Radboud University Staff Ombudsperson Regulations
adopted by the Executive Board on 2 November 2021
into effect from 1 December 2021

PREAMBLE

In the Collective Labour Agreement (CAO) for Dutch Universities it has been agreed to establish an ombud role at all universities. The aim is to contribute to the improvement of a healthy and safe working environment and to the university's learning capacity.

The staff ombudsperson is an independent officer appointed by the Executive Board able, in response to reports or complaints from staff or of their own accord, to investigate whether a part of the organisation (referred to below as ‘university body’) or university staff member has conducted or is conducting themselves with propriety in a certain matter. In this context, ‘proper conduct’ includes conduct that is:

- Open and clear
- Respectful
- Committed and solution-oriented
- Honest and reliable

The university ombudsperson will strive as far as possible to make assessments against the standards of proper conduct. This concerns, for example, formal standards of conduct to which staff members are bound, as well as moral standards that are part of good employment practices, leadership and (informal) influence.

ESSENCE OF THE OMBUDSPERSON REGULATIONS

Powers of the ombudsperson

The ombudsperson has a role in identifying possible structural problems in (staff) policy and/or its implementation, bottlenecks and in abuses at the university on the basis of the reports/complaints submitted. The ombudsperson links up proactively and organises cooperation with other actors in the network with regard to a safe work and study environment.

The ombudsperson can make recommendations, refer, mediate, investigate and take decisions. The ombudsperson is independent, impartial and has the authority to conduct investigations.

A staff member or former staff member can turn to the ombudsperson with a report or a question about the conduct of a university body or staff member, irrespective of the subject to which the conduct refers. The ombudsperson can initiate a consultation, provide information, possibly refer the matter on, or mediate, and in this way make a significant contribution to problem-solving in an informal way and enhancing the learning capacity of the organisation and its staff. A question may be put or a problem submitted to the ombudsperson for them to consider the best way to resolve it. In many cases, a formal (complaints) procedure can be avoided in this way.

The ombudsperson is not authorised to act in a matter that is before the courts or on which a court ruling has been handed down.

The ombudsperson may only conduct a complaint investigation if the staff member does not have the option of lodging their complaint through another procedure. Even if the staff member could have used a different procedure, but has not done so, the ombudsperson is not authorised.

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1 These standards of conduct have been taken from the standards for proper action by the state drawn up by the National Ombudsperson.
Consultation on a report

Making a report or putting a question to the ombudsperson will lead to advice and information. At a meeting with the reporter, the ombudsperson will investigate whether it is possible for the reporter to resolve the issue themselves through talking to the person immediately involved. This meeting is confidential and may be conducted anonymously. The report will only be shared with third parties with the consent of the reporter. The reason for the report is recorded anonymously.

Mediation by the ombudsperson

In certain cases, the ombudsperson can, with the consent of those involved, strive to reach an amicable solution through mediation, if it turns out that the staff member cannot resolve the matter on their own following the consultation.

Handling a complaint

Handling a complaint by the ombudsperson will lead to an investigation, a report and a decision in accordance with the Ombudsperson Regulations. The ombudsperson cannot take binding decisions. In this situation as well, the ombudsperson will continue to investigate whether the issue at the centre of the complaint can possibly be resolved through mediation, for example.

Autonomous investigation

The ombudsperson can also conduct an investigation of their own accord into larger trends of possible systematic shortcomings in regulations or problematic patterns in the organisation. An investigation of this kind concludes with a report, whether or not accompanied by recommendations. The ombudsperson cannot take binding decisions.

Demarcation between ombudsperson and confidential advisor

The confidential advisor supports the reporter in tackling the problem. The ombudsperson is impartial, can conduct investigations and can play a mediating role between a reporter and the organisation. A confidential advisor focuses on the individual reporter, whereas the ombud role by contrast takes a broader view and makes recommendations on underlying improvements that go beyond the individual report.

These roles are complementary. It is not the case that where someone has turned to a confidential advisor, the ombudsperson cannot (any longer) take up their role and vice versa.

The ombudsperson can be approached for a report or a question about the conduct of a university body or staff member, irrespective of the subject to which the conduct refers. The confidential advisors have been appointed for support in specific areas. Often a staff member has a question or a problem where it is not immediately clear whether it concerns one particular subject. Irrespective of where the staff member makes their first report, the confidential advisor and the ombudsperson will, in consultation with the staff member, refer to or call in each other.

DEFINITIONS

Article 1 Definitions

1. University body:
   a. the Supervisory Board, the Executive Board, the secretary of the Executive Board, the Radboud Services director, the faculty's Executive Board, a dean, the directors of the Donders Institute and Radboud Teachers Academy and
b. a component of the organisation of Radboud University that is tasked with a specific function by virtue of a regulation or other decision, such as a disputes committee.

2. Staff member: a person who works or performs work at Radboud University, in whatever capacity, or has done so in the past.
3. Report: a report on the conduct of a body of Radboud University and/or staff members of Radboud University.
4. Conduct: an act or omission as well as treatment, behaviour or attitude.
5. Complaint: a formal complaint about the conduct of a Radboud University body and/or about staff members of Radboud University.
6. Complainant: the person who submits a complaint pursuant to Article 6.
7. Parties involved: the reporter/complainant and the person or university body against whom the report/complaint is made.
8. Ombudsperson: the person referred to in Article 2, who has been appointed as such by the Executive Board.

THE OMBUDSPERSON

Article 2 The Ombudsperson
1. A staff ombudsperson has been appointed at Radboud University, referred to below in these regulations as the ombudsperson.
2. The Works Council has right of consent in the establishment and termination of the ombudsperson role as such and is involved in recruiting the ombudsperson.
3. The ombudsperson carries out their duties independently and impartially. The role of the ombudsperson is incompatible with that of other positions at Radboud University (with the exception of the role of student ombudsperson) or with other work that is in conflict with the role of ombudsperson.
4. The Executive Board will ensure that the ombudsperson is not placed at a disadvantage in their position as a result of their role.
5. The ombudsperson is appointed by the Executive Board for a term of office of two years. Reappointment is possible.
6. The ombudsperson will be permitted to resign at their request. The employer may release the ombudsperson from their role in the interim if they seriously damage the trust placed in them through acts or omissions.
7. The ombudsperson will report annually on their work to the Executive Board and the Works Council.
8. The Executive Board will provide the ombudsperson with the resources necessary for the proper performance of the ombud role, such as the availability of a room that guarantees confidentiality and adequate anonymity.
9. Complaints about the ombudsperson can be submitted to the Executive Board or alternatively to the Supervisory Board, if the complaint originates from the Executive Board or concerns (a member/members of) the Executive Board.

Article 3 Powers and duties of the ombudsperson
The ombudsperson has the following powers and duties:
1. Staff members can contact the ombudsperson for a consultation, to make a report, for mediation and/or to submit a complaint.
2. The ombudsperson handles reports and complaints from staff members about the conduct of university bodies and/or Radboud University staff members, and can conduct a complaint investigation in response.
3. The ombudsperson will identify any systematic shortcomings in the regulations or problematic patterns in the organisation to the Executive Board. The Executive Board will
immediately inform the body concerned of any serious issue that has been identified, so that the university body itself has the opportunity to tackle the problems identified first. If the issue identified concerns (a member of) the Executive Board, the ombudsperson will approach the Supervisory Board.

4. The ombudsperson can of their own accord investigate trends of systematic shortcomings in regulations or problematic patterns in the organisation.

5. The ombudsperson is authorised to call in experts, if this is thought necessary for the purpose of the investigation, whether in response to a complaint or at the ombudsperson’s own initiative.

6. The ombudsperson will actively establish links and seek cooperation with other actors in the network with regard to a safe working environment, for example confidential advisors. In this context, a contact person for the ombudsperson has also been appointed at the Human Resources Division.

7. The ombudsperson will provide statistical information on the extent and purpose to which their services are used, in conjunction with Article 20 (annual report).

CONSULTATION, REPORTING AND MEDIATION

Article 4 Consultation on report
Making a report or putting a question to the ombudsperson will lead to advice and information. At a meeting with the reporter, the ombudsperson will investigate whether it is possible for the reporter to resolve the issue themselves through talking to the person from the immediate working environment, such as the superior (one step up), or with their own HR department. At that meeting, the ombudsperson will also investigate, in response to the report or question, whether they are authorised to handle any complaint. This conversation is confidential and anonymous. The report will only be shared with third parties with the consent of the reporter. The ombudsperson will maintain an anonymised record of reports with a view to identifying possible structural problems, bottlenecks or abuses.

Article 5 Mediation by the ombudsperson
1. If the staff member is unable to reach a solution on their own after the consultation and wishes the report to be followed up, the ombudsperson can strive to reach an amicable solution through mediation.

2. The ombudsperson will inform the person whose conduct the report relates to about the report. If both parties consent to mediation by the ombudsperson, they will then take the necessary steps.

3. There can be no mediation by the ombudsperson if a legal procedure or an internal complaints, objections or appeals procedure is pending, or if a decision has previously been made on the matter.

COMPLAINT INVESTIGATION

Article 6 General
1. Any Radboud University staff member can submit a complaint to the ombudsperson about the way in which a university body or staff member has behaved towards them in a particular matter.

2. If another complaints, objections or appeals procedure has been lodged with respect to the conduct, or if a ruling has previously been made on it, the complainant is obliged to notify the ombudsperson of this immediately. If the conduct is the subject of a dispute that has been put before a court, or in which a court ruling has been handed down, the complainant
must also report this. In the cases referred to above in this paragraph, the ombudsperson will declare the complaint inadmissible.

Article 7 The complaint

1. The complaint must be submitted in writing and must contain at least:
   a. The name and address of the complainant;
   b. The date;
   c. A description of the conduct to which the complaint relates and notification of the university body or staff member conducting itself or themselves in this way, and where necessary where this conduct occurred and the person it was directed at;
   d. The reason why the complainant has complained about the conduct;
   e. The complainant’s signature. If the complaint is received by email, this requirement lapses.
2. The complaint may be stated in Dutch or in English. When the complaint is handled, the reporting will be in Dutch. A translation into English (by an external party) will be made available by the ombudsperson if the complaint was submitted in English.
3. Receipt of the complaint will be confirmed in writing within 10 working days.
4. If the complaint does not meet the conditions as referred to in this article, the complainant will be offered the opportunity to comply with his obligations within two weeks.

Article 8 Withdrawal of complaint
The complaint can be withdrawn at any time. The ombudsperson will nevertheless at all stages of any investigation look into options for resolving the complaint fully or in part, or to resolve it in another way, whether through advice and/or referral or through recommendations to those involved.

Article 9 Termination of the complaint investigation by the ombudsperson
The ombudsperson can terminate the handling of the complaint if the complaint has been resolved in the meantime.

CONDITIONS FOR A COMPLAINT INVESTIGATION

Article 10 Accepting a complaint
The complaint will be accepted for handling if:

   a. The complaint was lodged by a person who meets the definition of the term staff member, as set out in Article 2 of these regulations;
   b. The complaint was submitted within a reasonable period, in the judgement of the ombudsperson, after the conduct to which the complaint relates took place;
   c. The complaint meets the conditions referred to in Article 7, Paragraphs 1 and 2;

Article 11 Complaint not handled
1. The ombudsperson is not authorised to handle a complaint if:
   a. The complaint does not meet the requirements referred to in Article 7, Paragraphs 1 and 2;
   b. The complaint has been settled amicably;
   c. The complaint is manifestly unfounded;
   d. The interests of the complainant or the seriousness of the conduct are manifestly insufficient, in the view of the ombudsperson;
   e. The ombudsperson has previously taken a decision on this complaint;
f. The complainant is not the person who was the subject of the conduct;
g. A complaint can be submitted to the relevant committee with regard to conduct on the basis of the complaints procedure for undesirable conduct at Radboud University;
h. With regard to conduct on the basis of the law or a regulation at Radboud University, another complaints, objections or appeals procedure has been lodged or could be lodged, and the complainant has not made use of this, or a ruling has previously been handed down in one of the aforementioned procedures;
i. The conduct is the subject of a dispute that is before a court or on which a court ruling has been handed down;
j. The matter is part of the general policy of Radboud University or the university body.

2. a. If the ombudsperson decides, on the basis of the provisions of Paragraph 1, not to handle the complaint, he will, as soon as possible, inform the complainant in writing, stating the reasons, as well as the university body or the staff member concerned, if they have previously been informed of the complaint.
b. If the complaint is not handled because a different procedure is open to the complainant, the complainant is informed about this.

3. No objection or appeal can be lodged against the decision of the ombudsperson as referred to in the second paragraph. In general a complaint about the ombudsperson may be submitted to the Executive Board or alternatively the Supervisory Board (see Article 2, Paragraph 9 above).

PROCEDURE FOR COMPLAINT INVESTIGATION

Article 12 General
The ombudsperson will, when accepting a complaint for handling and at all stages of any complaint investigation, look into options for resolving the complaint fully or in part, or to resolve it in another way, either by advice and/or referral, or by making recommendations to those involved.

Article 13 Positions and statements
1. If investigating the options referred to in Article 12 is not considered useful, or if an attempt to this end has not led to an amicable settlement of the complaint, the ombudsperson will provide the university body or the staff member whose conduct is the subject of the report and the complainant with the opportunity to clarify their positions in writing or orally, whether or not in each other’s presence – at the ombudsperson’s discretion.
2. The ombudsperson may, if they deem it necessary for assessment of the complaint, also provide others with the opportunity to consider the complaint, with a request to make oral or written statements on it.
3. The ombudsperson will ensure that a copy of written positions and statements, as referred to in the first or second paragraph, is provided to the complainant as soon as possible after receipt. If there is an oral position or an oral statement as referred to in the first or second paragraph, a report is drawn up that is sent by the ombudsperson to both parties.
Article 14 Information
1. The ombudsperson is authorised to request information from university bodies and staff members or to request and inspect documents pertaining to a matter to which a complaint relates.
2. University bodies and staff members are obliged to provide the requested explanations and the information and/or documents referred to within a reasonable period specified by the ombudsperson.
3. University bodies and staff members are not authorised to provide information and/or documents that are subject to a duty of confidentiality. Their supervisor may stipulate that information and/or documents, in respect of which in their view confidentiality is required for good cause, may only be provided under condition that their confidential nature is respected and maintained by the ombudsperson. Access to personal data is only possible with the written consent of the person concerned.
4. The ombudsperson will inform the complainant and the university body or staff member named in the complaint about a request as referred to in the first paragraph, as well as about the outcome, with due observance of the third paragraph where applicable.

Article 15 Experts and inspection
If the ombudsperson considers it necessary for the purposes of their complaint investigation, they are authorised to call in experts and to enter without seeking permission all the locations where the university body or staff member named in the complaint does their work.

DECISION

Article 16 Decision
The ombudsperson will issue their decision on whether or not the university body or staff member has conducted themselves with propriety in the matter investigated according to the following standards of proper conduct:
- Open and clear
- Respectful
- Committed and solution-oriented
- Honest and reliable.

REPORT

Article 17 Report
1. Following completion of the investigation, the ombudsperson will prepare a report, setting out their findings and decision, as well as the considerations on which this decision relies. The ombudsperson’s decision is not binding.
2. In the report, the ombudsperson can make recommendations that they see as useful. These recommendations may relate to the specific conduct regarding which the complaint was submitted, or to more general aspects revealed during the course of the investigation.
3. The ombudsperson will in any case send their report to the complainant, to the university body or staff member named in the complaint and to the Executive Board. If the university body named in the complaint is the Executive Board, the ombudsperson will send their report to the Supervisory Board.
4. The person who is authorised to follow up on the recommendations referred to in the second paragraph shall notify the ombudsperson within four weeks of receipt of the report whether, and if so, how, they will be followed up. If a recommendation is not to be followed up, this will be justified with reasons. The ombudsperson will immediately inform the
complainant and the Executive Board in writing of whether or not the recommendations are to be followed up.

AUTONOMOUS INVESTIGATION

Article 18 Investigation into a larger trend
1. The ombudsperson can also launch an investigation on their own initiative, whether or not in response to one or more reports, into larger trends of possible systematic shortcomings in regulations or problematic patterns in the organisation.
2. If an investigation is launched in response to one or more reports, the ombudsperson may guarantee the anonymity of the reporter(s) if so desired.
3. The ombudsperson will give the Executive Board the opportunity to express or explain its position in writing and orally.
4. Articles 14 and 15 apply as far as possible to the investigation of a larger trend.
5. Following completion of the investigation, the ombudsperson will prepare a report for the Executive Board, setting out their findings and decisions, as well as the considerations on which this decision relies. The ombudsperson’s decision is not binding. If the investigation concerned the Executive Board, the ombudsperson will send the report to the Supervisory Board.
6. In the report, the ombudsperson can make recommendations that they see as useful.
7. The person who is authorised to follow up on the recommendations referred to in the second paragraph shall notify the ombudsperson within four weeks of receipt of the report whether, and if so, how, they will be followed up. If a recommendation is not to be followed up, this will be justified with reasons.
8. The ombudsperson will send a copy of their report to the HR Division Director.

OBJECTION OR APPEAL

Article 19 Objection or appeal
No objection or appeal can be made against the ombudsperson's report, including the findings, the decision and any recommendations.

CONFIDENTIALITY

Article 20 Confidentiality
The ombudsperson is obliged to maintain confidentiality with regard to anything that comes to their attention in the performance of their duties, insofar as this results from the nature of the case, with due regard for Article 14, third paragraph, second sentence. This obligation also applies to all those working for the ombudsperson. The staff members involved in the investigation also have a duty of confidentiality with regard to what they have learned by virtue of their involvement.

ANNUAL REPORT

Article 21 Annual report
1. The ombudsperson will publish an annual report on their work. The report will in any case contain the number of cases dealt with and an anonymised summary of them. A description of the cases dealt with will be such that the privacy of the staff members concerned is fully protected. The ombudsperson will send the annual report to the Executive Board, the
Supervisory Board, the Council of Deans, the HR Division Director and to the Works Council. The report will be made generally available.

2. The annual report will be discussed in a personal meeting between the ombudsperson and the Executive Board.

3. If in the annual report, a complaint against or an investigation into (a member of) the Executive Board is included and a report on this was made to the Supervisory Board pursuant to Article 17, Paragraph 3 or Article 18, Paragraph 5, the annual report will also be discussed at a personal meeting between the ombudsperson and the Supervisory Board.

PROTECTION

Article 22 Protection
Complainants who act in good faith, with due observance of the provisions of the Ombudsperson Regulations, who have contacted the ombudsperson or have submitted a report, shall not be disadvantaged in their position in any way insofar as that disadvantage is the sole result of their contacting or submitting a complaint to the ombudsperson. Staff members who cooperate in investigations – by providing information, for example – are also protected and may not suffer any adverse consequences as a result of their actions.

RETENTION PERIOD

Article 23 Retention period
A settlement agreement ensuing from mediation, a report from the ombudsperson and a decision taken on the basis of his report will be removed from the staff file after three years. The data held by the ombudsperson will also be removed from their archive after a period of three years has elapsed.

OFFICIAL TITLE AND ENTRY INTO FORCE

Article 24 Official title and entry into force

1. These regulations can be cited as ‘Radboud University Staff Ombudsperson Regulations’.

2. These regulations have been adopted by the Executive Board with the consent of the Works Council and go into effect from 1 December 2021.