

Regulation Ombudsperson

Wageningen University & Research

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Introduction

It was agreed by the parties to the CAO Dutch Universities 2020 ("CAO NU") that an ombuds function be established at all universities involved in the CAO NU. The VSNU and the employee organisations have reached agreements on the appointment of the university ombuds function within the various universities. This assumed uniformity in the approach, partly because of the national attention from politics and the media. A National Framework (**Appendix A**) has been established for the establishment of the ombuds function. This National Framework is the starting point for the set-up of the ombuds function within Wageningen University & Research ("WUR").

WUR's principles on acting with integrity are anchored in the Integrity Code of WUR. The Executive Board of WUR considers it self-evident that within WUR, all persons working or studying here directly or indirectly, such as employees, PhD students (appointed or non-appointed), students do their work or study in an inspiring and safe working environment.

In a safe working and study environment, there is room to speak out when things are not going well and to raise problems, dilemmas or conflicts with the aim of achieving a solution for them. Primary responsibility for resolving such situations lies with the managers in the broad sense of the word. For situations in which the supervisor cannot offer a solution, WUR has an extensive help structure in which various actors, such as confidential counsellors, deans, student welfare, PhD advisors, company social work, the Occupational Health and Safety Service and HR contribute to promoting a safe working and study environment, in the broad sense of the word. In addition, various complaint, objection and appeal procedures are in place that employees and students can use if they have a complaint about, for instance, their (legal) position or if there is a situation of undesirable behaviour. The ombuds function is an instrument that contributes to a safer working and study climate, complementing the existing help structure. The ombudsperson works independently, impartially and confidentially, can investigate and advise (solicited and unsolicited) on structural problems and abuses on the work and study floor.

The purpose of the ombudsperson for staff and students is to identify and advise on larger trends in social safety from an independent and authoritative position. The ombudsperson keeps an eye on individual cases, but does not handle legal status issues, (individual) issues that have already been dealt with and cases explicitly invested in a specific committee.

The introduction of the ombudsperson aims to create a low-threshold facility for (groups of) employees and (groups of) students for a problem that arises on the work or study floor and that may lead to a question, dilemma or conflict, in order to provide an appropriate opportunity for independent and impartial advice, mediation, referral within the help structure or investigation. It concerns situations in which an employee or student experiences incorrect or unfair treatment - in their eyes - by persons or bodies of Wageningen University & Research.

The ombudsperson can support (groups of) employees and (groups of) students in analysing and solving questions, dilemmas or conflicts related to work or study, at a time when consultation on these matters stagnates or is blocked within the existing organisation. The ombudsperson is not an additional body to the existing complaint, objection and appeal possibilities, or a substitute for the actors who focus on individual cases, but is an independent party who can mediate between parties and who can expose ineffective patterns in the culture of (parts of) the organisation with regard to social safety. When it comes to the mediating role of the ombudsperson, this means that the ombudsperson can act as an independent moderator with the aim of clarifying problems, or mediating in one or two conversations to bring parties back into conversation. If appropriate, the ombudsperson can also point out the possibility of mediation and refer parties to it.

To fulfil this role, the ombudsperson has the authority to gather information and conduct investigations (or have them conducted) and to give advice based on these. Also, the ombudsperson can act as a mediator before issues become unmanageable. The ombudsperson can also refer to the appropriate body within the assistance structure and point out and advise on the correct procedure. As a rule, the referral will be to the actors in the assistance structure designated for individual casework, or to the existing complaint, objection and appeal committees. The ombudsperson does not take over the role and function of existing actors and committees in the assistance structure, but the ombudsperson may, when a report or a number of reports are made about a certain situation, decide on his/her own initiative to start an investigation.

The ombudsperson is not an arbitrator or primary advocate for either party. The ombudsperson can be approached for questions, dilemmas or conflicts concerning work and study, without any formalities being required. The ombudsperson always aims to find out whether there are possibilities to solve issues. If there is an investigation, the ombudsperson will draw up a report on this, whether or not accompanied by recommendations. The ombudsperson cannot make binding statements.

Based on the National Framework, these regulations describe the duties and powers of the ombudsperson, including the authoritative and independent position, at Wageningen University & Research.

An external evaluation of the ombuds function within WUR was carried out before the summer in 2023. The recommendations resulting from this evaluation were elaborated and led to some adjustments in these regulations. The regulation was adopted by the Executive Board on 18 June 2024 with the agreement of the COR and SC and after coordination with the Local Consultation Committee.

Article 1 - Definitions

In these regulations, the following definitions apply:

- a. *Organisation*: Wageningen University & Research, i.e. Wageningen University and Wageningen Research (Foundation and operating companies), "WUR".
- b. *Executive Board*: Executive Board of Wageningen University and the Executive Board of the Wageningen Research Foundation.
- c. *Employee(s), PhD and student(s) etc.*:
 - Employees are defined as all persons performing work within the organisation with or without employment;
 - PhD students are defined as all PhD students with or without employment with the organisation.
 - Students means all persons studying with the organisation.
 - Employees/promoters/students also include former employees/promoters/students who, at the time they make a report to the ombudsperson, have not left the organisation for more than a year prior.
 - Where it speaks of employee/work environment, it also means student/study environment.
 - References to person also include employee/promoter/student.
- d. *Ombudsperson*: the independent officer appointed by the Executive Board as described in these regulations;
- e. *Report*: a report about behaviour in the field of social safety and/or undesirable behaviour. In this context, conduct is understood to mean both an act and an omission. A report may concern an organisational unit, a department or a person or group of persons.
- f. *Management Board*: the board of a science group, Managing Director and Director Operations or the Director of an organisational unit.

Article 2 - Ombudsperson

1. There is an ombudsperson within Wageningen University & Research for employees and students.
2. The ombudsperson is appointed by the Executive Board for a period of 3 years. The appointment may be renewed once for another period of 3 years.
3. Prior to the appointment of the ombudsperson, the employee participation body and the Local Consultative Body will be given the opportunity to get acquainted with the intended candidate for the position and, based on that acquaintance, to advise the Executive Board on the appointment. This advice will be taken into account by the Executive Board in its decision on the appointment.
4. The ombudsperson shall be independent and impartial in the performance of their duties and shall not be subordinate to any body. The position of ombudsperson is incompatible with any other position within and with any other activity on behalf of Wageningen University & Research.
5. The ombudsperson deals with reports from (groups of) employees and students and advises on larger trends in the field of social safety. The ombudsperson focuses on individual cases, but does not deal with legal status issues, (individual) reports that have already been dealt with and cases that are explicitly assigned to a specific committee. The ombudsperson does take action if a pattern is involved. The function is complementary to the existing help structure and should not duplicate the roles of other actors in the help structure, such as confidential advisers, or committees.
6. The ombudsperson is provided with the resources necessary for the proper performance of the function such as an available room that ensures confidentiality and anonymity, an adequate investigation budget and necessary ICT facilities (including a secure ICT system for registering reports).

7. The Executive Board and the ombudsperson have an annual meeting in which the work of the ombudsperson is discussed and evaluated. The Local Meeting and the employee participation body inform the Executive Board of their findings prior to this meeting. The ombudsperson meets once a year with a delegation of the Supervisory Board.
8. The ombudsperson may be removed from the position in the interim by the Executive Board at their own request or if their actions or omissions cause serious damage to the trust to be placed in the ombudsperson.
9. The Executive Board, after notifying the Local Consultation Committee and the employee participation body, appoints a deputy to the ombudsperson if the ombudsperson is expected to be unable to perform their duties for more than six weeks.
10. The deputy of the ombudsperson takes office at a time to be determined by the Executive Board. The deputy of the ombudsperson shall remain in office until the ombudsperson resumes their duties or a new ombudsperson takes office.
11. The Executive Board shall ensure that the ombudsperson is not disadvantaged in the position by virtue of their performance.
12. Complaints about the ombudsperson can be submitted to the Executive Board. If not resolved satisfactorily, they may be reported to the Supervisory Board. The ombudsperson is indemnified against costs for legal assistance in case of a dispute or complaint against the ombudsperson.
13. The ombudsperson advises and is accountable to the Executive Board of Wageningen University & Research. The ombudsperson is bound by professional secrecy and is independent in the performance of his/her duties. The ombudsperson performs their functions within the framework of the General Data Protection Regulation (AVG).

Article 3 - Duties and powers ombudsperson

1. The ombudsperson has the following duties:
 - Identifying trends and patterns in the area of social safety and undesirable behaviour, as well as systematic shortcomings in regulations or organisational implementation thereof;
 - advising the Supervisory Board, Executive Board, Management Board and managers who are in a position to act in response to structural bottlenecks, an identified pattern, trend or systematic deficiency;
 - adequately referring or referring back to the appropriate bodies, such as the confidential advisor or complaints committee, primarily within WUR, but where necessary outside;
 - Conducting or commissioning research (of its own accord or otherwise) and making recommendations based on this;
 - acting as an independent facilitator of discussions with the aim of clarifying issues;
 - mediating in a few conversations with the aim of bringing the parties back into dialogue within appropriate organisational structures. Where necessary, the ombudsperson may advise the use of an (external) mediator. The ombudsperson does not act as mediator himself;
 - publishing and reporting on observations and findings;
 - preparing an annual (public) report.
2. The ombudsperson does not perform any policy or operational tasks within the WUR organisation, other than those mentioned in these regulations.

Article 4 - Notification

1. Any employee and/or student can make an appointment with the ombudsperson for a report or mediation.
2. A report can relate to social insecurity and the way in which the organisation or a person within the organisation has behaved undesirably towards the reporter in a particular matter. A report is free of form.
3. A report cannot be submitted anonymously. If requested by the reporter, the report will continue to be dealt with anonymously by the ombudsperson. The reason(s) for, a report and/or mediation will be described anonymously in the reports.
4. The ombudsperson is independent and has no client. This means that it is up to the ombudsperson to decide whether a report can be dealt with. In any case, the ombudsperson will not be able to take up / investigate a report:
 - a. if the report concerns conduct about which the reporter has previously made a report or against which a dispute, complaint, objection or appeal procedure is available and the reporter uses or has used that procedure. In that case, the reporter reports this immediately;
 - b. if such report relates to conduct that is, or has been, subject to the judgment of a court by the institution of proceedings,
 - c. while a criminal investigation on the basis of a public prosecutor's order or a prosecution is ongoing in respect of a report, or if the conduct forms part of the investigation or prosecution of a criminal offence and a criminal investigation on the basis of a public prosecutor's order or a prosecution is ongoing in respect of that offence,
 - d. the petitioner's interest or the interest involved in the report is manifestly insufficient in the opinion of the ombudsperson.
 - e. in the opinion of the ombudsperson, the report is not sufficiently justified.
5. Should the reporter fail to report that a situation under paragraph 4(a) of this article exists and the ombudsperson learns after processing the report that such a situation exists, the ombudsperson will discontinue the investigation or relinquish their duties to the extent that they had already started doing so.
6. The ombudsperson may also launch an investigation on their own initiative, for example on the basis of a collection of signals or reports received by the ombudsperson, or other actors within the aid structure.

Article 5 - Consultation

Following a report, the ombudsperson will have a confidential consult with the reporter to determine the appropriate follow-up steps in the specific situation. The ombudsperson can advise the reporter on how to deal with the report in order to find a solution on their own. The ombudsperson can act as a facilitator or mediator. The ombudsperson is not a mediator and will - if there is reason for mediation - refer to an external mediator.

Article 6 - The investigation of the report

1. If a facilitation interview/mediation is not considered useful, or an attempt to do so has not led to a solution to the situation, the ombudsperson will give the organisation or the person whose conduct the report refers to and the reporter the opportunity to explain their point of view in writing or orally, whether in each other's presence or not - at the ombudsperson's discretion.

2. The ombudsperson may, if deemed necessary to assess the report, also give others (informants, witnesses) the opportunity to take note of the report and make oral or written statements about it.
If the investigation concerns a structural issue, the ombudsperson informs the Executive Board of the start of the investigation. If the investigation concerns an individual issue, the ombudsperson informs the Management Board of the unit concerned. When the report of an individual issue concerns the Management Board ~~or a member of the management of a unit~~ the ombudsperson informs the Executive Board. If the report concerns a member of the Executive Board, the ombudsperson informs the Supervisory Board.
3. The ombudsperson is authorised to request information from (administrative) bodies and officials within the organisation, to gain access to necessary ICT systems or to request and inspect documents (including relevant information from the personnel file) concerning a matter to which a report relates.
4. Bodies and officials within the organisation are obliged to provide the statements requested in the third paragraph and information and/or documents referred to in the fourth paragraph within the reasonable time indicated by the ombudsperson.
5. The ombudsperson shall inform the persons involved in reports of the information they have obtained.
6. Bodies and officials may indicate that information and/or documents, about which they deem confidentiality necessary for legal or judicial reasons, will be provided only on condition that its confidentiality is maintained by the ombudsperson.
7. The ombudsperson shall communicate their preliminary findings in writing to the reporter and to the person to whom the report relates, as part of the adversarial process, before closing the investigation, and shall give them the opportunity to respond to it in writing within a reasonable period of time to be specified by the ombudsperson.
8. Before concluding the investigation, the ombudsperson - within the framework of hearing both sides of the argument - communicates the preliminary findings in writing to the reporter and to the person (organisational unit, department, person) to whom the report relates, and gives them the opportunity to respond within a reasonable period to be indicated by the ombudsperson.
9. If the ombudsperson has the investigation conducted by an external party, the previous paragraphs 1 to 8 apply to the external party as if the external party were the ombudsperson. The external party will issue their findings in a report, as indicated in article 7 paragraphs 1 to 3, and will also share this report with the ombudsperson so that the ombudsperson can include it in the annual report and assess whether the measures taken achieve the intended effect (art. 7.8).

Article 7 - The findings

1. The ombudsperson's report, in which they give their opinion, contains the considerations on which this opinion is based and is sent - anonymised or not at the request of the reporter - to the reporter, the Management Board or the Executive Board and the person to whom the report relates.
2. When the investigation concerns the Executive Board or its members themselves, the ombudsperson reports directly to the Supervisory Board.
3. The ombudsperson may make such recommendations in the report as they deem appropriate. These recommendations may relate to the specific conduct, about which the complaint was filed, or to more general aspects that emerged during the investigation.

4. Within one month of receiving the report, the Management Board or the Executive Board will inform the ombudsperson in a substantiated manner whether and, if so, how the recommendations have been or will be acted upon. Recommendations need not be implemented if they are contrary to general policy for compelling reasons. The ombudsperson immediately informs the reporter and the person to whom the report refers in writing.
5. The ombudsperson's findings and recommendations are not binding, but also not free of obligation. In case of weighty interests, the Management Board or the Executive Board can decide to deviate from the ombudsperson's opinion or to not adopt the recommendations. The Management Board or the Executive Board will motivate this decision in writing. The ombudsperson will send a copy of this decision to the reporter and to the person to whom the report relates.
6. If the Management Board or the Executive Board deviates from the findings and/or recommendations of the ombudsperson, the ombudsperson can submit their opinion to the Executive Board (if the Management Board deviates from the findings/recommendations) or the Supervisory Board (if the Executive Board deviates from the findings/recommendations), to which the Executive Board or the Supervisory Board respectively will respond.
7. The ombudsperson sends a copy of this to the reporter and to the person to whom the report refers.
8. The findings (assessments and recommendations) of the ombudsperson are not subject to objection or appeal.
9. The Ombudsperson shall provide a copy of the report to the director of HR.
10. Six months after the measures are taken by the Management Board or the Executive Board (paragraph 4), the ombudsperson, based on contact with the reporter and any other persons involved, determines whether the measures have had the intended effect. If warranted, this assessment can be made in a report to the Management Board or the Executive Board. The effect of the measures is reported (anonymously) in the annual report.

Article 8 - Own-initiative investigations

In the event of an investigation on the ombudsperson's own initiative as referred to in Article 4(6), Articles 6, 7 and 12 shall apply mutatis mutandis to the extent possible.

Article 9 - Annual report

The ombudsperson submits an annual report of their activities to the Executive Board, the Local Consultation Committee, the employee participation body and the Supervisory Board. The report shall in any case include the number of reports (broken down in numbers of reports handled versus not handled) and an anonymised summary of the cases handled. Any description of the cases handled is such that the privacy of the employees or students concerned is fully protected. The annual report also shows whether investigations took place at the initiative of the ombudsperson. The annual report will also indicate whether the measures taken following the recommendation of the ombudsperson have had the intended effect.

Article 10 - Confidentiality

The ombudsperson is obliged to keep secret anything that has come to their knowledge while performing their duties, insofar as this follows from the nature of the case. This duty also

applies to all persons working for the ombudsperson and to that person who are (have been) involved in a specific case. The ombudsperson can be relieved of their duty of confidentiality if the safety of staff, students and the ombudsperson is threatened.

Article 11 - Archiving

The data held with the ombudsperson are kept or stored in accordance with the General Data Protection Regulation (GDPR) and the Archives Act.

Article 12 - Protection

Persons involved who have contacted the ombudsperson in good faith, in accordance with the provisions of the ombudsperson regulations, or who have filed a report, will not be disadvantaged in any way in their position, insofar as this disadvantage would only be the result of contacting or filing a report with the ombudsperson. Employees who cooperate in investigations - for example by making information available - are also protected and may not suffer any adverse effects their cooperation in the investigation.

Article 13 - Citation and entry into force

These regulations shall be referred to as "Regulations Ombuds Function WUR" and were adopted by Executive Board resolution dated 12 July 2021 and entered into force on 1 July 2021.

These regulations were amended by resolution of the Executive Board dated 18 June 2024 amended and took effect from 1 July 2024.