

FANAL REPORT TO UCT COUNCIL

FROM: Sipho Pityana: Chair Shirley Zinn: Deputy Chair
DATE: 10 June 2020

The UCT Special Council Meeting of 24 April 2020 deliberated on the UCT Annual Ombud's Report for 2019, and matters arising therefrom. Council had before it the full report and the ancillary documents for consideration.

Council in its consideration of the Report, resolved:

- (i) to note the first part of the Report "Message from the Ombud"
- (II) that the second part may be published as was regular practice with annual reports of the Ombud

The Ombud requested to publish a revised letter with the report and we advised her that would be in breach of the decision of Council as stated above. See attached correspondence from the Ombudsperson to Exco. The report is yet to be published

- (iii) Council should give attention to a review of the terms of reference for the Office of the Ombud.

(See the proposed terms of reference by Mr Ezra Davids and Ms Diana Yach)

Following an update from the Chair of Council on the progress made regarding the Omar ad hoc committee process: Council noted progress in improved reporting and accountability relationship between the VC and Council. However, Council resolved that the Chair and Deputy Chair engage the VC regarding the issues raised in the 360-degree review that required attention pertaining to her leadership style and its impact on institutional governance.

See below "Dysfunctional Executive Relations"

Council was concerned about an undercurrent of tensions in the senior leadership team which threatened good governance and institutional stability. Council resolved that the Chair and Deputy Chair engage the VC, DVCs and COO in this regard and advise Council accordingly

See below "Dysfunctional Executive Relations"

Council also resolved that the Chair and Deputy Chair convey to the VC its deep concern that she had elected to institute a High Court challenge to review and set aside the Ombuds report, with its associated reputational risks to UCT. Council maintained that it was competent to deal with the issues raised. A similar view was taken of the Ombudsperson who warned that she reserved the right to take legal action should she deem it necessary to do so.

This was done and the legal proceedings have been stopped.

The Chair and Deputy Chair were mandated to convey to the VC that in the event that she elected to continue with the legal process for which notice had been given, such legal action will not enjoy the support of Council and that the cost of such action will not be covered by the University.

This was done and the legal proceedings have been stopped.

Dysfunctional Executive Relations

It became apparent to Council that in the course of engaging with the Ombuds Report, as reported by the Chair of Council, that the relations between these key Executives of the University were severely impaired and possibly threatened the governance of the institution. Although they became

more pronounced during this period, the 360 degree feedback evaluating the VC's first year in office raised the red flags

An important context in this regard is the fact that in its recommendation to Council for the appointment of Prof Mamokgethi Phakeng to the position of Vice Chancellor, the Selection Committee (SC) highlighted with her, the Senate and Council her excellent academic and career credentials that placed her head and shoulders above her competitors, but also her leadership and personality shortcomings. It was the view of the SC that with the necessary support she should be able to overcome these and serve the university with distinction.

It is our observation that her leadership and personality shortcomings have marred and have come to haunt an otherwise colourful, energetic, diligent, passionate, refreshing, impressive and highly respected Vice Chancellor's tenure

After drawing this feedback to her attention, the University, out of respect for her Office advised her to consider appointing a Life Coach of her choice to assist her with the identified challenges. The 360 degree feedback in 2019 and the stand off with Council in June of the same year suggested that whatever assistance she may have received from the Life Coach, it certainly wasn't having the desired effect. It would appear that this facility was never used in earnest.

Although relations with Council have improved since the Omar Adhoc Committee report, relations at various levels with staff and executive have been reportedly tense, difficult and often a source of great pain and humiliation for all concerned. Although highlighted in the 360 degree feedback, the Chair and former Deputy Chair of Council (Debbie Buddlender) had previously raised these concerns with the VC. Without agreeing with the negative commentary in the 360 degree feedback, the VC undertook measures to address these concerns with mixed results. The processes to be followed were to be closely monitored by the Chair and Deputy Chair of Council with quarterly reports on progress. This was never done effectively

Objectives of the intervention

We wish to make it clear that our engagement was not; and may not be construed as an inquiry into the conduct of any party, but sought to help Council to understand the nature of the risk posed by what appeared to be an impaired relationship in the Executive Leadership. We also sought to ascertain whether the relationship/s are capable of being fixed and if so how. We understood that, in light of the fact that, this has been a two year journey, we need to equip Council to decide whether it would be realistic to afford further measures an opportunity to restore healthy relations

Method of Engagement

Although the engagement was prompted by the tensions that manifested around reactions to the Ombuds report, we sought to understand whether they represented deep seated fractures in working relationships. We sought to identify the individual specific (VC/DVC) and the possibly recurring or systemic aspects that may be experienced across the board. We invited sharing of positive attributes in the relationships and identify whether the breakdown was irretrievable. Where it was deemed retrievable, the parties were invited to advise how these might be achieved.

Our draft report to Council of 12/06/2020 was subsequently Le shared with the parties who in turn commented on it. We have duly taken their comments into consideration. We were always clear that we reserved the right to advise Council beyond whatever agreement they may have come to in the interest of the University.

As per Council's mandate of 12/06/2020, we present our final commendations here below and also attach our recommended agreements between the VC and each DVC and COO

Engagements

We have had two rounds of meetings with the VC, each of the DVCs and the COO prior. We also had a detailed discussion with Team Building Facilitator Janine Ahlers who was appointed following the 360 degree engagement

The first round of meetings focused on examining and determining the exact nature of the relationship between the VC and the DVC's and the COO as they see it. We sought to understand the workings of the bilateral and collective management structures (executive, extended executive, Lekgotlas etc). We were interested to ascertain whether the leadership style exhibited is conducive to enabling the university to get the best of the quality executives at its service

We found in some cases a lack of understanding of some basic governance principles including authority, its limits, its exercise through influence, persuasion and or coercion. We found a leadership style that places excessive reliance on the latter (coercion) in an unsustainable way.

Common themes that emerged from these discussions revealed leadership traits that are problematic and certainly not conducive to an academic institution:

- Authoritarian leadership style that is about throwing around the weight of the Office
- MisTRUST that is intended to exact a culture of pandering for endearment from those in power
- Mindless INSECURITY: an endless fear of attempts to be undermined, unseated from VC role or sabotaged
- Continuous burden to prove worthiness for role
- Abrasive behaviour
- Poor interpersonal skills and an inability to build a cohesive team
- Non-collegial culture

This has been experienced as sometimes humiliating, demeaning, undermining, disrespectful and not good for the personal health of all those affected.

We welcome the manner in which the VC received this very candid feedback and her readiness to work with Council to restore relations of trust and mutual respect. In this regard the VC has accepted our recommendations to Council which are in some respects different to those that she had earlier proposed to her colleagues.

It is also the case that the VC alleges being sometimes countermanded and bullied, rude unprofessional language being used in formal meetings in her presence, despite her known disapproval. Concerns about disloyalty and an unhealthy and potentially insubordinate tendency for collective defiance. In our experience, the latter manifested itself on two occasions: executive response to the Ombudsperson and when we invited the VC to convene her colleagues to discuss the resolution of the challenges they experienced.

This behaviour persists. In response to our draft report which we sent to each executive, the DVCs and the COO responded jointly. Please see our exchange as per attached

Notwithstanding the need for collegiality and support for each other; we are deeply concerned that tendency of the DVCs and the COO to club and caucus positions prior to management engagements may be divisive, unhealthy and potentially insubordinate. It erodes trust and it makes it difficult to have open minded honest dialogues. It makes the position of any leader untenable. This is a serious threat to the authority of the VC and the effective leadership of the university.

It is our considered view that the response from the four executives suggests that they have constituted themselves as a clique that has no regard for the authority, not only of the VC, but also that of Council despite their protestations to the contrary. Their continued assertion of how, we on behalf of Council, should undertake our review and the arrogant prescription of what we should recommend to this august body, underscores that; as does their insistence on continuing to function as a clique

To the extent that Council continues to have confidence in the leadership of the VC, (we have neither found a reason why it should, nor has Council ever contemplated this) we have a duty to protect her office from such flagrant conduct that stands to undermine its effectiveness. Given their determination to continue conducting themselves in this manner, it not unreasonable for the VC to expect Council to institute appropriate measures to protect her office.

In considering our response, we should reflect on other ramifications and unintended consequences of whatever decision we take. By our inaction, we would be endorsing a conduct that is capable of cascading down to other levels of management with uncontrollably destabilising consequences for the institution. We may be reasonably accused of making the VC to a lame duck ; or worse still that we may be said to have reduced to her to a female black token leader.

We must interrogate whether this behaviour doesn't give credence to concerns expressed by the VC of being bullied and undermined.

It is instructive to note that in the proposed agreements between the VC and A/Prof Lis Lange, she's happy with those aspects that address her concerns, but objects to the ones that address themselves to her conducting herself as part of a clique.

At the time of finalising this report, we had not received feedback from other executives to whom we sent proposals of joint working agreements with the VC. (Please not that these were only shared with them on 19/06/2020 whereas A/Prof Lange received hers earlier). It would not be unreasonable to expect that, in light of the attached collective response from the four executives, they would also respond along the same lines as A/Prof Lis Lange.

360 degree follow up team building.

Although relationships with the extended Leadership Legkotla seem to have improved, we have not been able to test this beyond the feedback from the VC. This having been one of the concerns raised in the above evaluation, we were pleased by the reported progress

The VC, as per agreement with the Chair and the then Deputy Chair of Council, appointed a facilitator from the GSB, Janine Ahlers. We have had a mixed response from the team on the impact of this intervention, with the general sentiment that it was an unsuccessful endeavour.

The facilitator thought that there was no buy in to the process. There was also an allegation that there may have been a breach of trust in that some of the issues raised with the facilitator or in the 360 degree were traceable to those who may have raised them in confidence and these caused tensions. The team building sessions were too infrequent to be effective. The facilitator being an employee of the university may have been an inappropriate choice given power relation and wouldn't have been able to call out the leaders in these sessions.

Part of the shortcoming of this process was that, it was the VC who felt the pressure to adjust her behaviour following her 360 degree evaluation. Her colleagues had not been evaluated similarly by Council and therefore, presumed faultless in their behaviour. Consequently whether the intervention was successful or not was irrelevant to them. Upon reading the correspondence shared with Council as per attached, it would appear that the DVCs and the COO may be taking a similar view regarding this intervention by Council. Clearly, no intervention would have any realistic prospect of success unless all the parties have a vested interest. The lessons from this experience must be bourne in mind this time.

We also sought to understand the reasons for a break-down in trust and, or respect, and to ascertain whether the relationship breakdown was retrievable. All insisted (VC, DVCs and COO) that while this breakdown makes for an unhealthy and difficult work environment, but they also

agreed that it is not irretrievably broken down. They maintained that it would not be in the best interest of the university for any of them to be removed from role in order to solve the relationship problem. They considered themselves as among the best leadership teams in the country's higher education landscape. They reflected on their incredible achievements on the core business of the institution with pride and value each other's strength. Whilst they appreciated our approach, they are not confident that, left to their own devices, they are capable of resolving their relationship challenges

We nonetheless asked them what they would do to fix this as we believed that the solution starts with a common commitment from them. Our recommendations start with their feedback and finally what we consider to be in the best interest of the university.

Towards a Resolution

We considered obtaining a commitment from each one of them as to how we might agree to a meaningful way forward to improving relationships between top executives with the VC, building a more cohesive top leadership team, with the very best interests of the Institution at heart, was a critical step.

Consequently we requested the VC to lead a conversation with each of the DVC's and COO, and collectively as an executive team to provide us with a firm set of undertaking of how they proposed to resolve issues and the management arrangements and protocols intended to assist them resolve these issues. This would have to be capable of being regularly monitored and evaluated by Council to ensure that a more cohesive team dynamic would be nurtured and that relationships between and across the team would be significantly improved.

Whilst it is our view that the solution starts with them, requiring maturity and responsibility; it is also our considered opinion that the Council's duty of care ultimately enjoins it to take appropriate measures to restore cohesive leadership. This may include considering termination of employment, demotions and other options. It is certainly not in the interest of the university to tolerate this situation to continue for an extended period of time.

While this situation may have caused the VC her continued stay in role, **since our preliminary report to Council on 12/06/2020, she has given us an unambiguous commitment to her job and a determination to complete her term.** Although not explicitly expressed, the levels of strain are such that, it is not inconceivable that others may also be considering their options

Herein lies the risk of losing capacity that the university shouldn't, hence the need for Council to take responsibility for this agenda. It is our considered view that Council should draw the hard lessons of the Mayosi episode and his attempts to exit role. Whilst we agree that the Executive is an assembly of high quality leaders, none of them is indispensable and Council must unwaveringly place the interests of the institution first.

A few days later we received a statement from the VC on undertakings from herself and the DVCs and COO. We found this to be superficial and inadequate in addressing the underlying reasons for the seriously fractious relationships at the top leadership level, that represented a perilous risk to not only the reputation of the Institution but also the leadership and ultimately the governance of the Institution.

We subsequently conducted a second round of discussions and further interrogated the one on one breakdown in "trust and respect" (their own words) between each of the DVCs and the COO and the VC, and whether there was a more focused, deliberate and constructive way to address this breakdown. We sought to ensure that such agreements as were reached addressed the underlying problems as had been shared with us in the first engagements. We also sought to ensure that these were equitable and underscored mutual respect and trust

Since the Council meeting of 12/06/2020 which considered our draft report, we now have recommended agreements to be signed by the VC with each DVC and COO. Each one of them is expected to commit to personally make these relationships work for the sustainability of our institution. Whether they all understand the seriousness of this matter will depend on their attitude to ensuring that these arrangements work. (See attached agreements

We recommend that these be monitored and evaluated by Council over the next six months, and that action should be taken by Council against anyone seeking to undermine these undertakings.

We recommend that there should be continuous engagement on this by the Chair and Deputy Chair who between Council meetings should provide regular reports on this matter to external Members of Exco. We also recommend that reports and feedback are provided at each Council meeting in a closed session of Council External members to review progress and manage the associated risks.