



OMBUD'S OFFICE
UNIVERSITY OF CAPE TOWN

Independent **Informal**
Impartial Confidential

Annual Report
2013

Independent **Informal**
Impartial Confidential

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Message from the Ombud



inherent processes within any setting where human interaction takes place. As a microcosm of society, these tensions and conflicts may be compounded and exacerbated as the university is forced to deal with the complexities brought about by its history, the diversity of its peoples, interests, and roles bottled up in an insular environment where the purpose is to explore and challenge oneself and, in that process, challenge those around you. This year has seen a lot of racially charged questions, discourse and tensions on several issues. The Ombuds Office serves a vital role in assisting the campus community through the cracks and pitfalls created by the ambiguities of the university's lived realities. The Office serves not only to protect persons from the institution, but also to protect the institution from itself. I hope that this report can assist the university in its quest for fair and equitable decisions.

To date, most of my visitors have confirmed that it is the tenets of independence, informality, confidentiality, and impartiality that contribute to the success and use of the Ombuds Office by the constituencies it is meant to serve. While my objective view is vital, of most significance in this interaction is to ensure not only maximum protection of confidential information, but also the perception among office visitors that protection is available for the use of the Office. Independence and confidentiality, both real and perceived, are critical to the ability of any Ombuds Office to effectively achieve the set purpose.

Submitted with respect

A handwritten signature in blue ink, which appears to read 'Zetu Makamandela-Mguqulwa', is positioned below the text 'Submitted with respect'.

Zetu Makamandela-Mguqulwa

A university is a microcosm of the larger society, and tensions and conflicts are

Introduction

The Office of the Ombud was created in 2011 as a resource for any member of the university community with a problem or a concern about being treated unfairly. The Terms of Reference for the Ombuds Office requires that the Ombud produce an annual report each year. The report provides some specific statistical information on the number and types of issues handled by the office, as well as highlighting emerging trends, providing recommendations and illustrating the modes of intervention we use. One of my objectives with this report is to raise awareness about the Office of the Ombud.

This report covers the period from 1 November 2012 to 30 October 2013. When reviewing the data, it is important to interpret the information in the context of how the Ombud came to know about the issues that are tabulated in this report. I wish to stress that the use of the University Ombuds Office is voluntary, thus the Office does not see every person that has a particular issue. Further, the complaints that come to the Ombud are based on perceptions and experiences of visitors. In each case, other parties to the same case may have different perceptions of what happened. However, if the university is to be experienced as an environment in which fairness, justice and equity prevail, all perceptions of unfairness, injustice and inequity are important.

This report discusses trends the Ombuds Office observed which may or may not be trends of the university as a whole; nevertheless, the trends that are observed are noteworthy, hopefully encouraging attention, discussion, and possible policy review and implementation where required.

Role of the Office of the Ombud

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

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 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 that may be surfaced about alleged acts, omissions, and any problems as they are experienced by university members.

All members of the university community have a right to consult the Ombud. Her role is unique and differs from any other position at the university. Most importantly, the use of the Ombuds Office is voluntary. No one should instruct another to visit the Office, nor should anyone be told not to come to the Office against their will. It has come to the Ombud's attention that a few members of the University community have been told not to visit the Ombud or given feedback that they should not do it in the future as it may bring the areas in which they work into disrepute. This is far from the truth as the Office of the Ombud exercises no judgment and focuses on what is fair over who is right or wrong. Such statements violate the Ombud's principle of independence and interfere with the legitimate performance of the Ombud's duties as outlined in the Terms of Reference.

The fact is that anyone can visit the Ombud voluntarily and be assisted as long as the visitor is not already involved in a formal grievance, appeal, or litigation process and has not hired an attorney in connection with their issue. One of the translations of the word "ombudsman" is a "person who has an ear to the people". The Ombuds Office is an ear to the entire campus community and everyone has a right to be heard. In addition, the Ombud is given authority to perform her duties by the University Council.

The Ombud is a member of the International Ombudsman Association (IOA) and adheres to its Standards of Practice and Code of Ethics. As taken from the Terms of Reference, these are:

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 organisational 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 organisation, including the person to whom the Office of the Ombud reports.

Confidentiality

Primarily, confidentiality assures that visitors can bring their issues without fear of loss of privacy, relationship or reprisal. 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.

Impartiality and Neutrality

As a designated neutral, the Ombud does 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.

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.

What are the Benefits of an Ombudsman Office?

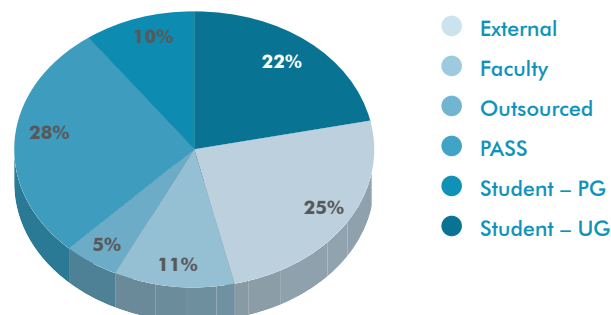
Organizations with an ombudsman office commonly cite the following benefits of the service:

- Offers a safe place for members of the workforce to discuss concerns and understand their options without fear of retaliation or fear that formal action will be taken simply by raising concerns.
- Helps identify undetected and/or unreported criminal or unethical behavior, policy violations, or ineffective leadership.
- Helps employees become empowered and take responsibility for creating a better workplace.
- Facilitates two-way, informal communication and dispute resolution to resolve allegations of harassment, discrimination and other workplace issues that could otherwise escalate into time-consuming and expensive formal complaints or lawsuits.
- Provides the ability to address subtle forms of insensitivity and unfairness that do not rise to the level of a formal complaint but nonetheless create a disempowering work environment.
- Provides an early warning diagnosis system that identifies and alerts institutions about new negative trends.
- Helps employee satisfaction, morale and retention by humanizing the institution through the establishment of a resource that provides safe and informal opportunities to be heard.
- Provides conflict resolution skills training.
- Provides upward feedback to management about organizational trends.
- Helps avoid negative press by addressing issues at the lowest and most direct level possible.
- Provides the organization with an independent and impartial voice, which fosters consistency between organizational values and actions.
- Serves as a central information and referral resource for policies, processes

Published on The International Ombudsman Association
(<http://www.ombudsassociation.org>)

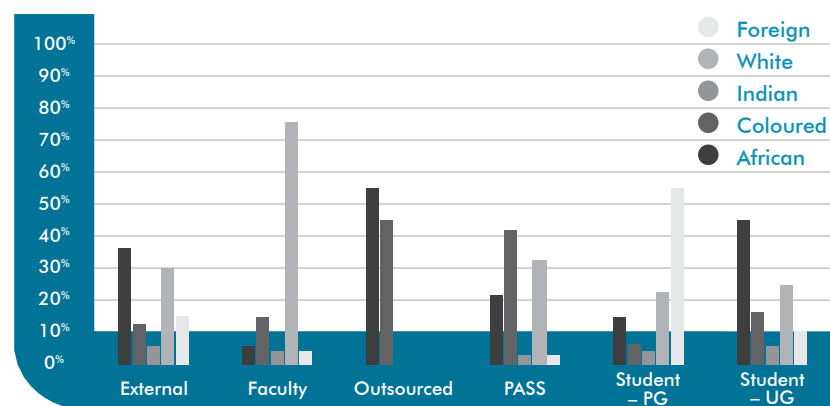
Current Use of Office by Visitors

The 440 visitors to the Ombud seeking assistance represented the broad diversity of the university. Professional and Administrative Support Staff (PASS) (28% of the total), external people (25% of the total), undergraduate (UG) students (22%), Faculty (11%), postgraduate (PG) students (10%), and workers of outsourced service providers at 5%.



Graph 1: Distribution of Visitors by Constituency

The breakdown within each constituency by the South African “population group” classification is shown below:



Graph 2: Profile of visitors

Of 154 UCT staff members, 109 were Professional and Administrative Support Staff (PASS) members and 45 were academic staff. In terms of gender, 43% of visitors were female.

Further statistical highlights include the following:

- In 2012, the Office handled a total of 642 issues over a 12-month period; this number increased to 771 in this reporting period. (The number of issues dealt with exceeds the number of visitors as some visitors report more than one issue.)
- These issues were brought forward by 440 visitors of whom 19 came from outsourced companies providing services to the university.
- Of the 440 visitors in 2013, 358 were cases to be dealt with while 82 were resolved primarily through making information available. In 2012 the total number of cases was 260, and information was given to 181 visitors. In addition, a sizeable number of university community obtained information telephonically while others did so via email. This shows that during this reporting period the number of visitors requiring consultations increased while the number of people requesting information decreased.
- In 2013, the Ombud met with an additional 863 people; 761 were people involved as respondents in helping to resolve matters, and 102 sat in on presentations. This demonstrates an increase in the number of people reached in comparison with the previous reporting period.
- Outsourced staff brought 40 issues. They are not included in the categorisation of issues below.

On a few occasions the Ombud, on reviewing a full explanation of what had really transpired, come to realise that no unfair treatment had been rendered. This is not necessarily a negative outcome for the complainant as full explanation is also made available to both parties. However, these cases suggest a need for improved regular communication so that cases do not need to come to the Ombud unnecessarily.

Classification of Issues

The classification of issues is according to the International Ombudsman Association (IOA) classification system which has nine broad categories and approximately 85 subcategories where every issue is classified, for example, a complaint that concerns admissions would be categorised under Services and Administration issues. As noted above, during this period the total issues brought was 771. See the table below for a breakdown of the issues as well as the percentage point change from the previous reporting period.

IOA Issues Category:	2013 count	2013 %	% point change since 2012
Compensation and Benefits: Questions, concerns, issues or inquiries about benefits and benefit programmes	42	5%	-3%
Evaluative Relationships: Questions, concerns, issues or inquiries arising between people in evaluative relationships (such as supervisor-employee, staff-student)	136	18%	-13%
Peer and Colleague Relationships: Questions, concerns, issues or inquiries involving peers or colleagues who do not have a supervisory-employee or student-teacher relationship (for example, two staff members within the same department or conflict involving members of a student organisation).	38	5%	-4%
Career Progression and Development: Questions, concerns, issues or inquiries about administrative processes and decisions regarding entering and leaving a job, and what the job entails (for example, nature and place of assignment, job security, and separation).	67	9%	0%
Legal, Regulatory, Financial, and Compliance: Questions, concerns, issues or inquiries that may create a legal risk (financial, sanction etc.) for the organisation or its members if not addressed, including issues related to waste, fraud or abuse.	73	9%	1%
Safety, Health, and Physical Environment: Questions, concerns, issues or inquiries about safety, health and infrastructure-related issues.	50	6%	-1%
Services/Administration Issues: Questions, concerns, issues or inquiries about services or administrative offices including from external parties.	218	28%	23%
Organisational, Strategic, and Mission Related: Questions, concerns, issues or inquiries that related to the whole or some part of an organisation.	30	4%	-7%
Values, Ethics, and Standards: Inquiries about the fairness or organisational values, ethics, and/or standards, the application of related policies and/or procedures, or the need for creation or revision of policies, and/or standards.	117	15%	4%
Total number of issues:	771		

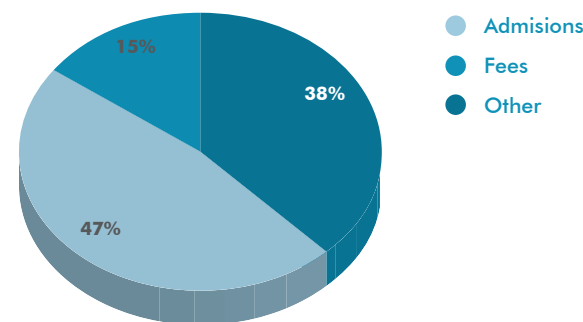
Table 1: Number of cases by IOA standard reporting categories

Comparisons and patterns are important in the work of the office as they may indicate what is not working as well as it could at the university, and matters that fail to meet reasonable expectations of the university community and which potentially lead to grievances, violate trust and create animosity. One of the goals of the Ombud is to help decrease dissatisfaction as the university becomes a fair employer with conflict-competent staff throughout.

The Ombud gives feedback to sections of the university throughout the year on individual issues as well as clusters of issues. However, without the analysis of comparisons the intensity of the problem is not always evident. The comparisons are therefore communicated in the annual report.

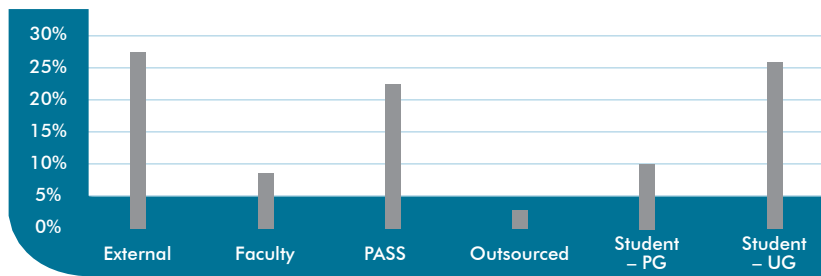
There is a noticeable decrease in Compensation and Benefits; Evaluative Relationships; Peer and Colleague Relationships; Organisational, Strategic, and Mission Related; Safety, Health and Physical environment, while the percentage relating to Career Progression has remained the same.

Values, Ethics, and Standards has increased somewhat as a share of the total while Legal and Regulatory has increased marginally. However, Services and Administration Issues has increased substantially, namely by 23%. Cases within this category peaked in January and February. The issues have been further subcategorised to show the proportions pertaining to Fees and Admissions related issues. See the graph below:



Graph 5: Services and Administration peaking months (January and February)

Furthermore, the Services and Administration issues have been classified according to visitor profile for the entire reporting period in graph below.



Graph 6: Services and Administration cluster

The graph shows the dominance of the external group which reflects an increase in the number of families contacting the university to query problems with Admissions, fees and funding, and a noticeable number reported poor reception and unclear communication from respective faculty administrators. Members of the public who are affiliated to the university in one way or another sought clarity and followed up via the Ombuds Office on university policies such as the admissions policy. The Services and Administration category also includes human resources matters other than compensation, such as human resources administration, recruitment and selection, performance evaluation and general application of rules and policies in an administrative sense. Furthermore, there was an increase in fee-related inquiries. Some of these were based on the Vice Chancellor’s announcement of future available funding.

In certain cases, matters that involved Evaluative Relationships included Services and Administration issues such as the tensions between collegiality versus accountability on the part of heads of department (HoDs) and the rotating nature of the role. Values and Ethics issues also increased somewhat. This could be linked to the manner in which administration-related concerns are addressed, which can often be traced back to the values and ethics of any organisation. Another matter which involves both Evaluative Relationships and Services and Administration is that of the Professional and Support Services (PASS) staff performance evaluation. Visitors complained about what they saw as incorrect uses of the Personal Performance System (PPS) process which they perceived as punitive to manipulative, and sometimes used as a means to work the staff member out of their current position.

While Career Progression concerns stayed on the same level, these often manifested as concerns about the role of selection committees, their make-up, the role of employment equity representatives, equity and its meaning. There was a concern that the employment equity representatives were not performing uniform roles in selection committees. The power and role of selection committee chairpersons and other members were viewed to silence employment equity representatives who often are people who are committed to transformation but have limited positional power to influence what is done.

The question of the value of teaching over research or vice versa emerged in some of the complaints. Visitors felt that the university emphasises research while teachers work hard as the student population is not equally prepared for the learning task at hand. Visitors noted that frequently PhD candidates are hired on the understanding that their PhD will be completed within a set time frame. However, during this period they are given a significant teaching work load which may prevent the new staff member from completing their PhD due to lack of research time. Visitors reported that the isolation and competitive nature of the academia makes it a lonely and challenging environment.

Teaching, Grading, Supervision and Duly Performed

It is also worth exploring in more detail the common issues raised by student visitors, 69% of whom were undergraduates and 31% postgraduate.

Students complained about the class representative system which they perceived as ineffective while class representatives said they were victimised through threats when they challenged matters on behalf of the student body. They reported being intimidated, dismissed or brushed off.

Students complained that they were shown misleading provisional results before they had been finalised. They complained about cases in which marks were provided late, thereby jeopardising a student’s performance and affecting timing of decisions on whether or not to withdraw from the course and thus avoid additional fees. Students were unhappy with informal setting up of supplementary exams and late notification thereof. They reported changes in “duly performed” (DP) requirements midway through a course, and DP lists that relied on lecturer’s recollection of “who was around”. Students also reported being shouted at and dismissed by faculty administrators and sometimes being forced under duress to sign documents. This was not only restricted to students but also appeared to be experienced by junior or administrative staff members.

Since student and staff mental health challenges are sometimes not noticed prior to joining the UCT community, this presents problems which are not dealt with sufficiently once the students have embarked on their studies and staff have signed on for their duties.

Social media and blogs were reported to have led to new conflicts and sometimes worsened existing conflicts when messages posted brought anger and feelings of being bullied. Xenophobia was reported by non-South African staff and students as being levelled against them by various university members.

Some inquiries involved matters outside the Office's jurisdiction such as landlord and tenant matters, family issues, legal concerns and therapy and for those I referred people to other resources where possible.

Office Activities

The office now has a full-time administrator, Ms Birgit Taylor, who has been trained as a mediator. On 1st November 2013 the Office of the Ombud at UCT hosted the first Ombudsing workshop. The event took place at the UCT Graduate School of Business in Cape Town. The title of the workshop was The University Ombud: Potential, Pitfalls and Limitations. UCT is one of the first four universities (out of 23) in South Africa to have an established Ombud's Office. Since the inception of the office in 2011, there have been numerous ad-hoc enquiries from other universities pertaining to the establishment and the benefits of an Ombud's office. The workshop was therefore organised in response to the interest shown. Furthermore, the workshop coincided with the call from the Chief Director of University Education Policy and Development, Mr Mabizela, in which he highly encouraged all South African universities to establish an Ombud's office. The Chief Director was a keynote speaker at the gathering.

In total, there were 37 participants from the various universities including UCT as host. These participants included existing Ombuds, who contributed within the format of a panel, as well as registrar offices, discrimination and harassment offices, human resources, mediators, transformation offices, legal, risk and quality assurance offices, corporate governance, and Deputy Vice Chancellor offices. This workshop provided the impetus for the Office of the Ombud to forge working relationships with neighbouring universities.

Recommendations

While the bulk of the following recommendations are based on the above analysis of visitor data, a number of recommendations arose from the Ombud's own observation resulting from her manifold communications with the UCT community.

1. Values and Ethics

The university might consider popularising its values and mission statement to communicate the values and ethics espoused by the university.

2. Policies and Administrative Decisions

New decisions on admissions criteria should be communicated to faculty administrators timeously, else the university may run the risk of communicating incorrect information.

It appears as if the nature and volume of private research and projects conducted by academics is not properly regulated in line with policy, which may affect collegiality due to teaching work load implications.

"Duly Performed" (DP) rules for students should be communicated at the beginning of the course and not changed midway through a course. They should also be based on a reliable record of attendance. DP conditions should also be clear and concise as many faculty handbooks currently have "satisfactory attendance" or "very satisfactory attendance" as a listed requirement. In the absence of a register and minimum numeric values this may lead to subjectivity. Furthermore, course details should not differ between websites, handbooks and course outlines.

3. Recruitment and Selection

It may be short-sighted for selection committees to burden employment equity representatives who have limited power with equity and transformation roles in these committees. It could be beneficial to give the responsibility to the entire committee but with the chairperson, ultimately, bearing the main responsibility. All people in positions where they are likely to be chairpersons of selection committees should receive refresher training.

4. Staff Evaluation

The Professional Administrative and Support Staff (PASS) performance evaluation system (PPS) and its rewards structure appears to have caused much hurt and animosity in teams. Human Resources may need to consider alternative measures of evaluation and rewards. The absence of a good working relationship between the assessor and the assessed negates the value of the PPS.

5. Training and Development

Suggestions in this area include:

- Training and support for heads of departments on their role
- Customer service training for administrators and equipping them with current and sufficient information
- Re-evaluation of the Professional Administrative and Support Staff (PASS) work load against expectations and skills available and assessment of gaps.
- Diversity training encompassing all aspects of diversity including xenophobia, disability, and other differences.

6. Disability

Reasonable accommodation for staff and students with both physical and mental disabilities needs to be re-evaluated to ensure that no gaps exist in understanding the needs, current provision and general awareness of potential beneficiaries and their supervisors or managers.

7. Bullying and Incivility

It would be beneficial for the university to consider a civility code or an addition to the existing harassment policies that addresses bullying including cyber-bullying. For more information, excellent references are Namie and Namie (2000), *The Bully at Work* or Cummings Lydia and Rowe (2010) "Concerns about Bullying at Work as heard by the Organisational Ombud".

8. Extended Meetings

The university might want to review the format used for some of its regular meetings so as to reduce the extent to which members of the university – and in particular people in senior leadership positions – spend a large proportion of their time in meetings on business which could be dealt with equally effectively in a shorter time.

What do Visitors Say About the Service?

I am writing to express my profound gratitude to you for your indispensable help in resolving the difficult situation I recently experienced at work here in XXXXXXXX.

I confess that, by the time of your intervention, the matter had gone unresolved for so long, and the lack of understanding between the participants seemed so complete, that I had despaired of finding a remedy.

In the event, your calm, your insight, and your gentle guidance brought about a wholly satisfactory resolution. It is a great relief to be able to finally put this problem behind me. Thank you.

Concluding Thoughts

I am grateful for the support I have received across the university community. I consider it a privilege to assist the university in this capacity.

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