
1. **ITEM NUMBER :** To be inserted by Executive Support

2. **SUBJECT**

**CITY OMBUDSMAN QUARTERLY REPORT: 15/06/2010 – 15/09/2010 (1st
QUARTER OF 2010/11)**

ONDERWERP

**KWARTAALVERSLAG VAN STADSOMBUDSMAN: 15/06/2010 – 15/09/2010
(1STE KWARTAAL VAN 2010/11)**

ISIHLOKO

**INGXELO YARHOQO NGEKOTA YE-OFISI KANOZAKUZAKU WESIXEKO:
15/06/2010 – 15/09/2010 (IKOTA YOKUQALA KOWAMA-2010/11)**

LSUA7248

3. **PURPOSE**

The report is submitted to Corporate Services and Human Resources Portfolio Committee for noting purposes.

4. **FOR DECISION BY**

The report is for noting by the committee.

5. **EXECUTIVE SUMMARY**

This is the first quarterly report for 2010/11 financial year, from the Office of the City Ombudsman which consists of statistics on complaints received from aggrieved persons against City Administration, which have been investigated and attempted to be resolved on an amicable basis. The office would then make recommendations whenever necessary to line departments to address such complaints.

We have also included a thorough trend analysis for the previous year in this report, as requested previously. This is intended to highlight areas of concern relating to certain administrative practices, processes and policies, where intervention might be necessary.

6. RECOMMENDATIONS

It is recommended that the City Ombudsman's report for the 1st quarter of 2010/11, be noted.

AANBEVELING

Daar word aanbeveel dat daar kennis geneem word van die stadsombudsman se verslag vir die eerste kwartaal van 2010/11.

ISINDULULO

Kundululwe ukuba makuqwalaselwe ingxelo ye-Ofisi kaNozakuzaku wesiXeko engeyekota yokuqala kowama-2010/11.

7. DISCUSSION/CONTENTS

7.1. Constitutional and Policy Implications

The Ombudsman fulfils a supportive role to uphold democracy and ensure fair administration of the functional areas which have been entrusted to the City in terms of Schedules 4 and 5 of the Constitution, i.e. to promote the effective administration of the matters which the City is empowered to administer and to assist it to discharge its functions and powers, and provide its municipal services, more efficiently. In this context the purpose of the Ombudsman's Office is to assist the City to meet its Constitutional obligation of providing accountable, democratic and transparent governance, while delivering on its mandate in relation to its Constitutional functions. The role of the Ombudsman's Office is consistent with various objects of local government as set out in s 152(1) of the Constitution, which the City is required to strive to attain in terms of s 152(2). It is designed to strengthen constitutional democracy and ensure openness, accountability and propriety in the City Administration.

The Ombudsman furthermore strengthens the effectiveness of the Public Protector and other Chapter 9 institutions, and alleviates some of the burden on the Public Protector and like institutions, especially with regard to less serious complaints. A cooperative relationship exists between the Ombudsman and a number of these institutions.

7.2. Environmental implications

Does your report have any environmental implications:	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
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7.3. Legal Implications

N/A

7.4. Staff Implications

Does your report impact on staff resources, budget, grading, remuneration, allowances, designation, job description, location or your organisational structure?

No

Yes

7.5. Risk Implications

N/A

7.6. Trends analysis and case summaries as examples

There have been a number of complaints in the first quarter of 2009/10 of which a greater portion was due to lack of feedback or response from the Municipality. A direct result of the City's lack of feedback caused the member of public to again contact the call centre which in turn resulted in a duplication of the complaint being logged and sent to the service department. In some instances members of public were unreasonable in the time frame that they gave the City to attend to the problem which also created duplication of the same complaint / calls logged on the internal system.

Breakdown in communication between the City and the public was also a cause for frustration.

In some instances the members of the public were waiting up to 8 months before receiving a reply on the correspondence sent to the Municipality. The type of finance complaints were also of a more intricate nature and required more intense scrutiny of each and every complaint. The complaint is also then linked to various departments within revenue, i.e. billing / master data / valuations, and this created the time frame of finalization to increase.

Case summary:

Complainant registered a valuation query at our office. The complaint was based on the unreasonable time period the City took to firstly reply to the complainant's various correspondences and secondly that the City did not

afford the complainant reasonable time to prepare for appearing before the Valuation Appeal Board.

Questions were raised regarding the date on which the notices were sent out and after thorough investigating was done, the City requested that the Valuation Appeal Board should reassess the property.

The property was reassessed and the amount considerable reduced.

Formal report setting out the full facts on the matter was issued to the City Manager and the Director involved.

Case summary:

The complainant was billed R128 652 on outstanding rates and was threatened with suspension of services if not settled on the due date. The query dated back to 2004/5 where she unsuccessfully applied for rebate on a rural settlement. The query was not addressed by the city and the complainant attended our office for assistance.

The investigator located the original documents at the office and perused the correspondence with the initial officer who dealt with the complaint. It was established that communication between officials and the complainant broke down for a couple of years hence the lack of progress in the matter. The investigating officer approached the relevant department and again established communication between the department and the member of public. The application was reassessed and based on the outcome the rates was adjusted and payment made by the complainant.

This resulted in both the City and the member of public benefitting.

Case summary:

The complainant was struggling for 2 years to address an issue regarding an outstanding account. Due to the frustration of not being provided with proper feedback the ratepayer refused to pay his account which led to the account falling into arrears. After receiving final demands the ratepayer registered a complaint with our office. Our office established a direct link of communication with the correct department and official which led to the account being rectified and adjusted with interest being reversed.

A further **trend** that was noticed was the fact that the informal traders were not fully made aware of their rights when a permit was suspended / cancelled. A number of complaints relating to permits were received by our office and we had informal discussions with the department to include in the letter of suspension / cancellation the remedies available to the traders.

The Department: Economic Development furthermore requested our office to be part of the Tribunal for the Mitchell's Plain Traders which involved the allocation process and objections received by the department. The Tribunal convened on 4 & 9 December 2009 and on 9 January 2010.

An example of an informal trader complaint is as outlined below:

Case summary:

An informal trader's licence was cancelled by the City based on misconduct by the trader. However, after our office investigated the matter it was clear that the Department did not follow their Informal Trading policy. Various meetings were held between the complainant and the department.

After 4 months of not trading, the City reinstated his licence.

The two predominant directorates, in terms of the number of complaints registered with the Ombudsman were Finance and Utility services.

One of the primary reasons for complaints were the incorrect meter reading which came in as accounts queries, where customers were disputing these estimated readings and again lack of response being the primary issue from ratepayers.

Closely linked to the above were again meters not read for months there have been tenants and when they move out of the property, the owner gets billed for a tenant that no longer resides at his/her property. Most of the complainants question as to why the City never informed the owner of the status of the account or alternatively proceed with the process of disconnections.

Case summary:

Water meter was installed in 2004. Since the installation the meter was not read by the City and the accounts were estimated. The member of public was only made aware of the estimations after a substantial increase during one month of approximately (R20 000).

The member registered a complaint with our office and our investigations revealed that the meter was placed on an incorrect route. The meter reader on the specific route did not make the department aware of the fact that a specific house on his route was not being read.

The complainant was also informed that the account stipulates whether and actual of estimated reading was taken. However our office was of the opinion that there rests a dual responsibility on all parties involved, one of notification by the City of the lack of actual readings and the fact that the owner had to check his account.

The financial impact on both the City and the ratepayer was extensive being the fact that the City lost a portion of revenue for a period of 4 years as the account was under-estimated and the ratepayer had to make arrangements to pay of an account of R20 000.

Due to the tariff policy our office could not recommend any corrective action as the policy indicates that estimations are allowed by council. However it is our view that estimations should only be done within a defined period.

Various similar complaints were received however the amounts differ. In most cases the accounts were underestimated.

Case summary:

An owner of a property became aware of the non-payment of services (electricity) by his tenant. After numerous requests by the owner to the City to disconnect and the City's refusal to disconnect the electricity he attended our office for assistance. The department however informed our office that due to the fact that the tenant made arrangements they cannot disconnect. Upon further investigations it was noted that prior arrangements were never honored which resulted in the escalation of the account. While our office was still investigating and attempting to solve the complaint the tenant moved out of the property. The owner felt extremely aggrieved because the account escalated to a substantial amount and ultimately he was responsible for the account. He felt that the City failed in minimizing the risk due to the failure to disconnect based on his request.

Case summary:

The complainant forward a complaint to this office after not getting any satisfaction and trying to have the matter resolved over a period, in that he owns/co-owns a block of flats. In the lease agreement, it states that the Lessor/Managing agent/Body Corporate would be responsible for payments of the common area lighting and that the individual tenants would be liable for payments of their units.

The owner claims that the tenant went to the City to have an account opened in his/her name by just using the lease agreement and without the knowledge or consent of him. When the tenant failed, to pay the account that has escalated into an substantial amount, the services (all) were disconnected and the City demanded payment from the registered owner. He felt that he did not have any contractual obligations with the City as the account was in the name of the tenant who was also the consumer at that time for that account.

After continuous consultation sessions and debate with the various departments, it was ascertained that the various departments were not willing to take collective responsibility but that in terms of their own procedure and policies, they felt that they were acting accordingly and also in view of the fact that legislation was in their favour in that Section 118 of the Municipal Systems Act, 32/2000 is used as reference that indicated that the owner could be held responsible for debt against the property.

In the interim, the City is looking at ways how to eliminate any expectations created and to provide a user-friendly service by looking at holding the owner only responsible for Municipal account against their property.

In dealing with the matter, the Ombudsman facilitated a response and conducted several meetings with the various departments and made recommendations to have the outstanding fees due paid off over a reasonable period and at an affordable rate with the interest accrued being waived in view of the fact that the City had a contract with the tenant and entered into such contract without the consent of the registered owner and continued to provide such service to the tenant even after pleas from the owner to discontinue after such owner informed the city of the reluctance of the tenant to pay for such services.

The city agreed to have pre-paid meter installed after initial payment arrangement was made. The owner was ultimately responsible for outstanding payments as it was billed against the property.

Matter was closed.

7.7 Quarterly Statistics on Complaints Received

We have received **313 complaints** on the first quarter of 2010/11. The office managed to resolve 69% of those complaints, of which 72% were accepted recommendations for implementation by line departments. Our turn-around time was 71 days as opposed to the 90 days benchmark.

ANNEXURES

Annexure A	Number of Complaints
Annexure B	Number of Days Taken to Provide Final View
Annexure C	Percentage of Cases Resolved
Annexure D	Percentage of Recommendations Accepted

Annexure E Complaints per Directorate

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FILE REF No	
CITY OMBUDSMAN MBULELO BABA	

REPORT COMPLIANT WITH THE PROVISIONS OF COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS AND ALL LEGISLATION RELATING TO THE MATTER UNDER CONSIDERATION.

LEGAL COMPLIANCE

NON-COMPLIANT

NAME _____

Comment:

TEL _____

DATE _____

Comment:

CITY MANAGER
ACHMAT EBRAHIM

DATE _____

(Author to obtain all signatures before submission to Executive Support)