



## University of Groningen Ombudsperson Regulations

Whereas:

- in the Collective Labour Agreement for Dutch Universities 2020 (CAO NU), it was agreed that, depending on the outcomes of the final evaluation of the ombudsperson pilot project at all universities, the position of Ombudsperson would be established as of 1 July 2021;
- the Association of Universities in the Netherlands (VSNU) and trade unions, based on the recommendations from the final evaluation, have reached agreements concerning the integration of the position of University Ombudsperson within the existing auxiliary structures of the universities, as depicted in the framework compiled at the national level;
- the position of Ombudsperson is supplementary to the existing auxiliary structure within the University, and it is not intended to duplicate the roles of the Confidential Advisor or complaints committees;
- the duties and powers of the Ombudsperson, including the independent position, at the University of Groningen are described in these regulations, based on the national framework.

### 1 Definitions

The following definitions apply to these Regulations:

- a. The teaching and research institute: the University of Groningen (hereinafter: UG).
- b. Employer: the Executive Board of the UG.
- c. Employee: any person, under any title, employed by or performing work for the employer. Employees are also understood to include any person who, although not in the service of the UG, is performing work for the UG (e.g. as independent contractor, intern and/or other third parties).
- d. Student: any person registered as a student at the UG and, in that capacity, utilizing the facilities of the UG, including PhD students.
- e. PhD Student: any individual registered as (PhD) Student at the UG for the purpose of following a PhD programme.
- f. Administrative body: the Executive Board, the Supervisory Board, the Faculty Board or manager of a service unit, the Dean, a unit of the organization of the UG charged with a specific function (e.g. the University Council, the Faculty Council or the Employee Council), pursuant to regulations or other decision.
- g. Report: a report on behaviours relating to social safety and/or inappropriate conduct. In this regard, behaviours are to be understood as including both actions and omissions.
- h. Ombudsperson: any individual appointed by the Executive Board of the UG to act as an independent official for the purpose of handling reports from employees and/or students concerning conduct relating to social safety and undesirable behaviour.
- i. Undesirable behaviour: in accordance with Article 1.12 of the Collective Labour Agreement (CAO) for Dutch Universities, this includes the following in any case: harassment, sexual harassment, aggression, violence and discrimination. These concepts are elaborated in further detail in the UG Code of Conduct for Academic Integrity, the SIAGD Code of Conduct and the UG Zero Tolerance Statement.
- j. Social safety: a socially, psychologically and physically safe and inclusive environment within the university, where people of differing backgrounds, orientations and beliefs have the opportunity to develop freely and to their fullest potential. In any case, social safety implies that members of the university community are able to file reports concerning social safety and undesirable behaviour without risk to their positions or working conditions.



## **2 The Ombudsperson**

- 2.1 The UG has established the position of Ombudsperson for employees and students. The Executive Board appoints the Ombudsperson.
- 2.2 The position of the Ombudsperson is to be exercised independently, objectively and impartially. The position of the Ombudsperson is incompatible with other positions at the UG, as well as with activities that are in conflict with the work of the Ombudsperson.
- 2.3 The Ombudsperson identifies and advises on broader trends relating to social safety, with attention to individual cases, but does not address any issues of legal status, individual reports that have already been addressed or matters that have been explicitly assigned to specific committees (e.g. inappropriate behaviour). The Ombudsperson does take action in the event of problematic patterns. The position is supplementary to the existing auxiliary structure, and it is not intended to duplicate the roles of the Confidential Advisors or complaints committees.
- 2.4. The Ombudsperson has the following duties:
  - identifying trends and patterns relating to social safety and inappropriate conduct, as well as systematic deficiencies in regulations or their implementation within the organization;
  - advising the Executive Board and supervisors who are in the position to act in response to patterns, trends or systematic deficiencies that have been identified;
  - making satisfactory referrals (or re-referrals) to the appropriate bodies within the UG (e.g. the Confidential Advisor or complaints committee), as well as beyond the university, if necessary;
  - conducting investigations (whether or not at its own initiative) and making recommendations based on the results;
  - mediating and bring parties back into dialogue within the organizational structures intended for this purpose;
  - publishing and reporting on observations and findings;
  - drawing up a publicly accessible annual report.
- 2.5 The pronouncements of the Ombudsperson are not binding.
- 2.6 The Executive Board, following mandatory consultation of the Supervisory Board, can relieve the Ombudsperson of the assigned duties during the course of the period of service, if the Ombudsperson causes serious damage to the trust invested in the position due to either action or omission.
- 2.7 The Ombudsperson shall present an annual report of all activities to the Executive Board of the UG, forwarding a copy thereof to the University Council, the Local Consultative Committee and the Supervisory Board.
- 2.8 The necessary resources shall be made available to the Ombudsperson for the proper exercise of the position of Ombudsperson (e.g. an available space that ensures confidentiality and anonymity, an adequate budget for investigations and any IT facilities needed).
- 2.9 Complaints about the Ombudsperson may be lodged with the Board of the University or the Supervisory Board if (a member or members of) the Board of the University lodges the complaint.

## **3 Advisory meeting, report and mediation**

Any employee or student may make an appointment with the Ombudsperson for the purpose of filing a report or mediation. The reason (or reasons) for the report and/or mediation shall be registered confidential. In addition, the Ombudsperson may initiate investigations, including at the Ombudsperson's own initiative.



#### **4 Filing a report**

Any employee and/or student may submit a report to the Ombudsperson concerning social safety and/or undesirable behaviour. The report must include at least the following:

- a. the name and address of the person submitting the report;
- b. the date
- c. a description of the unsafe working environment or inappropriate conduct to which the report refers and an indication of the administrative (or other) body within the UG or the employee who has acted in this manner and, as needed, where and towards whom this conduct has occurred;
- d. the reason why the person submitting the report is turning to the Ombudsperson;
- e. the signature of the person submitting the report.

If requested by the person submitting the report, the further processing of the report shall be carried out anonymously by the Ombudsperson.

The Ombudsperson shall subsequently take the following steps.

#### **5 The admissibility of the report**

The Ombudsperson is not obliged to process the report if it concerns conduct:

- a. that has been reported previously or that has been the subject of a complaint lodged with the Academic Integrity Committee (CWI), the Complaints Committee for Harassment, Sexual Harassment and Aggressive, Violent or Discriminatory Behaviour (SIAGD) or according to the University of Groningen General Complaints Regulations;
- b. against which an objection has been filed by the person submitting the report;
- c. against which an appeal has been filed by the person submitting the report;
- d. that is being or has been submitted to the ruling of a judicial body as a result of a legal procedure, or
- e. as long as there is a related criminal investigation ordered by the public prosecutor or legal proceedings are underway, or if the conduct forms part of the investigation or legal prosecution of a criminal offence and in relation to that fact a criminal investigation ordered by the public prosecutor or legal proceedings are underway.

#### **6 The investigation of the report**

- 6.1 If mediation is not deemed useful, or if an attempt at mediation has failed to result in the resolution of the report, the Ombudsperson shall allow the UG, the employee whose conduct is the subject of the report, and the person submitting the report the opportunity to explain their standpoints orally or in writing, possibly in one another's presence.
- 6.2 If deemed necessary to the assessment of the complaint, the Ombudsperson may also allow other parties (e.g. informants, witnesses) the opportunity to review the report and to make a statement about it, either orally or in writing.
- 6.3 The Ombudsperson shall be authorized to request information from administrative (or other) bodies and employees, to receive access to necessary IT systems or to request and review documents (e.g. relevant information from the personnel file) concerning matters to which a report relates.
- 6.4 Employer and employees shall be obligated to provide the statements requested under 6.2 and the information and/or documents referred to under 6.3 within a reasonable period, as indicated by the Ombudsperson.
- 6.5 The Ombudsperson shall notify the parties involved in the report of the information obtained.



- 6.6 The employer and employees may indicate that any information and/or records the confidentiality of which they deem necessary for statutory or judicial reasons is to be provided only under the condition that the confidential character thereof is maintained by the Ombudsperson.
- 6.7 For purposes of hearing both parties, before closing the investigation, the Ombudsperson shall share the tentative findings in writing with the person submitting the report and with the employee to whom the report refers, allow them the opportunity to react to them within a reasonable period, to be specified by the Ombudsperson.

## **7 The findings**

- 7.1 The Ombudsperson shall assess whether the UG or the employee has or has not behaved appropriately in the matters that have been investigated.
- 7.2 The report of the Ombudsperson's findings, in which the assessment is presented, shall contain the considerations on which this assessment is based, and it shall be sent—possibly in anonymized form—to the person submitting the report, the Executive Board and the employee to whom the report refers. If the investigation refers to the Executive Board or its members, the Ombudsperson shall report directly to the Supervisory Board.
- 7.3 In the report of findings, the Ombudsperson may make any recommendations deemed appropriate. These recommendations may relate to the specific behaviours leading to the submission of the report or to more general aspects emerging during the investigation.
- 7.4 Within one month after receiving the report of findings, the Executive Board shall send to the Ombudsperson a written and substantiated statement of whether the recommendations have been or will be followed and, if so, in what manner. The Ombudsperson shall send immediate written notification of this decision to the person submitting the report and the employee to whom the report refers.
- 7.5 If, for serious reasons, the Executive Board considers not following the opinion or the recommendation (or recommendations), it shall inform the Ombudsperson in writing, stating reasons. The Ombudsperson shall forward a copy of this information to the person submitting the report and the employee to whom the report refers.
- 7.6 The findings (assessments and recommendations) of the Ombudsperson shall not be open to objection or appeal.

## **8 Legal (and other) protection**

The position of the employee and/or student who, subject to the provisions of these regulations, has contacted the Ombudsperson or has submitted a report shall not be disadvantaged in any way insofar as this disadvantage would be the result solely of calling upon the services of the Ombudsperson.

## **9 Investigation at the Ombudsperson's own initiative**

In the case of an investigation at the initiative of the Ombudsperson, Articles 7, 8 and 9 shall apply *mutatis mutandis*, to the greatest extent possible.

## **10 Annual report**

The Ombudsperson shall present an annual report of all activities to the Executive Board, forwarding a copy thereof to the University Council, the Local Consultative Committee and the Supervisory Board. The report must contain at least the number of cases handled, along with an anonymized summary thereof. The description of the cases handled must be such that it completely protects the privacy of the employees and/or students concerned.



## **11 Confidentiality**

The Ombudsperson shall be bound by confidentiality with regard to any matters entrusted in the course of exercising the duties of the position, insofar as such confidentiality arises due to the nature of the case. This obligation shall also apply to all individuals working for the Ombudsperson and to all individuals who are (or have been) involved in specific cases.

## **12 Archiving documents**

The data in the office of the Ombudsperson shall be saved or stored in accordance with the General Data Protection Regulation (GDPR) and the Public Records Act.

These regulations were adopted by the Executive Board, **in consultation with the Local Consultative Committee** (date April, 20, 2021) on May 25, 2021.