



UNIVERSITEIT VAN AMSTERDAM

**Ombudsperson**

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## **Procedural frameworks for the acting ombudsperson**

Date  
16 December 2019

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## **1. Framework**

This framework describes the procedures to be followed by the acting (interim) ombudsperson. It does not constitute an official set of regulations: this will be developed 'on the job' over the course of the acting period and formulated in collaboration with legal specialists.

## **2. Vision of the ombudsperson's function**

On 2 July 2019, the Executive Board decided to appoint an acting ombudsperson who - in addition to the regular duties of an ombudsperson - will also be responsible for preparing a structured job profile and procedures for the permanent ombudsperson. These will subsequently come into force on 1 September 2020. The UvA considers the appointment of the ombudsperson to be a quality assurance instrument, which will contribute to the learning and self-cleansing capacity of our university community. The position does not constitute an extra institution on top of the regular reporting and complaints procedure, nor is it a replacement for the facilities in place to handle individual cases. The ombudsperson is an independent officer who can serve as an intermediary between parties, to clearly identify ineffective patterns within the UvA's organisational culture in relation to social safety. The acting ombudsperson will help to boost trust within the academic community concerning the issue of social safety.

The acting ombudsperson will be independent, will be able to conduct cultural investigations and will provide advice and recommendations concerning structural problems and misconduct within the university, all of which will add considerable value to social safety at the UvA. Issues involving friction between two individuals will be particularly well suited to mediation by the acting ombudsperson. In contrast to the complaints helpdesks, the acting ombudsperson must operate very visibly. Furthermore, the acting ombudsperson can provide mediation before issues spiral out of control. The acting ombudsperson can draw staff members' attention to the culture, moral compass and exemplary behaviour within the organisation (although this is not unique to the acting ombudsperson) or to dependencies and master-apprentice relationships within the organisation that could jeopardise diversity and social safety. The acting ombudsperson is emphatically not an extra 'appeal court' on top of the regular complaints system.

The acting ombudsperson serves as a neutral intermediary and does not primarily represent the interests of one of the parties or serve as a referee. The acting ombudsperson can be called on to answer questions or resolve issues, dilemmas or conflicts relating to work or studies without the need to fill in forms. The acting ombudsperson's main focus is to seek any possible opportunities to resolve the problem at hand. If an investigation is conducted into the situation, the acting ombudsperson will compile a report and possibly issue recommendations. The ombudsperson cannot issue any binding decisions.

### 3. Positioning and duties

#### *Position:*

- The acting ombudsperson will work independently and is authorised to initiate investigations. Everybody is obliged to answer any questions set by the acting ombudsperson within a reasonable term of two weeks.
- The acting ombudsperson's independent position as an autonomous unit does not mean that he/she will work alone: it is of utmost importance that the acting ombudsperson is part of a network of staff members dedicated to establishing a safe work and study environment. The acting ombudsperson will conduct his/her duties in conjunction with the university's internal network of confidential advisers, staff welfare officers, study advisers, occupational physicians, student deans, student doctors, student psychologists, HR staff and P&O staff. Whenever necessary, he/she will facilitate coordination and cooperation to identify and carefully discuss warning signs and patterns, and to initiate an investigation if there are grounds to do so.
- The acting ombudsperson will advise and answer to the Executive Board. The acting ombudsperson is bound by a professional duty of confidentiality and carries out his/her duties in an independent manner. The acting ombudsperson conducts his/her duties in compliance with the General Data Protection Regulation (GDPR).
- The acting ombudsperson operates in a visible manner and raises issues concerning interpersonal conduct.
- The acting ombudsperson occupies an independent position within the UvA. However, this independence does not make him/her immune from being the subject of a complaint or from disputes with the UvA concerning his/her role (in the UvA's capacity as employer/client)

#### *Tasks*

##### **Ombudsperson duties for individual students/staff or groups of students/staff**

1. To advise staff and students, individually or in groups, on a stated question, dilemma or conflict.
2. To serve as a facilitator and moderator of discussion.
3. To facilitate and re-open dialogue between parties within the organisational structures designated for that purpose, potentially by providing mediation.
4. To conduct any necessary investigations (culture and behaviour).
5. To adequately escalate and de-escalate to the proper authorities, primarily within the UvA itself, but to external authorities when called for.

##### **UvA-wide duties**

1. To explore and describe the behavioural culture, to encourage open discussion of this culture and to take action to improve it.
2. To identify and report any systemic shortcomings in regulations or organisational structure.
3. To advise the Executive Board and the managers who are in a position to take action in response to the reported issue.
4. To publish and report on observations and findings via public media.
5. To draft a public annual report.

## **4. Detailed description of the ombudsperson's duties**

### ***Foreword***

Individual students and staff with a question, issue or problem can turn to a study adviser, an academic student counsellor, a student counsellor or the confidential adviser on undesirable conduct/individual legal status. The acting ombudsperson focuses on issues that go beyond the individual level and/or which may involve a pattern or structural misconduct within the UvA or one of its individual units. The acting ombudsperson therefore does not constitute an extra institution on top of the regular reporting and complaints procedure, nor is it a replacement for the facilities in place to handle individual cases.

### ***Duty 1: Providing advice to individuals and groups***

Giving advice to individuals and groups about the paths available to them. If giving advice to an individual, the acting ombudsperson will mostly give information about relevant laws and procedures and inform the student or staff member of their rights, responsibilities and available opportunities to solve the problem. Any advice provided does not require further monitoring. The acting ombudsperson will often be involved in the event of recurring issues or negative behavioural patterns that require an alternative strategy, new policy or more extensive investigation. In such cases, further monitoring of the situation is indeed required.

### ***Duty 2: Facilitating and moderating discussion***

In situations of potential or actual conflict, the acting ombudsperson can serve as a mediator, with the goal of moderating the discussion, bringing the parties together and finding a solution to the problem. This type of conversation can help to de-escalate conflicts and prevent legal action from being required. In this regard, the acting ombudsperson will act as a neutral party.

### ***Duty 3: Mediator***

The acting ombudsperson may also be asked to mediate in the event of conflicts, facilitating negotiations between the parties involved in a neutral manner to achieve mutually satisfactory and optimal results based on the needs of all parties involved. The role of mediator is similar to the role of discussion facilitator and moderator, although the mediator role requires a more formal procedure based on voluntary participation, in which both parties must be willing to commit to the process and respect the outcome. At the end of the mediation process, the results achieved are drawn up into an agreement with which all parties must comply. This serves as a type of 'mini-mediation': the acting ombudsperson can also propose engaging an external mediator if necessary.

### ***Duty 4: Researcher***

The acting ombudsperson may be asked to initiate an investigation or may initiate an investigation on his/her own initiative, such as in the event of a series of warning signs reported to and/or complaints received by the acting ombudsperson or other actors within the network. Investigations will conclude with the formulation of a report containing any findings and recommendations, which is usually presented to the party who reported the incident/complaint and the Executive Board. If the investigation results necessitate a decision-making process, the results will first be presented to the Executive Board. In consultation with the Executive Board, it will then be decided who will be authorised to access the results. In most cases, this will be the party bearing final responsibility for a particular unit or faculty (director/dean) and the party who reported the incident/complaint.

### ***Duty 5: Referral***

Students or staff members who wish to ask a question or report an issue, incident or problem are often not fully aware of the correct procedure or may have incorrect expectations of the UvA bodies they are reporting on. In such cases, the acting ombudsperson will use his/her knowledge and skills to inform the student or staff member as best they can and to refer them to the designated staff member or body. The above UvA-wide duties (1-5) are self-explanatory and further details or explanation thereof will not be included in this document.

## **5. Powers of the acting ombudsperson**

The acting ombudsperson will be authorised to perform the following actions:

### ***Providing solicited and unsolicited advice***

Based on a report of an issue/complaint or an investigation into an issue/complaint, the acting ombudsperson can issue advice applicable to individuals, groups, faculties, units or the entire university. Compliance with recommendations issued to the Executive Board is not mandatory in certain circumstances, such as when it is contrary to specific UvA policy. However, the Executive Board must always provide a written response to any recommendations provided by the acting ombudsperson, clearly specifying whether the Executive Board will be taking action in response to the recommendations, and if so, what actions they will be taking. The acting ombudsperson is free to contact the Executive Board in the event of any problems or complaints regarding the manner in which the recommendations are being implemented within the faculties and units.

### ***Asking questions and requesting information***

The acting ombudsperson is authorised to request information (or to request access to documents relating to a specific case). He/she is authorised to provide information relating to specific cases to others and to make verbal or written statements pertaining to such cases, although naturally, confidentiality must be respected. These powers include access to all rooms, the right to consult with staff members and examinations boards at the UvA, the right to call meetings, and the right to conduct and publish surveys of students and/or staff. All parties are obliged to respond to any questions asked by the acting ombudsperson within a reasonable period (two weeks) and must not hinder the acting ombudsperson during the process of information gathering.

### ***Conducting investigations***

The acting ombudsperson is authorised to conduct investigations independently or to engage other parties to do so. All bodies or staff members are obliged to provide the requested information and grant access to any requested documents within a reasonable period. In this capacity, the acting ombudsperson acts independently and is authorised to request access and/or information from any department within the university. In the event that any information and/or documents requested are - for compelling reasons - considered confidential, the employer and staff members will indicate that said information and/or documents may only be provided on the condition that the acting ombudsperson will strictly observe the confidentiality of the information and/or documents. Based on the conclusions he/she reaches, the acting ombudsperson will attempt to facilitate a solution within the existing power and responsibility structure, such as via advice, recommendations or mediation.