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HAPPY OMBUDS DAY

In my capacity as the University of Cape Town Ombud, a member of the International Ombuds Association and a Regional Chairperson of its International Committee, I join millions of other Ombuds across the globe in celebrating Ombuds Day on 8 October 2020. Happy Ombuds Day. Apart from celebrating the work that we do and ourselves as practitioners we also use this day to help demystify ombudsing by educating people about the work we do and highlighting its value. We converge to discuss challenges, nuances and breakthroughs. The theme this year is **Ombuds: Unusual name. Important service.**

What is an Ombud?

The word “ombudsman” is Swedish for “legal representative”. It is not gender specific, although many universities are using “Ombud” or “Ombudsperson” to try to make the word gender neutral. Since the 1950s, many governments, universities, and businesses have appointed Ombuds as a designated neutral and independent third parties who specialise in conflict resolution and receive confidential complaints, concerns or enquiries about alleged acts, omissions, improprieties, and broader systematic problems within the institution. In this way, the Ombud serves the wider organization and not just management. In fact, an Ombud is obligated **not** to be accountable to management, in order to guarantee impartiality in disputes that may involve management.

The Mandate of the Ombud's Office

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. Ideally, the office of the Ombud is meant to be the office of last resort, not to be the early resolver of disputes. In a macro sense, the Ombud should oversee and give feedback to policy makers when necessary, comment critically on how policies are implemented and recommend changes as appropriate. The role is the big picture role which comes from being well positioned, which enables the Ombud to appreciate all parts of the university, to observe what could cause harm, and to provide early warning to prevent the projected harm from happening. This is often explained as seeing the forest and not just the trees. But in this case the Ombud appreciates the trees within the forest.

None of the work of the Ombud can be delivered without appreciating and applying the organisational values as a means to test the current policies and actions. For the Ombud to hear and understand issues brought to the office from diverse angles, it is critical to be granted access to all resources that will enable resolution. These include documents, meetings with members of staff and any other resource that will help towards a fair resolution of an issue.

The Value of the Ombud's Office to UCT and its Community¹

Conflict is inevitable and can be expensive. The normal alternatives for dealing with conflicts are administrative hearings, formal grievances, or lawsuits. All of these options drain institutional resources. The opportunities for conflict to occur within educational bureaucracies are endless. Some examples include perceptions of fairness related to the application of policies, evaluation criteria, money and other kinds of limited resources, priorities, appropriate uses of power, incivility and bullying, interpretations of rules, cultural differences, values, attitudes, and perceived insensitivity. Ombud's services also "humanize" institutions for many constituents. The existence of an Ombud's Office sends the message that the institution cares about its people and recognizes the value of providing informal dispute resolution for members of the campus community.

¹ "Nuts and Bolts: Establishing and Operating a College or University Ombuds Office", International Ombudman Association (www.ombudsassociation.org)

Cornerstone Principles²

Confidential:

Ombuds maintain the privacy of the identity of visitors to the office as well as the content of their conversations. With a visitor's permission, the Ombud's Office may contact individuals within the institution whose help is necessary to resolve a problem. Ombud's Office staff do not testify in formal proceedings. The only exception to this privilege of confidentiality is where there appears to be imminent risk of serious harm, and where there is no reasonable option other than disclosure. Whether this risk exists is a determination to be made by the Ombudsman.

Informal:

All members of the college/university community have a right to consult voluntarily with the Ombud's Office. The office has no authority to make decisions on behalf of the institution and maintains no official college/university records.

Neutral or Impartial:

Ombuds have no personal interest or stake in and incur no personal gain or loss from the outcome of any disputes. Ombuds avoid situations that may cause or result in conflicts of interest. Ombuds attempt to promote fair processes but do not advocate for individuals on the basis of affiliation or constituency status.

Independent:

Ombuds report to the highest possible level of the organization and operate independently of ordinary line and staff structures. The Ombud's reporting relationship to her/his supervisor is for administrative and budgetary purposes only. The Ombud exercises total discretion regarding her/his responsibilities. S/he is not part of and does not take part in any administrative or formal complaint processes.

Accountability³

Periodic informal discussions with the administrator to whom the office reports can also be helpful in promoting accountability. Discussions might focus on general office activities and needs, the identification of trends or problem areas, and pervasive campus concerns. The reporting relationship is primarily administrative, rather than supervisory, in that day-to-day case management issues are not discussed (Discussions requiring identification of individuals

² "Nuts and Bolts: Establishing and Operating a College or University Ombuds Office", International Ombudsman Association (www.ombudsassociation.org)

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occur only with permission.). The Ombud’s Office must maintain independence and accountability simultaneously. The degree to which this is possible depends largely on the quality of the working relationship between the Ombud and her/his supervisor. Clearly, it is incumbent upon the Ombud to demonstrate how the office is fulfilling its mission while enhancing the administrator's appreciation for the importance of maintaining independence and confidentiality.

Annual Report

Offering annual reports can also serve as a means of accountability to the university as well as the general public while forming a part of educating the university community about the nature and the role of the Ombud’s Office. As in the past, I constructed an annual report and sent it on in the same manner as in previous years. What proceeded can be gleaned from some of the articles uploaded under “In the media” on our website.⁴ It is chiefly the combination of the independence of my office and the complex nature of the reporting line between the office and the Chair of Council. My independence results in a position unlike that of any other UCT staff member, furthermore my role demands that I remain true to what has been brought to my office. In this instance, 37 UCT members from all levels and all race groups approached with me with one category of issue. Since this was ignored consistently, as an Ombud I was forced to publish the report on our office website, else I would not have done my job as an Ombud.

Reporting

As specified in the Ombud’s Office’s Terms of Reference, a written report is submitted annually to Council through the Chairperson. The purpose of the report is to summarise the activities of the Ombud’s Office and to identify trends, patterns and new complaints. These indicate what is not working well and what fails to meet the expectations of the university community and which may lead to a grievance or an unmet reasonable expectation or violate trust. Most importantly, Ombud reports ensure accountability between the Ombud’s Office and the UCT community. The **report process** is as follows:

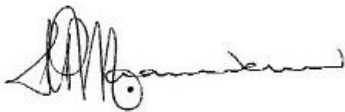
- a. The Ombud prepares a report and submits it to the Office of the Chair
- b. The Chairperson/Deputy sends the report to the VC asking him/her to respond if the VC so wishes.

⁴ www.ombud.uct.ac.za

- c. Common practice has been to respond as the Executive, where the report is responded to by the Executive Team led by the VC. This gives the Executive room to ask additional questions or seek clarification, and, crucially, comment on the implementation of the recommendations.
- d. The Executive Response is submitted to the Ombud for additional comments if she has any.
- e. Both reports are submitted to Council after which the Ombud is invited to present her report to Council and take questions.

The process above was followed with the 2019 report as in other years, however the Ombud had not received comments or questions by the Executive, nor was she invited to present her report to Council and to take questions.

Yours sincerely,



Zetu Makamandela-Mguqulwa