

Regulations concerning the UvA's Ombudsman 2021

Adopted by decision no. 2021- 057346 of the Executive Board of October 12, 2021

Article 1 Definitions

In these regulations, the following terms have the following meanings:

Ombudsman	The independent official appointed by the Executive Board as described in these Regulations.
(Former) employee	A person who performs or has performed work for the University of Amsterdam, whether or not in the context of employment with the UvA and whether or not in an employer-employee relationship with the UvA, including trainees and guest lecturers/researchers.
(Former) student	A person who is or was enrolled at the University of Amsterdam for his or her studies, a degree programme or course, a contract student, an external candidate, a postgraduate Master's student and anyone who makes use of the educational facilities offered by the University of Amsterdam on any other lawful basis.
Report	A report concerning a circumstance, question, matter, dilemma or conflict, in particular with regard to, but not limited to, the safety (or lack thereof) of the working and studying climate.
Informant	The person making a report pursuant to Article 4(1) of these Regulations.
Undesirable behaviour	Any behaviour that causes stress to the person on the receiving end of it because it jeopardises or damages their physical or emotional integrity. This may include, but is not limited to, physical or verbal aggression, sexual harassment or other forms of intimidation, discrimination and exclusion, bullying and academic sabotage, as defined in the Code of Conduct of the University of Amsterdam.
Central Works Council	The Central Works Council of the University of Amsterdam.
Central Student Council	The Central Student Council of the University of Amsterdam.

Article 2 Position of the ombudsman

1. The ombudsman is appointed by the Executive Board, after hearing the Central Works Council and the Central Student Council, for a term of four years and can be reappointed twice for a term of the same length.
2. The position of ombudsman is incompatible with any other position at and any other activity in the service of the University of Amsterdam.

3. The ombudsman performs his or her duties impartially and independently and is not subordinate to any body in the performance of his or her duties.
4. The Executive Board ensures that the ombudsman does not suffer any adverse effects as a result of his duties.
5. The Executive Board provides the ombudsman with the resources required for the proper performance of his or her duties.
6. The Executive Board may discharge the ombudsman of his or her duties before the end of his or her term at his or her own request, or if any action or lack thereof on the part of the ombudsman leads to a serious undermining of trust in him or her.
7. Each year, the Executive Board and the ombudsman have a meeting in which the activities of the ombudsman are discussed and evaluated. The Works Council and the Central Student Council inform the Executive Board of their findings prior to this meeting.

Article 3 Duties of the ombudsman

1. The ombudsman ensures proper handling of oral and written reports. The ombudsman makes decisions according to generally accepted standards of reasonableness and fairness.
2. The ombudsman is responsible for advising, mediating, investigating, making decisions and/or making referrals.
3. The ombudsman holds biannual consultations with relevant players in the field of social safety for the purpose of identifying developments and patterns in the field of social safety within the organisation.
4. The ombudsman identifies developments within the organisation, reports these to the Executive Board, the dean of the relevant faculty or faculties and/or the Secretary General of the University of Amsterdam and makes recommendations.
5. The ombudsman provides solicited and unsolicited advice.
6. The ombudsman may submit a report to the Executive Board if the provision of information, advice, mediation or investigation does not lead to the identified problems being addressed. If this is the case, the ombudsman will report it immediately to the person(s) involved before proceeding.
7. The ombudsman is responsible for the adequate registration and filing of reports.

Article 4 Report

1. Every (former) employee or (former) student has the right to make a report to the ombudsman.
2. The report can be made either verbally or in writing, in Dutch or English.
3. When making a report, the informant must in any case provide their name and contact details and a description of the relevant behaviour and/or circumstances to which the report pertains.
4. When handling the report, the name of the informant will not be disclosed by the ombudsman unless the informant has consented to this. The ombudsman must consider the interests of the informant and of the accused person(s) in this regard.
5. In the event that a dispute, complaint, objection or appeal procedure or other procedure is available, and if the informant makes use of it or has used it, the informant is obliged to inform the ombudsman of this immediately.
6. The ombudsman confirms receipt of a report in writing within seven days.

Article 5 Admissibility of the report

1. In principle, the ombudsman is not obliged to handle a report if:

- a. more than three years have elapsed since the incident in question at the time a report of undesirable behaviour is made, unless there are serious reasons to handle the report, all at the discretion of the ombudsman;
 - b. more than one year has elapsed since the incident in question at the time any other kind of report is made, unless there are serious reasons to handle the report, all at the discretion of the ombudsman;
 - c. a dispute, complaint, objection or appeal procedure or other procedure is available with regard to the report, and the informant makes use of it or has used it;
 - d. in the opinion of the ombudsman, the interest of the informant or the importance of the incident mentioned in the report is manifestly insufficient;
 - e. in the opinion of the ombudsman, the report is insufficiently justified;
 - f. the ombudsman has already handled or dealt with the report;
 - g. the incident mentioned in the report is covered by the general policy of the University of Amsterdam, is a legal status issue or is covered by the application of the Collective Labour Agreement or other regulations.
2. In the event that the ombudsman decides not to handle the report pursuant to paragraph 1, he or she must notify the informant in writing within 14 days of receipt of the report, giving reasons. If the report is not handled because one of the procedures specified in paragraph 1 under c. is available, the ombudsman will refer the informant to the competent authority.

Article 6 Handling the report

1. If the ombudsman decides that the report is admissible, the person mentioned in the report or the relevant organisational unit and the informant will in principle be given the opportunity to give or explain their position, whether in writing or verbally and whether or not in each other's presence, all at the discretion of the ombudsman.
2. If the ombudsman considers this necessary for the purpose of assessing the report, he or she may inform others of the report and ask them to make written or oral statements about it, while ensuring strict confidentiality if necessary. The parties involved are obliged to comply with such a request within the time frame set by the ombudsman.
3. With due observance of paragraph 2, the ombudsman ensures that written positions as referred to in paragraph 1 or written statements as referred to in paragraph 2 are sent to the informant as soon as possible after receipt. With regard to oral positions as referred to in paragraph 1 or oral statements as referred to in paragraph 2, the ombudsman writes a report and shares it with both parties, with due observance of paragraph 2.

Article 7 Information

1. The ombudsman is authorised to request information from all parties at the University of Amsterdam, as well as to request and inspect documents relating to the investigation.
2. The persons involved are obliged to comply with relevant requests, which are made via the supervisor, within the time frame set by the ombudsman. The ombudsman will contact persons directly for information and/or documents if the investigation or the requested information relates to the supervisor of the relevant informer. Such persons are not authorised to provide information and/or documents subject to a duty of confidentiality. Supervisors may determine that information and/or documents that are, in their opinion, subject to a duty of confidentiality for serious reasons may only be provided on the condition that the ombudsman upholds their confidential nature.
3. Access to personal data is only possible with the written consent of the person involved.

Article 8 Engaging experts

1. The ombudsman is authorised to engage experts if he or she considers this necessary for the purpose of the investigation.

Article 9 Reporting

1. To close the report, the ombudsman prepares a report reflecting his or her findings, opinions and any recommendations, including those relating to follow-up, unless the situation to which the report relates has been resolved to the satisfaction of all parties after the making of the report.
2. In any event, the ombudsman sends the report to the informant, the person mentioned in the report and/or the relevant organisational unit and provides an anonymised copy to the Executive Board, the dean of the faculty(s) concerned or the Secretary General of the University of Amsterdam.
3. In the event that the report contains one or more recommendations, the organisational unit concerned or the person involved will inform the ombudsman within four weeks of receipt of the report whether the recommendations will be followed up and, if so, in what manner. If a recommendation is not followed up, this must be substantiated.

Article 10 Confidentiality

Without prejudice to the provisions in these Regulations, the ombudsman has a duty of confidentiality in respect of any information that comes to his or her knowledge during the performance of his or her duties, insofar as relevant to the nature of the case. This duty also applies to all persons working for him or her. All persons involved in the investigation have a duty of confidentiality in respect of any information that comes to their knowledge as a result of their involvement. The duty of confidentiality does not apply if statutory provisions prescribe an obligation to report or the publication of the case for any other reason.

Article 11 Annual report

The ombudsman draws up an annual report of his or her activities. The report must in any case specify the number of cases dealt with, an anonymised summary thereof and a further analysis of developments within the organisation. The ombudsman must in any case send the report to the Executive Board, the deans, the Secretary General of the University of Amsterdam, the Works Council and the Central Student Council. The Executive Board ensures that the report is subsequently made public.

Article 12 Objection or appeal

No objection or appeal may be lodged against a decision of the ombudsman in the context of the handling of a report as referred to in Article 4.

Article 13 Amendments and effective date

1. These Regulations may be amended or withdrawn by the Executive Board with the consent of the Central Works Council and the Central Student Council.
2. These Regulations enter into force on November 1, 2021.

Regulations concerning the UvA's Ombudsman 2021 – explanatory notes

General

These Regulations are based on the document 'Embedding of the ombudsman within the University of Amsterdam, including a description of the recruitment procedure' (March 2021) and the National Framework for Performing the Role of University Ombudsman (October 2020), as adopted by the Association of Universities in the Netherlands (VSNU). In addition, the recommendations in the report 'Social safety needs encouragement: a study into the system of social safety at the University of Amsterdam' by the External Committee on Social Safety (October 2020) and in the final report 'Breaking the silence: social safety at the University of Amsterdam' by the Social Safety Task Force of the University of Amsterdam (February 2021) have been taken into account.

The creation of the position of ombudsman is an important contribution to the UvA's social safety system. The ombudsman has a key position and performs important duties as an intermediary between the confidential advisers and the Complaints Committee(s).

The Regulations describe the position and duties of the ombudsman. They also indicate who can contact the ombudsman, for which types of situations the ombudsman is intended in particular, the ombudsman's powers, the process of handling reports and the ombudsman's reporting duties.

Article 1

A current or former student is understood to mean a person who is or was enrolled at the University of Amsterdam for his or her studies, a degree programme or course, a contract student, an external candidate, a postgraduate Master's student and anyone who makes use of the educational facilities offered by the University of Amsterdam on any other lawful basis.

A current or former employee is understood to mean a person who performs or has performed work for the University of Amsterdam, whether or not in the context of employment with the UvA and whether or not in an employer-employee relationship with the UvA, including trainees and guest lecturers/researchers.

The term undesirable behaviour follows the definition set out by the UvA Code of Conduct.

Undesirable behaviour can also take place in the context of career development and may relate to so-called career obstruction.

Article 2

The ombudsman has an independent position within the UvA. Independence is essential for the performance of his or her duties. Therefore, the person holding the position cannot perform any other duties in addition to it and there is no hierarchical relationship between him or her and any body or person. The Executive Board must ensure that the ombudsman is not disadvantaged in his or her position due to his or her performance. This provides an additional guarantee that he or she can operate freely and independently within the organisation. The ombudsman's performance is closely related to the trust placed in him or her. The ombudsman may be expected to do nothing and refrain from doing anything that would cause serious damage to this trust. If the Executive

Board is of the opinion that this trust is/was seriously damaged, it may discharge the ombudsman from his or her position. Sufficient resources are made available to the ombudsman to perform his or her duties properly. In any event, these include financial resources, equipment and a workspace.

Article 3

The ombudsman may advise, mediate, investigate and make decisions. The ombudsman makes a referral to another body if this is more logical. The ombudsman also has an important role in identifying problems in the area of social safety, particularly with regard to structural patterns.

Article 4

Every current or former employee or current or former student has a right to make a report to the ombudsman. This can be done either verbally or in writing, in Dutch or English. During the handling of a report, the ombudsman may only decide to disclose the name of the informant, for example to the person against whom the informant has lodged a complaint, with the informant's consent. In doing so, the ombudsman must weigh the interests of the informant and of the accused person(s).

Article 5

In a number of cases, the ombudsman is not obliged to handle a report. Pursuant to the General Administrative Law Act, a limit has in principle been set for the period during which past behaviour can be reported to the ombudsman. In accordance with the General Administrative Law Act, a period of one year applies. In cases involving undesirable behaviour, this period is set at two years. The ombudsman may also decide to handle reports of behaviour in a more distant past if there are serious reasons for doing so. Particularly in the cases of intimidation (sexual or otherwise), it is reasonable to apply a longer period, all at the discretion of the ombudsman.

Article 6

This article contains a number of procedural rules and safeguards for the informant and the person(s) involved in the report. It will frequently be the case that the ombudsman is able to handle a report on the basis of one or more advisory interviews with the informant without further investigation within the organisation being required.

Article 7

In addition to hearing third parties, the ombudsman may request information from bodies, authorities and individuals within the UvA through the supervisor and request and inspect documents relating to the report under investigation. The persons involved are obliged to cooperate in this, with due observance of any duty of confidentiality. In connection with the required protection of privacy, personal data may only be inspected with the consent of the person involved.

Article 8

In order to form an opinion properly, the ombudsman may find it desirable to engage an expert's expertise.

Article 9

As a rule, any investigation by the ombudsman is concluded with a report. This article regulates to whom the report is made available. It also determines who receives an anonymised copy of the report, with a view to the fact that it is important to know which units are mentioned in reports and what the reports relate to. This will make structural patterns within the organisation visible.

Article 10

This article regulates the duty of confidentiality of the ombudsman and everyone who works for him or her.

Article 11

Each year, the ombudsman publishes a report of his or her work. In the preparation of the report, the ombudsman will also include the experiences of persons who have consulted the ombudsman. The report shall in any case be submitted to the Executive Board, the deans, the Secretary General of the University of Amsterdam, the Central Works Council and the Central Student Council. The report is published on the UvA website.

Article 12

Given the nature of the role and position of the ombudsman and in view of the General Administrative Law Act, no objection or appeal may be lodged against the ombudsman's decisions. If necessary, the informant may contact the National Ombudsman.