



# UCT Racial Discrimination and Racial Harassment Report and Mediation Services offered by the Office for Inclusivity & Change

1 September 2020 to 30 September 2021

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## Executive Summary

This report focusses on the implementation of the UCT Mediation Policy and the UCT Policy on Racial Discrimination and Racial Harassment. It speaks to how Mediation services informed by the UCT Mediation Policy provided by the Office for Inclusivity & Change was used in addressing Racial Discrimination and Racial harassment, work place grievances as well as other forms of discrimination reported and experienced at UCT during the period of 1 Sept 2020 – 30 Sept 2021.

In doing so, the report will reflect how the university reports related to complaints lodged and racial harassment/racial discrimination. The report shares the nature and outcomes of the complaints received by the Office for Inclusivity & Change (OIC) during the last year, as well as an account of the systemic, and institutional cultural challenges, complainants, respondents and policy custodians experienced and identified in the implementation of these policies in the last year.

A description of (1)the processes for reporting incidences of racial harassment and discrimination, and (2) requests for mediation and workplace grievances are described at the beginning of this report; this is followed by a critical reflection and analysis of the nature and outcome of these reports. It is worth noting at this stage, that there are several gains and praises that the OIC must celebrate emanating from the manner in which both complainants and respondents have experienced dealing with the OIC on incidences in the last year. These will be shared throughout the report as well.

This report also aims to share practical recommendations for improving the process for the OIC and the greater university community to optimise workflow, and to regulate our engagements as a community in general and on social media platforms specifically. The use of social media, in many incidences is a growing concern, and we need to as a community, think together on how we can make our virtual space a safe space for all students and staff where we engage respectfully with one another and with external university stakeholders.

## Governance

This year, the revised UCT Anti Racism policy was concluded after a period of formulation and consultation. The Anti Racism policy will proceed to Council early in 2022. The revised Anti Racism policy strengthens the university response to all forms of racism in three ways. The first mechanism is the introduction of a third approach that articulates how systemic racism will be addressed and responded to by the university. The second approach is that the Special Tribunal will oversee instances of racism which will ensure that experts in the field of race and racism and law will assist the university in reviewing cases of racism that proceed via the formal process. The last mechanism strengthened by the revised policy is the amplification of the Institutional Forums role in monitoring and evaluating racism cases that arise in the university. Therefore by increasing accountability and transparency in the management of racism allegations in the university, a collective anti racist response can be enabled by the university community.

## Racial Discrimination and Racial Harassment Processes

The preamble of the UCT policy on Racial Discrimination and Racial Harassment sets our institution's intentionality and commitment to the elimination of racism at every level of institutional governance and institutional life. UCT commits to engendering, through its policies, procedures, practices and structures, an anti-racist rights-based culture, which includes respect for human dignity and diversity<sup>1</sup>.

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<sup>1</sup> UCT Racism and Discrimination Policy

Under this policy individuals have the option of actively pursuing two avenues to address their matter, namely, an informal process and the formal process. For purposes of this report, the informal process will be the main focus.

#### Formal Process: Implemented by Employer Relations or Student Legal Office

The formal process uses internal legal channels in the Student Legal Tribunal (for students) and the Employer Relations department (for staff), to gather and assess evidence, and based on this formal investigation, indicate how individuals have contravened UCT's policy or values, and produce an outcome, endorsed and actioned by the VC or the VC's proxy. The formal process can lead to punitive outcomes for the respondent in the matter.

#### Informal Process: Implemented by the Office for Inclusivity & Change

The Informal process uses either facilitated conversations, sensitivity training and awareness raising workshops, mediation and/or other restorative justice mechanisms to bring parties together to collectively engage on matters and come to mutually agreed upon solutions. According to UCT's Racial Discrimination and Racial Harassment Policy, the informal process does not lead to punitive outcomes for an alleged perpetrator or respondent in the matter. Rather, it is an opportunity for all parties to create shared understanding of the harm caused, and an opportunity for learning and unlearning unwelcome behaviour.

#### UCT's Mediation Service offered in the Office for Inclusivity & Change

There are various ways to report a complaint and incidences of racial discrimination, racial harassment, workplace grievance or to request for mediation to resolve a conflict at UCT. Staff may report to the line managers, the Head of Department, the Human Resource Business Partner, the Dean, or the OIC. Students may report directly to the Student Representative Council, lecturers, course convenors, heads of department, Deans or the OIC.

The OIC primarily receives complaints from students and staff via the Case Reporting Tool<sup>2</sup>, referrals from HR, individuals email the Director of the OIC directly or a complaint is directed to the OIC via email through line managers, academic and support staff seeking assistance.

#### Increased usage of the Online Case Reporting Tool

Since the introduction of the Case Reporting Tool in 2019, the OIC has noted that student complaints are primarily received via the Case Reporting Tool with very few students emailing the OIC directly as a first step to lodge a complaint. In the staff cohort however, there seems to be a considerably slower uptake of the Reporting Tool. Around 80% of reports received from staff were submitted via email, either directly to the Director OIC or to the OIC Administrator. It is also worth noting that most staff requests for mediation or complaints about discrimination and harassment in the workplace are submitted to the OIC by HR practitioners.

#### The Case Reporting Process

The online case reporting tool is used to lodge the report and then after consultation with the case officer, a decision is taken by the complainant to follow either a formal or informal route. In the case reporting tool there are prompts, and complainants can detail the specifics of their complaint and whether they are lodging it for formal procedure or if they would like to enter into mediation, the latter forming part of the UCT informal processes.

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<sup>2</sup> <https://casereporting.uct.ac.za/ReportingPage/>

Use of the case reporting tool is not only beneficial for administrative purposes; the case reporting tool is user friendly and provides complainants with a platform that allows them to thoroughly provide information and context to their complaint i.e., the name of the respondent, their contact details etc. but also allows complainants to upload any files pertaining to their complaint, videos, pictures, voice notes and messages.

The case reporting tool also provides complainants with a reference number for their complaint so that they are able to track the progress of their case via the tool. The case reporting tool assists the OIC with streamlined record keeping and tracking and allows for an interactive reporting process that keeps the complainants informed at all times.

Once the OIC receives a complaint via the case reporting tool, referral or via email, a member of the OIC acknowledges receipt of complaint and requests a meeting with the complainant for context mapping and to get an understanding of the complainant's perspective. At this initial meeting, the complainant is advised of the two options available to them to address or resolve the issue, namely the informal process and the formal process. The availability and appropriateness of both the informal and formal process are explained comprehensively to the complainant by the OIC before proceeding. The section below describes the processes leading up to the decision of a mediation or formal process.

### Initial Consultation

During the initial consultation an explanation of the mediation process is provided for the complainant. The complainant is made aware that mediation is a voluntary, informal, confidential, without prejudice, and non-binding process of conflict resolution.

The mediation function at UCT is housed in the Ombud's Office, and the OIC has through agreement with the Human Resources Department and the Ombud's office, offered mediation services and mediation training at UCT. The OIC mediation service is governed by UCT's Mediation Policy which describes the mediation function as a means to *"provide individuals or groups with a framework for resolving conflicts in a way which is impartial, objective, and part of a transformative approach in responding to, and providing a healing environment for restoring and maintaining healthy working<sup>3</sup>"* and community relationships at UCT.

The principles of mediation rest on the following elements:

- **Voluntary:** all parties enter mediation voluntarily. A mediation is only conducted when consent has been obtained from all parties. Parties need to participate in mediation without any element of coercion. Parties to mediation are also allowed to abandon the mediation space at any given time during the process if they feel that the process is somehow inadequate in addressing their concerns or it is compromised. At this point, the internal mediators do ask that parties avail themselves for a private briefing with the mediator to help the mediator understand why it is that one has opted out of the process.
- **Informal:** the mediator is not a judge. The mediator is there to facilitate a conversation between parties and help them establish and maintain a fair, equal space where all parties are able to express themselves, their interests and their needs freely.

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<sup>3</sup> UCT mediation Policy

- **Impartiality:** The OIC appoints internal and external mediators that are far removed from the parties and the nature of the complaint. This ensures the principle that a mediator to a matter be invested in the process (ensuring that it is fair, that parties are given equal and ample opportunity to express themselves) rather than the outcome of mediation.
- **Confidential:** There are two elements of confidentiality in a mediation. The first element covers the discussions that happen between the parties in the joint mediation space facilitated by the mediator are confidential and may not be shared with anyone outside of the mediation proceedings. An exception to this rule is in the instance of a workplace grievance where line managers have requested that parties deliberate on specific performance indicators and that one of the specific outcomes of the mediation process is an agreement on how parties contract to work with each other going forward. In this instance only the working agreement is shared with line managers, and nothing else about what came up during the mediation proceedings.

The second element of confidentiality is the 1 on 1 sessions that each participant has with the mediator, whether it be the pre-mediation briefing or private sessions emanating from the proceedings to help the mediator understand a party's perspective better. Whatever is said in the 1 on 1 sessions with the mediator remains confidential between the mediator and that individual participant. The mediator may only share information shared with them in confidence with other parties only with the express permission from a participant.

- **Without Prejudice:** The mediation process is also run without prejudice, meaning that no admissions, concessions, and offers made by the parties during the mediation can be used against them in any other proceedings outside of the mediation process. Mediation is also non-binding up until the very end of the process when parties to the mediation agree to particular actions and conduct going forward.

In the UCT context, what is important to note is that the process even upon conclusion is not binding. The agreements parties enter into as a result of the mediation cannot be enforced. In instances when one or more parties deviates from an agreement made during mediation, the case is reopened and dealt with from the point of current tension, at the request of all parties involved, should they wish to reenter into mediation. A complainant may also opt to reopen the case and pursue the formal route.

### Consultations with Respondents

After meeting with the complainant and having ascertained that the informal process will be followed, the OIC contacts the respondent and invites them to a context mapping meeting. The respondent is made aware of the complaint against them and is advised on the policy implications emanating from the complaint. Consent to enter a mediation is ascertained from the respondent and then the OIC refers the matter to a mediator for mediation.

## Benefit of the Mediation Process

### Pre-consultation

The positive aspect of pre-mediation briefings is the informal/candid nature of the pre-consultations between the individual parties and the mediator. The pre-mediation space is held in such a manner that all parties feel open to air their concerns more freely, especially if both are forthcoming.

During this private engagement with the mediator, parties are encouraged to express all their needs and interests. The mediator uses the pre-mediation briefing to establish trust and provides an open space to speak about the issues involved in a matter without judgement. Participants throughout the process of mediation are encouraged to express their emotions and lived experiences. Our mediators are trained in the transformative model of mediation, which makes them skilled at facilitating a productive open/honest dialogue space, centring the human experience.

### Mediation

Following the pre-mediation briefing, consent is again provided by both parties, and the mediation meeting date is established. All parties and the mediator are present and the process is explained again. Together, participants establish a terms of engagement. The parties contract to how they will conduct themselves in a session, i.e. housekeeping rules that ensure that all parties have a shared understanding of what respect means in the process (not interjecting and interrupting each other, how to address each other during the process etc.) During this phase of the mediation, the mediator is tasked with establishing an environment where the participants can engage as equals. Matters such as using first names and no titles (Dr, Prof, etc.) as a way of equalizing the process and to minimise the playing out of power dynamics during the process.

At the beginning of the session after contracting on conduct, parties are led by the mediator to agree on the points they want to address during the process. An open exchange is initiated by the mediator where each individual feels heard and can share their experiences. An important element of this stage of the mediation is the mediator's ability to make all parties feel equally held and provide an opportunity for parties to share without interruption.

Mediation focuses on relationships, communication, and behaviour. It helps people communicate, solve problems, and negotiate on needs and interests. This includes working with emotions, perceptions and thinking, and mediators facilitate the process with these elements in mind. A standard mediation can take 2-3 hours, and more complex cases take longer.

### Mediation Agreement

At the end of a successful mediation, an agreement is drafted, and a shared understanding is built between the parties. In the instances where the line manager has asked for a report, the mediator compiles a report that speaks only to operational agreements that the parties agreed to going forward, and an indication of whether the mediation intervention was successful or not according to the parties. The substance of the conversation between parties in mediation is not shared with anyone. Mediation sessions are not recorded, and no records or notes are kept of the proceedings, the only documentation the OIC has on file is the agreements that parties sign at the beginning of the process to indicate that they enter into mediation voluntarily and have been briefed about the policy governing the process. The mediator then informs the OIC, line manager(s), and HR of the outcome of the case (only whether it was successful or not successful) then the case is closed. The participants are then sent a closure email with a high-level summary of what was spoken about and agreed upon. However, the door to mediation is always open for participants to return to speak about the same matter.



A positive about mediation is the intentionality of positioning parties as equals in a conversation. The mediators work hard in private session and in the mediated space to establish and maintain a fair and equitable process for all parties. The mediators are unbiased, objective, and sensitive to how different people with different positionalities, personalities, cultural backgrounds, spiritual, political positions and socio-economic standing etc. can express themselves. Our mediators are intentional in their approach and guidance of the process. Our mediation service at UCT is actively mindful of the experience, qualities and self-awareness required to work effectively with issues of difference. That an ability to mediate on matters of difference comes from a value base that has been exercised throughout an individual's personal and professional life. After all, the reason why we find ourselves mediating incidences of racism and other forms of discrimination, is the lack of this value base in other members of our community.

Mediation is however not effective when the relationship between parties has completely broken down. It is also limited in its ability to make outcomes binding. The success of this process is dependent on the good will and integrity of the parties themselves.

Due to the Covid 19 Pandemic, the process of conducting mediations was adapted for our new normal, the virtual space. Most staff members are working remotely, and students are attending classes online for the most part, except for practical subjects.

In order to keep a semblance of normalcy under the circumstances, the online mediation space adopted a few housekeeping rules to ensure the integrity of the process. Participants are asked to keep their cameras on at all times during mediation. Provision is made for parties that require support with data. Parties are required to be in a space that has sufficient internet strength, the room a participant sits in must be well lit, and participants must ensure that they are sitting for mediation in a space where they will not be disrupted, and no one is able to listen in on the proceedings. These conditions are to ensure that the integrity of the process is maintained especially the element of confidentiality. Most parties to mediation during this time agreed to using the online platform and those mediations procedurally went quite well. However, there is one case that was abandoned because one party refused to do a session online. The individual did not trust that the online space would be effective and felt that they would have a limited and a disadvantaged ability to interpret affect and effect in the other participant. Other participants to mediations on the online platform (MS Teams) have expressed that the online platform was sufficient. With that said, conducting online mediations especially given the sometimes heated and emotive nature of mediation and topics dealt with in the mediation, the work/home separation is grossly violated as individuals are addressing uncomfortable matters emanating from work/campus relations, that under ideal circumstances, home would be an escape from.

With the systems, processes and structure in place, there are unfortunately some draw backs. One notable drawback is how sluggish the turnaround time for cases can be due to understaffing. The OIC only has 1 parttime mediator servicing the whole of UCT and this has resulted in more dragged out processes. The OIC recently appointed a Relations Strategies Specialist who is currently shadowing the part time mediator and receiving training from the UCT Law School. Amongst other Restorative Justice approaches to addressing Institutional Culture that the Relations Strategist is tasked with, the revitalization of a mediation community of practice at UCT is one of the Relations Strategist's main focuses in the portfolio. A mediation community of practice will allow for a speedier turnaround time and resolution on complaints lodged.

The availability of participants to sit for mediation is also a challenge, especially in the staff context. Mediations between parties are ideally conducted during business hours, Monday to Friday between

08:00 – 16:30. Due to work commitments, there has been instances when mediations and mediation briefings occur over the weekend because participants aren't able to find a time during the week that suits all parties.

For purposes of this report the implementation of the mediation policy will be the focus. Very few reports of discrimination were dealt with the formal reporting route, an indication that parties to most incidences we resolved in the last year were interested in restoring relationships, and most complainants had more of a vested interest in the education and conscientization of respondents to prevent future harm, than they did in pursuing repercussions. The mediation policy is the backbone of the informal process in dealing with incidences of all forms of discrimination. It is a move away from adversarial procedures and aims to resolve issues as early and as amicably as possible between affected parties with a target turnaround time of 14 days.

As such, mediation was the primary tool that was used to address interpersonal and group incidences of workplace grievance, discrimination, and racial harassment, alongside educational interventions in environments where environmental culture around managing diversity and difference were identified as a concern. In certain instances, even though a complaint about racial harassment or discrimination is lodged against one respondent, upon evaluating the causes and the greater context in which discrimination and harassment occur, the need for an environmental intervention is identified, as it is ascertained that such behaviour is a mirror into the dynamics at play in the greater environmental context. This report provides an overview of mediation cases that primarily addressed interpersonal conflict.

While mediation focuses on mending relationships between complainants and respondents as well as acknowledging the harm done to individuals or groups due to racial discrimination and harassment, as part of the wholistic approach in dealing with instances of racial discrimination and harassment, the OIC through its capacity building stream offers Critical Diversity Training, Unconscious Bias Training, and Building Brave Classrooms Training which are a series of facilitated input and conversation spaces aimed at introducing participants to transformation, inclusivity and diversity. The mediation practice is fortified through central offerings for professional capacity development of both parties in a mediation. Alternatively, a formal process may conclude that a mediation is used to rebuild working practices between team members.

### Support offered to complainants and respondents

Complainants and respondents are referred to the university's counselling support services for mental health support as a principle and especially when the mediator or OIC personnel identify that a party may benefit from this kind of support. The complainants first point of contact with the OIC and the reporting process is the OIC's Survivor Support Specialist. The Survivor Support Specialist is a trained counsellor and is able to assist complainants with an initial decompress and debrief before referring them for continued support through campus wellness. The complainant is supported by the Survivor Support Specialist throughout the process. The Relations Strategies Specialist supports the respondent throughout the process and provides policy education and guidance. The OIC also works with university academic and department environments to conceptualise and implement capacity development and awareness raising programmes.

### Summary

Mediation is part of UCT's restorative justice offerings. It forms part of the informal process which is coordinated and implemented by the OIC. A mediation does not exclude a complainant's right to follow a formal process. The section that follows provides further insight into the complexity of cases

that have followed an informal process in the OIC during the period of 1 September 2020 to 30 September 2021.

## Reports Received

The OIC received 32 reports of discrimination in the 13 months between 1 Sept 2020 – 30 Sept 2021, a significant rise from the 8 cases that were reported in the first 8 months of 2020. Of the 32 cases, 10 were complaints of racial discrimination/racial harassment. Workplace grievances make up exactly 50% of the cases reported in the last year. 87% of the work grievances complaints were received from HR practitioners via email. The uptick in workplace grievances during this period is noted. In most instances these mediations were entered into to address performance issues in the workplace, where line managers and staff needed a space to speak to how to maintain a healthy working relationship and accountability. Now during covid when everyone is working from home, the normal work routine and flow has been disrupted, with very little physical interaction amongst colleagues, working styles, motivation and the general ability to deal with work pressures has been affected, the significant increase in workplace grievances could be linked to this new normal we find ourselves navigating. The uptick in case reports during this reporting period can also be attributed to the OIC's efforts in raising more awareness of the online reporting tool, especially from the student's side. The Survivor Support Specialist and the Student Capacity Building Specialist have done a great job at increasing OIC visibility in the student community in the past years.

From working with these cases, the complainants and respondents, reflections have arisen and are shared below.

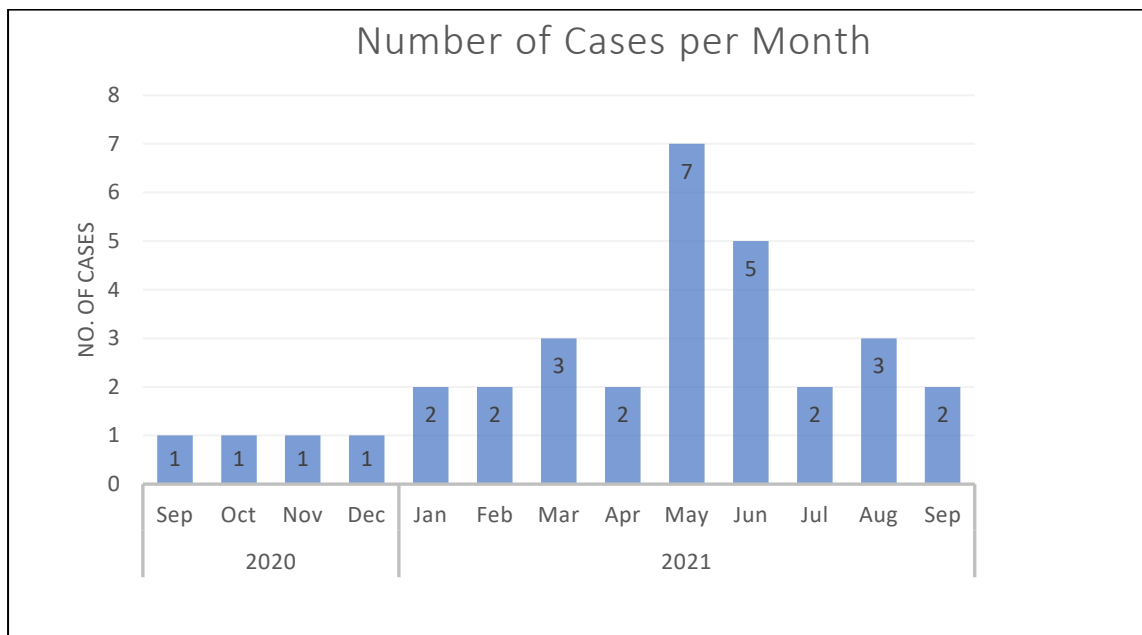
In the period between 1 Sept 2020- 30 Sept 2021 a total of 32 cases were reported to the OIC. Of these complaints:

- 10 Racial discrimination and harassment cases were reported during this reporting period. The breakdown is as follows; 4 reports were reports lodged by students against fellow students, 2 were cases were students reported having experienced racial discrimination from members of staff at UCT, both cases emanated from a Supervisor -student relationship in the academic setting. 2 cases were explicitly reported for discrimination by staff against another staff member, and in both instances, the alleged perpetrator was a white woman and the complainant in one case was a South African black female, and in the other, a South African male.
- 16 complaints are workplace grievances referred to the OIC for mediation by HR and line managers.
- 5 complaints were filed by students reporting UCT staff members and academic environments of discrimination, harassment, and unfair and unequal treatment of students in those environments.
- There is one incident where an entire faculty administrative wing is party to a mediation between the department and the entire cohort of a year group as collective complainants with the faculty as the respondent. This category of complaints also includes mediation between individual students and academics.
- 2 incidences of individual student-on-student discrimination and harassment were reported during this period, and 1 incident where an individual student was a respondent to a collective of complainants.
- 4 reports were received of incidences committed on social media, all with student respondents: on Facebook, subject study WhatsApp groups and Twitter. A proposal of how we can better manage the use of social media platforms at UCT will be

discussed later in the report. This is a growing concern as we navigate the virtual space and use it more and more in our teaching, learning and community building. There are other cases that fall outside of the scope of this document which have been reported to the OIC. These other reports cement the OIC’s concern regarding how students use social media platforms to engage with each other for academic and social purposes.

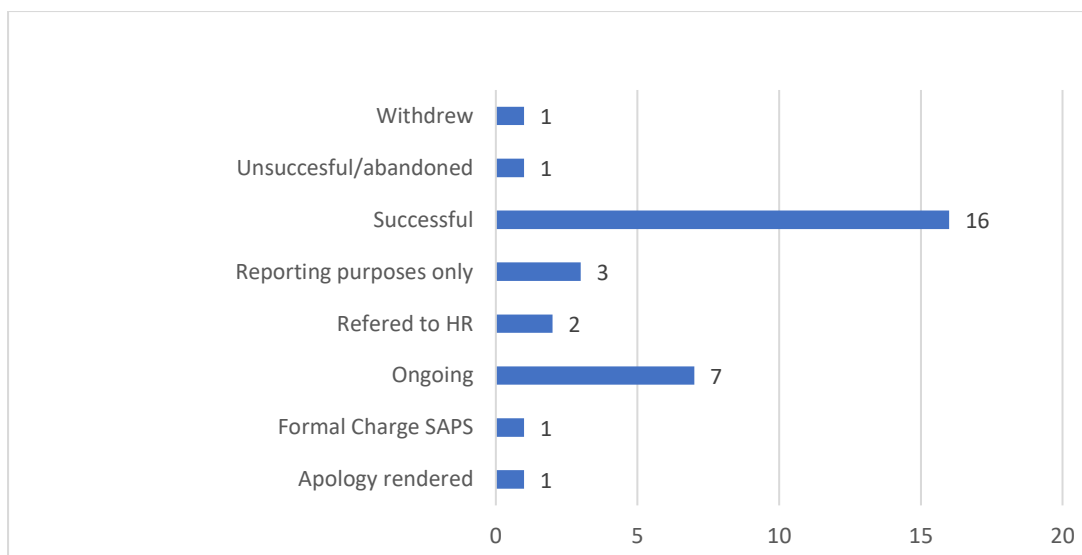
- 3 matters were reported for reporting purposes only. In these instances, the complainants sought only to flag and put on record, the unacceptable behaviors of some of our staff and students out in public, and on public social media platforms. 1 report was made by an individual external to UCT.
- 1 complainant withdrew their complaint following the graduation of the respondent in the matter.

***The graph below illustrates the number of cases the OIC received during this reporting period distributed across all 13 months. As noted on the graph the pattern of the data indicates that in 2021 the number of cases received per month doubled at the very least, with May 2021 being the record number of cases we’ve received in a month, coming in 1 under the total of cases reported last year.***



The Graph below illustrates the case outcome at the time of the completion of this report. The graph depicts the statuses of all 32 cases reported to the OIC in the last 13 months.

16 matters were concluded successfully with parties to mediation indicating their satisfaction with the mutually agreed upon solutions generated in the sessions. Of the 10 reports on racial discrimination, 3 were deemed successful by participants, 4 are currently ongoing and 3 were reported for reporting purposes only and 1 was a matter that was reported to SAPS.

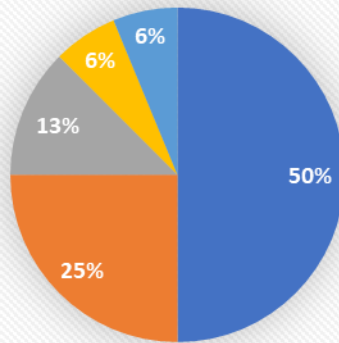


A question has been raised around the appropriateness of mediation to deal with racism as form of violence. Racism as a form of violence has to do with learned and internalised beliefs and behaviours that individuals hold of their intrinsic superiority over others based on their skin colour, socio-economic circumstances and appearance among other things. At the core of this is a misrecognition of others as inferior due to these markers and a buying into the social construct that is race. In mediating cases of racism, it is important to note that all complainants are presented with all the options available to them in addressing their complaints. Complainants are welcome to pursue the formal route which pursues punitive remedies for complainants, or to go the alternative dispute resolution way, and opt for restorative justice where the respondent is put in dialogue with the person they have wronged, in a position to appreciate their wrong, and to learn from their conduct to prevent future harmful conduct. In most instances covered in this report, Mediation is an option that complainants have taken when they are more interested in mending the relationship they have with the respondent going forward, or are interesting in preventing future harm to others, than they are in punitive measures. This situation is unfair however, as the onus is placed on victims of discrimination to weigh the amount of harm they have suffered, and again, be part and parcel of the perpetrator’s learning and unlearning, another situation that can be quite violent on its own. But with this said, parties do enter into mediation voluntarily, after all possible avenues have been explained for the complainant to choose from.

### Source of Discrimination and Harassment

The graph below illustrates the kinds of reports that were lodged differentiating between Workplace grievances (50%), cases emerging from social media platforms (13%), cases where students reported being discriminated against or harassed by staff members in the academic setting, when accessing support services and in the residences (25%). The graph also reflects the cases where students reported being discriminated against by another student (Discrimination: student- student) (6%), As well as incidences where students reported experiencing discrimination from other students in the academic setting (6%).

## Nature of Cases Comparison



Nature Of Case ▾

■ Work Place Grievance

■ Staff - Student

■ Social Media

■ Discrimination: Student - Student

■ Student work place grievance

In the sections that follow, detailed descriptions of some of these cases are provided in the form of anonymized case studies. These case studies provide useful insights into the nuances of the cases that followed a mediation route.

### Workplace grievances:

16 Workplace grievances were reported. 14 cases were referred to the OIC for mediation by HR practitioners, and 2 complaints were submitted by complainants. Workplace grievances dealt mostly with the breakdown of communication between colleagues and line managers. Some complaints alluded to tensions emanating from less than desirable performance standards. 2 of the reported workplace grievances cases came from 2 Black South African staff members, with 1 identifying as male and 1 female with both respondents being white women.

In both instances, complaints reported unfair and racist treatment from their line managers. In their description of their experiences, complainants indicate that they have felt purposefully disregarded and undermined by their line managers, and that they have noticed tangible ways in which they are treated inconsistently from the treatment their other colleagues are subjected to. Both incidence reports share of the complainants experience of being left out of opportunities to develop in their role, one complainant mentioned how in their work environment, it was practice that certain levels of jobs are reserved for people belonging to particular demographics (White, Indian and coloreds in that order of preference), and that it was commonly understood in their working environment that there is a ceiling on how much development and upward mobility in the space, is possible for Black people in particular.

One complainant spoke about their line manager's abuse of power, and feeling harassed by their line manager, resulting in increased anxiety levels. Another limitation in the data analysis is the lack of identity markers in reports received especially in relation to workplace grievances which make up a significant bulk of the data we drew from for this report. At this stage, we are unable to accurately segment the data according to race, gender, environment, and particular nature of complaints overall.

This affects our ability to accurately account for the dynamics at play in all the other cases of workplace grievances.

It is worth noting though that the number of cases for workplace grievances multiplied significantly during this reporting term. One may attribute this to the unique strain the Covid Pandemic has placed on working relationships and the level of trust between line managers and personnel in environments. Most workplace grievances referred via HR address the toll Covid has taken on the mental health of staff, and how this has affected staff performance. There is an indication that line managers across the reports, have been unable to adjust their expectations of staff performance during this time, with staff reporting a lack of empathy and regard for the challenging realities of balancing work/life while working remotely. Another interesting observation is how 80% of parties who reported cases of discrimination, racial harassment and workplace grievances are individuals identifying as women.

Also worth noting is that women are also named overwhelmingly as respondents in workplace grievances, with only 2 male respondents identified in cases reported between 1 Sept 2020 and 31 Sept 2021. This may be an indication that more women than men hold leadership positions at middle management level at UCT, and this makes for interesting power dynamics in the transforming spaces at UCT.

### Reflections on mediations among staff

#### Upward power assertion by staff against line manager

This case demonstrates how power dynamics are not always unidirectional but occur in complex ways. In this incident a female line manager reported experiencing intimidation and harassment from a male staff member who is under her supervision. The intersection of gender, culture and power in this case demonstrates the complicatedness of the configuration of our positionalities. How holding a position of power does not automatically afford one due regard, instead, personally held beliefs and internalised cultural norms still in some instances override the inclusive values that govern shared spaces with diverse identities.

#### Repeated discrimination experiences

There are individuals in particular environments with two or more complaints lodged against them naming them in bullying and harassment workplace grievances. This may demonstrate a need for programmatic and restorative justice initiatives that promote behavioural self-awareness and capacity building workshops aimed at equipping potential victims of bullying with resources and techniques to deal with bullies in the workplace, but also interventions that encourage introspection and reflexivity in individuals who have been accused of bullying others. Some individual reports reveal the greater dynamics, attitudes, and culture at play in environments.

#### Systemic challenges as a contributor to conflict

Often in private mediations addressing individual interests and needs, the broader environmental culture emerges as a topic for conversation. These conversations give the OIC insight into the relational dynamics at play in different environments and signals to the OIC the need for pointed environmental interventions where broader institutional culture is addressed, and staff and students are encouraged to take on a personal commitment and undertaking to cocreate a UCT that is inclusive and enjoyed by all.

#### Is mediation restorative?

Mediation is limited in its ability to restore. The process provides a wide scope for dialogue, education, connection, recognition, understanding, apology and healing. Even so, all these elements are open to subtle forms of manipulation and misuse which could leave complainants feeling re-victimised. In



order to safeguard the process of mediation, mediators with a specific set of skills, values, experiences and principles are needed to navigate difference. With skilled mediators, there is a broad range of interpersonal, professional, personal wellbeing and organisational benefits both for individuals and the culture of the organisation. Mediation alone as a tool to address difference, harassment and discrimination should not be the end all and be all of organisational mechanisms of informal dispute resolution tools. Restorative justice approaches that centre the victims and focus on helping victims heal from trauma caused by a respondent are also needed simultaneously. The creation of a space for support, and equipping victims with tools to develop resilience, to share their experiences is also needed for a wholistic approach, where interpersonal mediation is used alongside actions which achieve change at a structural level. The OIC is tasked with the creation of these spaces, and already has a variety of programmatic and workshop opportunities for the UCT community to access for their learning and empowerment. Emanating from this report, there are a number of recommendations that when implemented, will bolster the OIC's toolkit.

## Student complaints of discrimination and harassment against UCT staff

25% of the cases in this last reporting period were discrimination and harassment reports made by UCT students against individual staff members and sections of departments. 2 of these complaints were racial discrimination and harassment reports against staff. A few anonymized case reports are included below, to provide the reader with a sense of student experiences in the university environment.

### Case Report 1:

In one case a student reports having experienced secondary victimization from representatives from staff units when trying to access their student-centered services. In this incident the student feared for her safety as her apartment was broken into several times in a short space of time. In her report the student details how staff refused to believe her and told her that she wanted to use her experience as an excuse for missing academic commitments instead of genuinely needing help.

This report may highlight a need for more sensitivity exercised by some staff members in dealing with vulnerability in the student cohort. In this instance the harm caused to the complainant resulted in the complainant opting for a formal grievance against the individuals involved, with the hope of obtaining punitive measures against the staff involved.

### Case Report 2:

One reported incident details how complainants logged a report of discrimination based on their intersecting identities as a Black disabled student. The student filed a complaint against their white, academic supervisor, who had used disrespectful and dismissive language in email correspondence. In this matter the student was not interested in restorative justice approaches to dealing with the issue, and felt that the impact of the academic's conduct was too harsh, and affected the student to adversely for the case to be dealt with in mediation. The student requested an investigation, out of concern for other students who may also be experiencing the same type of behaviour but may be too fearful to speak out. Another remedy sought by this student was to be allocated a new supervisor by the department. This case was still pending at the completion of this report.

### Case Report 3:

Another case that is still pending involves an entire student class in conversation with the faculty management and course conveners for their year. The student leaders in that department wrote to the OIC for assistance in engaging with their faculty management over what they experience as unequal treatment and delivery of their curriculum. The class feels that they have been disadvantaged by an overloaded curriculum and unfavorable scheduling and inadequate academic support.

Students are increasingly vocal about their experiences and expectations of academics in relation to how they are treated in the classroom, and the content and structure of the curriculum. If anything, the increasing volume of the student voice in our universities should be welcomed and encouraged, so we are able to produce an agile and relevant curricula that addresses the intersecting and interconnected nature of the concerns plaguing society and knowledge production for society.

Emanating from a very productive engagement with both students and faculty in this environment, staff requested that the OIC assist their environment and the greater UCT community by creating spaces for intergenerational dialogues on important issues, and not so important issues, for environments to understand this generation of empower students better. This is an ongoing engagement between the OIC and the faculty.

#### Case Report 4:

In another case, a student took offense to comments made by a lecturer in relation to body size and the expected industry beauty standards. The student felt that they were being singled out in the class and body shamed. An individual mediation between the student and the lecturer was requested by the student, and the mediation was successful and ended with both parties rendering an apology to each other. The student also requested a broader environmental intervention in the form of a departmental discussion to air broader student concerns and to collectively generate solutions to address some of the concerns students have raised about UCT's complicit role in not adequately addressing and/or shifting exclusionary international industry beauty standards in the discipline that they are studying for. This is also an ongoing engagement with the department, management in this department must be commended for their intentional commitment towards understanding and addressing the concerns of their students going forward.

#### Case Report 5:

The last case in this category took place in a university residence where a student made multiple reports against a staff member. This matter has been referred to the human resource department for a formal disciplinary process.

### Social Media Reports of discrimination and harassment at UCT

In this reporting period, the OIC received 4 reports of discrimination and harassment that occurred on social media platforms, 3 of these reports were racial discrimination/ harassment reports, and all cases had student respondents. The platforms that were used in these instances are Facebook, subject study WhatsApp groups and Twitter. Again the use of case studies provides the reader with a nuanced understanding of the nature and complexity of reported incidences which are being responded to by the OIC, HR and the Student Legal Office.

#### Case Study 1:

In one incident, it was alleged that the respondent called a UCT student a "Black Monkey" on Twitter. The UCT student opted to lay a charge against the respondent at SAPS. This complainant also went on to share on Twitter about their experience. It should be noted that the respondent was a member of public who was minor, black, female, who had accessed a UCT Whatsapp Group via a link that was publicly posted on the UCT students group social media page. The OIC contacted the respondent and provided the minor with psychological referral and counselling support as the respondent was distraught and had become the target of threatening comments. The OIC ensured that the minor was in the care of a support structure and assisted the respondent in understanding the harmful nature of the comment made. In addition to respondent support, the OIC provided crisis containment to the class; the HOD; the course convenor and the class rep. The latter developed WhatsApp guidelines and protocols to prevent harm from occurring in future.

#### Case Study 2:

Two reports emanating from discrimination on social media were submitted for reporting purposes only. In one instance the complainant is an individual external to UCT from overseas, and the other is a complaint from a UCT student who was publicly accused of being racist. This student simply wanted to put on record how traumatized they were by these allegations against them, and how the same affected their mental wellbeing. This report provided positive insight for the OIC, that even a person accused of racial intolerance felt that the OIC is a place where they can also get assistance. This particular report acts as affirmation to the OIC staff and their work at UCT. It suggests that the OIC is

viewed by the UCT community as impartial, and a resource that both complainants and the respondents can access support from.

### Case Study 3:

The last case in this category involves a UCT student and personal attacks made against his personhood and character on social media by the greater student populous, incited by 2 identified student respondents.

In the posts, the students harassed the complainant spreading the perception that they are against the student struggle. In this case both identified respondents and the complainant entered into mediation and an apology was rendered and accepted by the complainant.

These cases involving social media outlined above, as well as a recent pending case that the OIC is working on that falls outside of the scope of this report have raised the OIC's concerns.

## Reflections on Social Media

At UCT, like other universities, social media is used as a source of personal enjoyment and as a way to keep informed about local, national and international news. Social media is also used as a space for personal activism where individuals connect with other individuals and content that speaks to shared interests. Social media has been used to raise awareness about social issues that happen in the UCT context. However, platforms like Facebook, Twitter, and WhatsApp groups, social media can be misused to harm, attack, harass and discriminate against other people.

The OIC notes with concern the motive and the ways in which the UCT community uses social media to air out issues. Concerning reports of bullying and harassment that occur on social media especially on WhatsApp study groups have necessitated the need for foregrounding the rules of engagement, and the need to appoint a moderator in each group to ensure the spaces remain professional and productive. A moderator/class representative may need to constantly remind participants of the contract they have with each other regarding the expected conduct and rules of engagement.

## Recommendation

Going forward, a suggestion is that in instances where a WhatsApp Study Group degenerates and deviates from its purpose, the group must be deleted and new groups can be started with rules of engagement shared at the beginning.

Group administrators can remind students of the values and responsibilities they have towards each other in the shared space. Rules of engagement on departmental WhatsApp groups can be shared with students along with the course outline at the beginning of a course.

The rules of engagement can be accompanied by an indication of consent to participate respectfully. Such a protocol could also result in exclusion from the WhatsApp group for parties who do not adhere to the commonly held rules of engagement. This proposal would require that environments regulate who starts official Study WhatsApp Groups for student cohorts, and that they include the Rules of Engagement that govern the WhatsApp groups in departmental communication and on course outlines.

## Students' reported discrimination against other Students

Under this category the OIC received 2 reports of students reporting a fellow student for discrimination in social settings and 2 cases that deal with student workplace grievances where students have clashed in the academic space. 3 of these cases reported by students against other students were cases of Racial discrimination/ harassment

### Case Study 1

In one case a derogatory name was used by the respondent to address a complainant. The word "amalwawu/ilawu"<sup>4</sup> was at issue. This word is a derogatory name given to people of coloured, Khoi and San descent. This term has a poverty connotation attached to it as well. This incidence was reported for reporting purposes only, the complainant did not seek to pursue any process.

### Case Study 2

One matter pending currently is a report involving a group of post-graduate students in an academic department that have laid a complaint of discrimination against a class member. The group of complainants is a diverse group who came together to report how one student and classmate, was racist and discriminatory towards Black classmates. The students have not decided which avenue they wish to pursue, but they are leaning more towards the informal route with a facilitated conversation between the group of complainants and the respondent.

Before venturing into the recommendations that have emerged from this report the Relations Strategies Specialists wishes to share a reflection and call to the UCT community, to take on inclusivity work as a personal mission for all of us as members of UCT.

## Reflections

### Working towards a transformative staff and student experience is doing personal work

The mediation space is one of the spaces at UCT that allow for in-depth accounts of individual lived experiences at UCT to be shared, and interrogated. The mediation space gives the OIC an insight into how individuals are affected by and interact with and through institutional structures and institutional culture. In this space, individual undertaking is exercised where individuals exercise their responsibility to learn and unlearn harmful beliefs and behaviour. This speaks to the kind of attitude and approach we should take individually at UCT towards collectively creating an inclusive university. Many of the concerns we have around inclusivity, racial and other forms of discrimination can begin to shift significantly if we change individual staff mindsets at UCT.

A truly impactful transformative experience requires that students and staff understand their role in sustaining an environment encouraging a well-rounded, inquisitive student who will not only leave the university an expert in their field, but will leave a holistic individual, who is able to thrive in a diverse world that embraces and celebrates difference. A graduate who is diversity literate, culturally aware, and appreciates nuance and embraces opportunities to grapple with complexity. A university cannot effectively encourage these graduate attributes into its students if the people doing the encouraging, and nudging do not possess these attributes.

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<sup>4</sup> 'God Made the White Man, God Made the Black Man...': Popular Racial Stereotyping of Coloured People in Apartheid South Africa Mohamed Adhikari 2006

Working towards a transformative student experience is doing personal work. It requires that you avail yourself and allow your own understanding and perspectives to be interrogated.

At the core of transformative work is a deep understanding that we are products of our society. That we are socialized according to our cultural, religious, racial and interest groups to believe certain things about others. Our realities are punctuated with shallow interactions with those who are unlike us. We don't know each other but we work together, share common spaces and are affected by the same social issues, be it at varying degrees. Our lack of understanding for each other creates distrust, working environments that have underlying tensions, sexism, racism and related microaggressions.

We live in a deeply wounded society, our backgrounds and diverse cultures make us interpret certain messages in particular ways. Our country's history, the families we were born into, the socioeconomic circumstances of our birth, the geographical locations where we grew up and the social conditions we grew up under influence our perspectives and how we navigate the world. Collective historical traumas, how we imagine ourselves as agents in our own lives and how we interact with various institutions, services etc. are a result of this social construct we all find ourselves in. University personnel need to be equipped with this knowledge so that they understand how what they do for a living serves the greater good of society. How understanding one's own positionality and acquiring empathy for others could result in a welcoming space for all.

The university is a microcosm of society yes, but as a space for knowledge production and disciplined curiosity, the university should not add to the youth's disillusionment and cognitive dissonance. However, it should be a space where inquisitive minds come to seek and find clarity and guidance on how to use their unique sets of talents and questions to advance knowledge production for the greater good of society. The university through its staff must model what an ethical, inclusive and diverse world should be like, to equip our graduates with an idea of what it is they should be working towards when they go out into the world. How can they know what they are aspiring to, if the institutions that shape their thinking and value systems do not model or at least attempt to model this ideal?

University personnel need to model critical citizenship in aid of creating a truly impactful transformative student experience. Our students look to us for guidance and social cues; we cannot be a space that teaches students to do as we say, and not as we do.

Transformation happens at four levels. These are; at the Personal level, Interpersonal level, Institutional level, and at a Cultural level. For the purposes of this reflection, the personal level is the focus, as mediation is a process that requires individuals to be vulnerable to one another so that honest and productive resolutions can be reached. To highlight that the other levels at which transformation happens really rely on one's engagement at a personal level. That we can only affect others and the world around us, in so far as we have engaged with ourselves.

The personal level of transformation requires that individuals unpack their own positionality and identities within a socially constructed world. What makes them who they are, what beliefs do they hold? What are their biases and what informs their perspective? To what extent have they been exposed to people who are different to them? People who love differently, celebrate differently, mourn differently, and how one reconciles these in relation to their rights and responsibilities?

The other levels at which transformation occurs (the interpersonal, institutional and cultural level) really depend on how intentionally one delves into their personal level of transformation. Relationships with others are influenced by how evolved and in tune a person is with themselves. Leaders of institutions are better leaders when they understand themselves, and institutions with self-

aware personnel are able to produce work that is impactful, agile and relevant. Moreover, when organizations institutionalise empathy, cultural norms shift, difference is embraced and celebrated.

## Reflections from the 2020-2021 period

The following are reflections emanating from cases reported between 1 Sept 2020 – 30 Sept 2021

### 1. Use of the Case Reporting Tool by Human Resource Practitioners

Staff (especially) and students are actively encouraged to use the Reporting Tool when reporting incidences of discrimination, racial harassment, workplace grievances or requesting a mediation. The OIC must increase campus awareness about the Reporting Tool to ensure that all cases are tracked and supported timeously in the UCT system. Reports submitted directly to the OIC via email slow the reporting process as the OIC must redirect complaints to the tool, or in instances where complainants provide the context of their report via email, OIC personnel have to manually load the case reports on the system. For a speedier turnaround time, all UCT staff and students are strongly advised to use the reporting tool. HR is strongly encouraged to use reporting tool to request mediations. By using the tool, HR will be able to provide the OIC with the relevant information i.e. names of the parties, provide context re: the nature of the matter, the nature of the relationship between the participants etc. This will make for richer analysis of the nature of complaints received.

### 2. Revitalising of the mediation community at UCT

With the new appointment of the Relations Strategist to the OIC, a renewed mediation trainer strategy will be deployed to establish and recruit a mediation community at UCT in collaboration with the office of the Ombud.

### 3. Rethinking complainant care in decision making

In briefings complainants in incidences of bullying have expressed their discomfort at having to be active participants in the 'disciplinary process' of their respondents. Some have expressed in sessions how having been a passive participant and victim of bullying, having to decide the respondent's 'fate' i.e. having to decide whether a respondent goes through the informal or formal process is somewhat an unfair burden on the complainants. Though in certain instances, when the harm has been grave and when a respondent's conduct blatantly goes against the universities policies and values, the university does reserve the right to proceed with a formal process even when the complainant opts for an informal process or has withdrawn from the proceeding due to various reasons. Emanating from this comment, is a proposal to begin thinking about coming up with a guide to measure harm caused to complainants and corresponding penalties.

### 4. Communication

The OIC worked hard to increase its visibility and raising awareness about its services on campus, the reporting tool and other reporting channels into the OIC indicate that UCT is aware that the OIC is the first point of contact relating to matters of all forms of discrimination, workplace grievances, harassment, and mediation, or at the very least, the first point of enquiry

### 5. Data Analysis of the Perceptions of participants in mediation

One element that is a proposed addition to the standard mediation process is a mandatory follow up on parties to get a feel of how having taken part in mediation has improved the relationship between parties or improved their overall experience of UCT.

#### 6. Defining meaningful outcomes for systemic racism

During this reporting period, the university experienced two public exposes of claims of racism that affected two Faculties. In one instance, allegations of interpersonal racism was made (currently under investigation) and in the second instance, systemic racism was identified as the mechanism that perpetuated forms of inequality, unfairness and exclusion. It is evident that in the latter instance, the only way to dismantle systemic racism is to rebuild a process in consultation with the complainants and the leadership, and other stakeholders who are responsible for the relevant aspects in the university system. In this way, we are not only restoring trust in the university system but we are, institutionalising empathy in how we collectively respond to the harm that is occurring under our watch at UCT.