

## STATUTE ON THE POSITION OF OMBUDS OFFICER

### Article 1 – Definitions

1. The terms below have the stated meaning in this Statute:
  - a. **Employee:** a person who has, or has had, an employment contract with UM as defined in Article 1.1(g) of the Collective Labour Agreement of Dutch Universities.
  - b. **External Party:** a person who has, or has had, a work placement, secondment or hosting agreement with UM; or who is or has been registered at UM.
  - c. **Notifier:** the Staff Member, Student or External Party who makes a Report to the Ombuds Officer.
  - d. **Report:** a written request from a Notifier to the Ombuds Officer to investigate how a Body has behaved or failed to behave towards this Staff Member, Student, External Party or another person in a specific matter.
  - e. **Ombuds Officer:** the independent officer appointed by the Executive Board to conduct solicited and unsolicited investigations into the propriety of conduct by and against UM Staff Members, Students or External Parties.
  - f. **Body:** the Supervisory Council, the Executive Board, the Faculty Board, the dean of a faculty or a member responsible for a specific portfolio on the Faculty Board, the director of a department, faculty or interfaculty research institute, the University Council, Local Consultative Body, Staff Member, Student or External Party.
  - g. **Student:** Person who is enrolled or has been enrolled at Maastricht University for a study, programme or course, the contract student, extraneous, post-initial master's student and anyone who makes use of the educational facilities provided by Maastricht University on any other lawful basis.
2. Unless expressly stated otherwise or the context requires otherwise, if the definition in this article is stated in the singular, it includes the plural and vice versa.

### Article 2 – The position of Ombuds Officer

1. The Executive Board appoints the Ombuds Officer, after having obtained the advice of an Appointments Advisory Committee. The Appointments Advisory Committee is reinstated by the Executive Board for each appointment and consists of five members. Four of the members are affiliated with UM, of which one is a member of the staff section of the University Council, nominated by the staff section of the University Council, and one is a member of the Local Consultative Body, nominated by the Local Consultative Body. One member is not affiliated with UM. None of the members holds an administrative position.
2. The Ombuds Officer is appointed for a term of five years. After the expiry of a term of appointment, the Executive Board may reappoint the Ombuds Officer each time. Before a reappointment occurs, an advisory committee comprised as described in paragraph 1 will evaluate the performance of the position (see explanation). The advisory committee issues an opinion on the reappointment to the Executive Board. The Executive Board decides on the reappointment. This decision is accompanied by a statement of reasons. The aforementioned advisory committee evaluates the position of Ombuds Officer each year and reports its findings to the Executive Board.
3. The Ombuds Officer is independent, impartial in fulfilling their duties and not subordinate to any Body of the UM. Any doubts about trust, independence or impartiality must be reviewed by the committee appointed in paragraph 2 above.
4. The position of Ombuds Officer is incompatible with any other position at and with any other activity for UM.
5. If the Ombuds Officer holds a position outside Maastricht University, the Dutch Universities Sectoral Regulations on Work for Third Parties and the Maastricht University Implementation Regulations on Work for Third Parties apply in full.
6. The Executive Board provides the Ombuds Officer, at their request, with the resources, including secretarial support, reasonably required to properly perform their duties. This also includes the availability of resources for conducting investigations. The Ombuds Officer has an annual sum of €5,000 at their disposal to use for investigations if necessary. If this amount proves to be insufficient, the allocation of any additional budget will be submitted to the Executive Board for approval.
7. The Executive Board may suspend the Ombuds Officer if:
  - a. criminal proceedings have been brought against the Ombuds Officer

- b. the existence of urgent cause for dismissal is suspected
  - c. the existence of reasons for relieving the Ombuds Officer of their duties as mentioned in Article 2, paragraph 8 under c, d or f is suspected
  - d. if the Executive Board is of the opinion that the interests of the university require it.
8. The Executive Board may relieve the Ombuds Officer of their duties early if the Ombuds Officer:
- a. terminates the employment contract themselves subject to the notice period applicable to them
  - b. is considered permanently unfit to perform their duties because of illness or infirmity after consultation with the UM medical doctor
  - c. accepts or occupies a position or office that is incompatible with the position of Ombuds Officer and does not immediately resign from or terminate this position or office immediately on request of the Executive Board
  - d. seriously damages the trust placed in them through their acts or omissions
  - e. provides urgent cause for dismissal as referred to in Book 7, Article 678 of the Dutch Civil Code
  - f. provides a reasonable ground for dismissal as referred to in Book 7, Article 669(3) of the Dutch Civil Code and reassigning the Ombuds Officer to another suitable position within a reasonable period, with or without training, is impossible or inappropriate
  - g. reaches state pension age.
9. If the Ombuds Officer is relieved of their duties as Ombuds Officer or is temporarily or permanently unable to perform their duties because of other circumstances, the Executive Board will appoint a temporary replacement until the Ombuds Officer can or may resume their duties or the Executive Board has appointed a new Ombuds Officer. The Executive Board consults with the aforementioned committee in this regard.
10. A complaint about the Ombuds Officer can be submitted in writing to the Executive Board.

### **Article 3 – Meetings**

The Ombuds Officer and the Executive Board meet in person at least four times a year. During these meetings, the Ombuds Officer's report on the activities in the previous period and identification of any systematic shortcomings in regulations or problematic patterns in the organisation are always discussed. During one of these meetings, the Executive Board evaluates the performance of the position of Ombuds Officer with the Ombuds Officer.

### **Article 4 – Annual Report**

1. The Ombuds Officer submits a report of their activities to the Executive Board once a year. The report is objective in nature and contains at least the number of cases handled, an anonymous summary of those cases and the substantiated findings, identified trends and resultant recommendations made by the Ombuds Officer.
2. The Executive Board sends the report to the Supervisory Council, the University Council, the Local Consultative Body and the faculties and departments and ensures that it is published on the university's website. At the request of the bodies receiving the report, the Ombuds Officer may discuss the report with them.

### **Article 5 – Effective date**

1. The Executive Board of Maastricht University has adopted this statute after approval from the Local Consultative Body and the University Council.
2. This statute comes into effect on 7 February 2024

## **ARTICLE-BY-ARTICLE**

### **EXPLANATION Article 1**

#### *Paragraph 1(b)*

The word 'complaint' rather than the word 'Report' is used for a matter in connection with which the Ombuds Officer is contacted. Although a Report can be a complaint, it can also be something else. In fact, the Ombuds Officer can act even before there is a formal complaint. This also prevents a conflict with the mandate of a complaints committee, for example, where the word complaint is used in a formal sense.

The conduct of a body is understood to mean both an act and an omission, as well as treatment or behaviour.

#### *Paragraph 1(c)*

Although a Report can first be made orally, it must be put in writing by the staff member who wishes to make the Report before the Ombuds Officer will deal with it. This not only prevents miscommunication about the nature or content of the Report, but also complies with the duty to pass on information as described in Article 6, paragraph 4. A Report by email is considered to be a written Report.

### **Article 2**

#### *Paragraph 1*

The member of the Appointments Advisory Committee who is not affiliated with UM can be an Ombuds Officer from another university, for example. For the purposes of this Appointments Advisory Committee, an 'administrative position' means the position of member of the Supervisory Council, member of the Executive Board, member of a Faculty Board, secretary/director of a faculty, secretary of the Supervisory Council, office head or head of the Service Centre.

#### *Paragraph 2*

There is no maximum number of terms for which an Ombuds Officer can be appointed. This is expressed by the words 'each time'.

#### *Paragraph 3*

This is where the Ombuds Officer differs significantly from a Confidential Adviser who acts on behalf of a Notifier and thus does not occupy an independent and neutral position. The Ombuds Officer moreover focuses on personnel issues and advising, mediating and investigating these issues, while the Confidential Adviser mainly deals with inappropriate behaviour and focuses on assistance, guidance, advice and support.

#### *Paragraph 5*

The Ombuds Officer must hold no position outside UM that is undesirable in relation to properly performing their duties or to maintaining impartiality and independence or the trust in them. The Ombuds Officer must specify their work for third parties in accordance with the Dutch Universities Sectoral Regulations on Work for Third Parties and the UM Implementation Regulations on Work for Third Parties.

#### *Paragraph 6*

The Executive Board will provide the resources to the Ombuds Officer that are reasonably required to properly perform the position of Ombuds Officer. This may include financial resources, equipment and work space. Because an Ombuds Officer operates independently and each Ombuds Officer will have their own preferences, the resources to be used are not explicitly prescribed. The Ombuds Officer can instead submit a request to the Executive Board for the resources they reasonably require to perform their duties.

#### *Paragraph 7*

The Executive Board may suspend the Ombuds Officer only for a period determined in advance. This must be communicated to the Ombuds Officer in writing, always stating the reason for the suspension and the period.

#### *Paragraph 8*

This paragraph was based on the National Ombuds Officer Act (*Wet Nationale ombudsfunctionaris*). Such a provision is necessary both for the legal certainty of the Ombuds Officer and UM.

Subparagraph f is based on Book 7, Article 669(1) of the Dutch Civil Code and should be interpreted in line with this statutory provision. The reasonable period referred to in subparagraph f is detailed further in Article 10 of the Redundancy Scheme and amounts to one to four months, depending on the length of employment.

### **Article 3**

#### *Paragraph 1*

Although the Ombuds Officer operates independently, the position of Ombuds Officer is placed directly under the Executive Board in UM's formal hierarchy. The Executive Board ensures that the Ombuds Officer is not prejudiced in their position because of performing their assigned duties.

The Executive Board and the Ombuds Officer evaluate the performance of the position of Ombuds Officer. The fact that it is difficult for an Ombuds Officer to defend themselves or explain the results, partly because secrecy and confidentiality have been agreed with the Notifiers, is taken into account. The evaluation is therefore based on objective preconditions: swiftness of response, whether an annual report is issued, level of accessibility and visibility, how knowledge and skills are maintained, whether there is peer supervision, and whether the duties under this statute are fulfilled. This evaluation occurs at least every three years and before a reappointment.

Besides meeting with the Executive Board, the Ombuds Officer periodically consults with the HR Director and the Confidential Adviser and the Complaint Service Point. The Ombuds Officer is also free to consult with other HR staff or staff concerned with the wellbeing of Students if required.

### **Article 4**

#### *Paragraph 1*

The Ombuds Officer anonymises individual Reports in their annual report. The Ombuds Officer can, for example, include their ambitions in the annual report and how they are or will be achieved. General developments and perhaps the concrete steps based on recommendations, new regulations or adjustments to the care structure of the organisation can also be part of the annual report.