or experienced, fraud, plagiarism.	23
b.	<b>Business and financial activities</b> – Inappropriate actions that abuse or waste organizational finances, facilities, equipment or resources.	32
c.	Harassment – Unwelcome physical, verbal, written, e-mail, audio, video, psychological or sexual conduct that creates a hostile or intimidating environment.	58
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).	64
e.	Disability, temporary or permanent, reasonable accommodation  – Extra time on exams, provision of assistive technology, interpreters, or Braille materials including questions on policies, etc. For people with disabilities.	5
f.	Accessibility, Access – Removal of barriers, providing ramps, elevators, access to information, etc.	11
g.	Intellectual property rights – E.g. copyright and patent-infringement.	6
h.	<b>Privacy and security of information</b> – Release or access to individual or organizational private or confidential information.	11
i.	Property damage – Personal property damage, liabilities.	2
j.	Fee debt, contract	17
k.	Visa	5
l.	Special relationships	3

#### 6. Safety, Health and Physical Environment – Questions, concerns, issues or inquiries about safety, health and infrastructure -related issues. Safety – Physical safety, injury, medical evacuation, meeting state and 18 university requirements for safety training and equipment. b. Physical working/living conditions - Temperature, odours, noise, 9 available space, lighting, etc. C. **Ergonomics** – Proper set-up of workstation affecting physical 10 functioning. d. Cleanliness - Sanitary conditions and facilities to prevent the spread of 0 e. **Security** – Adequate lighting in parking lots, metal detectors, guards, 8 limited access to building by outsiders. **Telework, Flexplace** – Ability to work from home or other location f. because of business or personal need, e.g. in case of man-made or 2 natural emergency. Safety equipment – Access to or use of safety equipment, e.g. fire 0 extinguisher. Environmental policies - Policies not being followed, being unfair, 0

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.

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ineffective, cumbersome.

**Parking** 

Use of space

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k.

7.	Services/Administrative Issues - Questions, concerns, issues or inquiries
	about services or administrative offices including from external parties.

a.	<b>Quality of service</b> – How well services were provided, accuracy or thoroughness of information, competence, etc.	104
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.	94
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.	98
d.	<b>Fees and Financial Aid</b> – Fee account management, debtors, financial aid eligibility and process.	38
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.	45
f.	Course availability, Completing degree in timely fashion	38
g.	Admissions, Readmissions, Registration, RPL, NBT, and Records – undergraduate.	30
h.	Admissions, Readmissions and Registration and Records – postgraduate.	14
i.	Student, Staff Housing and Residence Life	14
j.	Academic termination/non-renewal – progress and exit from academic plan.	14
k.	Academic leave and absence – LOA and special leave.	5
l.	DP/DPR – allowance to write/not write the examination.	6

# 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.	53
b.	<b>Leadership and Management</b> – Quality/capacity of management and/or management/leadership decisions, suggested training, reassignments and reorganizations.	64
c.	Authority, Victimisation, use of positional power, and abuse of power – Lack or abuse of power provided by individual's position.	57
d.	<b>Communication</b> – Content, style, timing, effects and amount of organizational and leader's communication, quality of communication about strategic issues.	54
e.	<b>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.	6
f.	<b>Organizational climate</b> – Issues related to organizational moral and/or capacity for functioning.	29
g.	<b>Change management</b> – Making, responding or adapting to organizational changes, quality of leadership in facilitating organizational change.	35
h.	<b>Priority setting and/or Funding/ Focus</b> – Disputes about setting organizational/departmental priorities and/or allocation of funding within programs, teaching versus research.	10
i.	<b>Data, Methodology, Interpretation of results</b> – Scientific disputes about the conduct, outcomes and interpretation of studies and resulting data for policy.	2
j.	<b>Interdepartment, Interorganization work, territory</b> – Disputes about which department/organization should be doing what/taking the lead.	6

- 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.
     b. Values and Culture Questions, concerns or issues about the values or culture of the organization.
     c. Scientific conduct, Integrity Scientific or research misconduct or misdemeanours, e.g. authorship, falsification of results.
  - 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.

#### Table 3

The tables above set out what is simply a quantitative listing of all the matters that visitors bring. While numbers and descriptive statistics present one form of office activity, it is the stories and situations that truly reflect the depth and complexity of the matters visitors bring to the office. Not all stories can be presented as this could compromise the visitors' confidentiality. A broad anecdotal perspective regarding issues presented during this year identifies the following university-wide problems:

In comparison with 2015 report, where I remarked on categories with more than 40 issues, this year Evaluative Relationships has 100 cases each for "Respect/
Treatment" and "Communication".
Disrespectful behaviour includes bullying.
Explicit complaints about bullying were made in this period and this featured as a

recommendation in two previous reports. These categories fall under **Evaluative Relationships**, which keeps having the highest number of concerns.

This category includes problems between staff and manager/student and supervisor; PASS staff and an academic; undergraduate student and academic. These involved complaints related to poor communication for many. Often these complaints included that the person with whom there was a reporting relationship showed a lack of respect for them or treated them poorly. A lack of trust was mentioned where decisions about the other's fate are concerned, with performance evaluation, for example or post-graduate students suspecting that their work will not be supervised fairly. Overall, poor communication, respect and trust clustered as the highest concern on campus. Peer and Colleague is the category for cases involving colleague-to-colleague within the same category of visitor. Among other things here there were cases where academics on probation feared that they may not be confirmed owing to poor relations with their superiors.

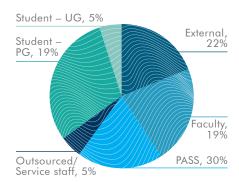
#### Services and Administration

The university is a service industry, where clients are both internal and external. Given the already mentioned problems of "Trust and Integrity", "Diversity", "Reputation", and "Quality of Service" it is no wonder that both these categories both have significant numbers.

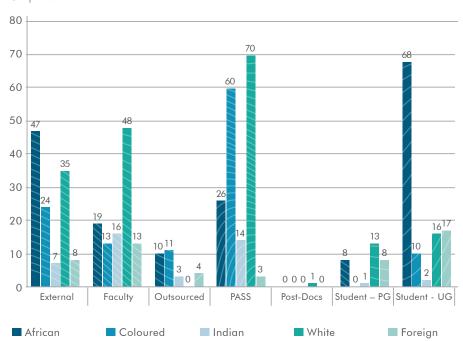
#### Characteristics of visitors

The graphs below show the breakdown of the constituencies that visited the Ombud in this reporting period.

Graph 2: Visitor Constituency



Graph 3: Visitor Profile



# **Observations**

Unlike previous reports, this report covers the following two protests, viz. #feesmustfall and #shackville. The increase in the number of external visitors is influenced chiefly by these events and, in addition to students, stakeholders such as family members made contact with the office for several reasons, some seeking clarity, some make contact to vent their anger, complain, ask questions, blame and sometimes offer simple solutions to complex problems. While the university was pronounced closed for some days, my office, as a conflict management resource, remained open and busy. It became an impartial clearing house for complaints, regardless of their source.

Internally, for example, I was told that some departments carried on with teaching at times when the university was shut, accepted assignments with the library closed and some proceeded to write tests. Some called back administrative staff to return to work and compelled those who could not be found or show up to take annual leave. Departments had the exam-writing options explained but families would call me to say academics were clueless on the decisions taken. Administrative staff and faculty sat with double their normal workload but carried on while taking strain. When police and security personnel were deployed, different people responded to this in various ways; some found it assuring but some said it was unfamiliar and tense. Some students reported abuse and harassment by the private security staff.

When the university was closed, many people, including alumni and sometimes donors, called to express their views on the short-sighted steps taken by the university. Some parents spoke about overseas options for their children while others said they were talking to academics about considering a private institution rather than resigning to go teach abroad.

Even though the most recent national #feesmustfall protest is happening slightly outside of the reporting period covered in this report, I would be untrue to my ombudsing sensibility if I did not make the following remarks.

- In a democracy, people can choose to protest or remain uninvolved; this choice should be allowed to be manifested, and the persons involved not bullied, silenced or made to feel out of place as this further polarises the campus community.
- Protests need not be violent.
   When I raised this alongside
   the rights of others, some of the
   protesting students said that they
   were provoked and unprotected.
   Nevertheless violence of any kind
   is unacceptable.

- While the university has updated the website and wrote numerous briefs to staff, students and alumni, some families of students complained about not knowing what was going on. Clearly the university's efforts to communicate were not as effective as they had envisaged.
- Other people called, saying the university must invest in security for those who want to learn and even call in the army if need be. In contrast,
- a number of students who were not protesting contacted the office as did some lecturers, saying that much as they wanted to carry on, the state of the campus resembles that of a war zone.
- With cases of abuse by police, I recommended that they be taken to the Police Ombud while UCT should handle the ones pertaining to private security.

## Recommendations

- As I developed the recommendations to be made in this report, I went back to look at the previous ones. All Ombuds are expected to be agents of change in the organisations they serve. This is done by giving upward feedback and recommendations in annual reports. The university has been slow to implement some of my previous recommendations.
- The policy on bullying is yet to be finalised. 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.
- This year, for the first time, I have had problems reported pertaining to emeritus professors. This is a matter that I am discussing with the executive for their consideration.
- In 2012, I made a recommendation that student deaths (broadly) be looked into, and
  this was done. In April 2016 the VC issued a dedicated message pertaining to student
  suicides. The university's effort to investigate this issue further, to facilitate access to
  additional support, and to inform all members of the university community about
  resources and processes for advising students and staff in distress is commendable.
  Nevertheless, with levels of stress apparently increasing, further serious attention is
  needed in this area.
- Linked to the previous point, the Ombud's Office continues to see visitors each year
  for whom mental health matters are a concern. These are usually students who are
  contemplating harm to self. I have also received inquiries from faculty and staff about
  how to respond to students who are in distress. My sense is that the number of such
  students is increasing.

### "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..."

- The university will benefit from reviewing its formal processes, such as the Preliminary Investigations Committee (PIC) process, in handling sexual harassment cases in particular as it is legalistic and leaves many victims and complainants further paralysed by the perceived bureaucratic lack of care and concern. Members with specialist knowledge and skill in this area should be sought.
- I have repeatedly raised issues of transformation in the past, and more recently have received questions as to the meaning of decolonisation. As this term is likely to feature in the strategic plan 2016 – 2020, the university will need to explain and educate the University community about what it means and what is expected from them.
- UCT is encouraged to assess the current ways of dealing with conflict and disputes of
  various types (Conflict Management Strategy), which affect the parties' goals, costs
  and other resources such as time, personal distress, and other effects of conflict, by
  providing training in conflict management, interpersonal communication skills, and
  techniques in order to handle difficult conversations with supervisors, managers, and
  others who play an evaluative role.
- The current Leave of Absence policy does not address short leave requirements. The
  university will benefit from considering an "Excused Leave Policy" to help faculties
  deliver fairness on such requests.
- The office of the University Proctor may want to emulate the South African court system
  which refers cases to "court-annexed mediation", thereby speeding up resolution of
  issues, decreasing caseloads, and saving on resources. UCT has a number of capable
  mediators who are available. It would also be helpful to consider alternative sentencing
  (such as fines) for students who are about to graduate or who are no longer on campus.

# Other Office activities

#### Outreach

- Together with the International Ombudsman Association (IOA) and the Department of Higher Education, the Ombud hosted an Ombuds Training Conference in November 2015 From 28th September 2015 to 1st October 2015 two IOA training courses were delivered by four internationally trained Ombuds. The Ombud served as the fifth member of faculty for the courses. The first course covered the Foundations of Organisational Ombudsing, whereas the second course covered the Next Steps. This initiative resulted in 20 participants being trained by IOA trainers from the USA, France, and South Africa, the latter represented by the UCT Ombud.
- In April 2016, the Ombud attended the International Ombudsman Association conference in Seattle, Washington (USA), as a presenter and participant. She presented a Pecha Kucha<sup>1</sup>, and she was awarded with an award for her contribution as the Regional Africa Committee chair.
- PechaKucha is a simple
   presentation format where you show
   20 images, each for 20 seconds.
   The images advance automatically
   and you talk along to the images.

- On 28th July 2015, the Ombud acted as facilitator at a student gathering held at Stellenbosch University, together with Dr Birgit Schreiber. The gathering served as a feedback session for the task team on the rape culture on campus.
- On 12<sup>th</sup> October 2015, the Ombud provided a presentation entitled "Leading from the Balcony" at the UN Leaders Programme held at the River Club.
- During the year, the Ombud met with various university Ombuds and registrars and other complaint handling staff from various South African universities to assist them in their plans to either establish an Ombud's Office or to improve their ombudsing service.
- Plans are underway to meet with other university Ombuds in person in the form of a one-day workshop to discuss current issues at South African universities.
- The Ombud met with the new Ombud
  of the South African Police Service
  to begin networking with him as she
  continues to network with other sector
  Ombuds in the country, including the
  City of Cape Town Ombud and the
  Public Protector's office.
- The Ombud led workshops and Imbizos for various groups across campus to assist in addressing pressing issues.

- The Ombud provided nine presentations on the nature and the role of the Ombud's Office at UCT across campus.
- The Ombud has offered a more accessible service to satellite campuses by working from offices on the Graduate School of Business (GSB) Campus, the Hiddingh campus, and also the Health Sciences campus at monthly or bi-monthly intervals. The GSB satellite office service thus far appears to be the most successful.
- The Ombud was visited by Paulyn Marrinan from Ireland to discuss Ombudsing from an international perspective. Ms Marrinan is the Founding Ombudsman for The Defence Forces, Ireland (2005 2012), the Founding Insurance Ombudsman of Ireland (1992 1998), and the Founder/Coordinator, Conflict and Dispute Resolution Studies, ISE, Trinity College, Dublin University. Adjunct Professor, Mediation & ADR Studies (2000 2014).



Front row to back row, left to right: Mandla Sifumba, Lee Twyman, Mokubung Nkomo, Zetu Makamandela-Mguqulwa, Vuyokazi Ntloko, Thomas Zgambo, Edward Lambani, Shirley Serepong, Carin Booyse, Emily Mabote, Mavuso Msimang, Sello Legodi, Temba Matanzima, Leon Wessels, Ephraim Motseko, Dinkie Dube, Maletsatsi Wotini, Nazeema Mohamed, Wayne Blair, Hendrick Croucamp, Kemi Behari, Mpho Matjila, Julian Sonn, Sduduzo Gumede. Inserts: Lynne Chaillat, Michael Somniso.

# In closing

It is a pleasure to acknowledge many people across campus who have favourably responded to my inquiries and recommendations to help a student, parent, or employee. There is a genuine interest by many at UCT in helping relieve the confusion, frustration, or problems someone may face. Often the Ombud is a conduit between the visitor and the answer found elsewhere on campus. This office helps break down the silos that can easily develop at a university the size of UCT. The campus community has the ability to foster an equitable and fair academic and working climate.

Thank you for the opportunity to serve the University in this capacity.

# Appendix A

#### Terms of Reference

#### UNIVERSITY OF CAPE TOWN OFFICE OF THE OMBUD

#### 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

#### i. 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.

#### ii. 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.

### iii. 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.

#### iv. 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.

#### v. 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.

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

#### i. 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.

#### ii. 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.

#### iii. 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.

#### iv. 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.

### v. 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.

#### vi. 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.

#### vii. 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

- 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.
- 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

3–4 Lovers Walk Lower Campus University of Cape Town Rondebosch 7701 Tel +27 (21) 650 3665/4805 Email: ombud@uct.ac.za Website: www.ombud.uct.ac.za

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

