

## Introduction to the Tilburg University Employee Ombuds Officer Regulations

This introduction contains the considerations to establish an Employee Ombuds Officer and a summary of the tasks and authorities of the Employee Ombuds Officer. These are elaborated in the Regulations.

Based on the results of the final evaluation of the ombuds position pilot at several universities, it was agreed in the Collective Labour Agreement for Dutch Universities (January 1, 2020 through December 31, 2020) that an ombuds position must be established at all universities by July 1, 2021. The national framework for the establishment of the university ombuds position contains agreements between the VSNU and employees' organizations concerning the embedding of the university ombuds position in the existing support structure of the universities.

The ombuds position is part of the social infrastructure of the university. The Ombuds Officer is independent and appointed by the Executive Board.

The Ombuds Officer is neutral and impartial and always has the interests of both the organization and the employee in mind. The safeguards (for objectivity, independence, and impartiality) and tasks and authorities of the Ombuds Officer are laid down in these Regulations. The Ombuds Officer gives advice and cannot make binding rulings.

The Ombuds Officer identifies **undesirable patterns** and advises the Executive Board on these, including the identification of systematic shortcomings in regulations or organizational interpretation or policy and culture regarding social safety and undesirable behavior. To this end, the Ombuds Officer can conduct further inquiries on his/her own initiative. This can increase the learning capacity of the organization and contribute to an inclusive organization and improvement of the work climate. The Ombuds Officer's independence and authority to investigate on her/her own initiative is complementary to the support structure within Tilburg University.

The Ombuds Officer can **advise and refer** employees and take on a **mediating role** (other than as a mediator) where possible and desirable to ensure that the conversation between the parties involved is initiated. Employees can turn to the Ombuds Officer for advice and mediation, so that things can be resolved in good mutual consultation. Employees can also request **an inquiry** into the conduct of a person or body. This is subject to formal requirements for the petition (Article 7 of these Regulations).

In some areas (mentioned in Article 8 of these Regulations), the Ombuds Officer is **not authorized** to mediate or to conduct an inquiry at the request of the employee. For example, if it concerns an issue regarding a legal position or the application of the CLA or other regulations. Or if there is a complaint, objection, or appeal procedure for the issue, such as undesirable behavior, scientific integrity, whistleblowing, UFO objection.

The Ombuds official is not supposed to take over or duplicate the roles of committees. If a pattern can be discerned in several individual complaints, the Ombuds Officer can investigate that pattern. The Ombuds Officer can also analyze the complaint procedure(s) as such and make proposals to the Executive Board to improve this.

## Tilburg University Employee Ombuds Officer Regulations

### Section 1 General

#### Article 1 Definition of terms

For the purposes of these Regulations, the following definitions apply:

- **Executive Board:** The Executive Board of Tilburg University;
- **LRB:** University Labor Representation Board, an employee participation body within Tilburg University in which the trade unions are represented;
- **Employees Ombuds Officer:** The Ombuds Officer appointed by the Executive Board as referred to in Article 2;
- **Body:** The Executive Board, a member of the Executive Board, a School Board, the Dean of a School or a member of the School Board, the Managing Director of University Services, a Managing Director of a Division or a Managing Director of a School, and the Managing Director of KUB Career Services B.V.;
- **Regulations:** These Tilburg University Employee Ombuds Officer Regulations;
- **TiU or Tilburg University:** Tilburg University Foundation (*Stichting Katholieke Universiteit Brabant*);
- **Employee:** Person who is or has been employed by TiU or KUB Career Services B.V. under an employment contract in accordance with Article 1.1, paragraph 1(g) of the Collective Labour Agreement for Dutch Universities.

#### Article 2 The Employee Ombuds Officer

1. The Employee Ombuds Officer, hereinafter referred to as Ombuds Officer, is appointed by the Executive Board for a period of three years. He/she is eligible for re-appointment.
2. The Ombuds Officer performs his/her duties independently, objectively, and impartially. The position of Ombuds Officer is incompatible with other positions at TiU or with activities that reasonably conflict with the activities as Ombuds Officer and the independence that is to be desired from the Ombuds Officer.
3. The Ombuds Officer is not subordinated to any given body in the exercise of his/her duties.
4. The Executive Board ensures that the Ombuds Officer can perform his/her duties independently, impartially, and objectively and is not disadvantaged because of his/her independent position. If the Ombuds Officer believes that the Executive Board is obstructing him/her in the performance of his/her duties, he/she may approach the Board of Governors.
5. The Executive Board may relieve the Ombuds Officer of his/her duties at his/her own request or if his/her actions or omissions damage the trust placed in him/her. In such a situation, the Executive Board immediately informs the Executive Board of the Catholic University of Brabant (*Katholieke Universiteit Brabant*) and the LRB. The Executive Board hears the Board of the Catholic University of Brabant and the LRB's consent is required prior to the decision to terminate the appointment of the Ombuds Officer.
6. At least twice a year, a member of the Executive Board consult with the Ombuds Officer. During these consultations, the following matters are discussed:
  - a. every six months, the report of the Ombuds Officer about the activities in the preceding period, such as the nature and frequency of reports and requests and, if known, the result of the intervention (advice, mediation, referral, inquiry) of the Ombuds Officer;
  - b. the Ombuds Officer's identification of any systematic shortcomings in internal regulations or problematic patterns in the organization.
7. The deputy of the Ombuds Officer is appointed by the Executive Board and takes office at a time to be determined by the Executive Board. He/she will remain in office until the Ombuds

8. Officer resumes his/her duties or a new Ombuds Officer takes office. In case of premature termination of the appointment, paragraph 5 applies accordingly.
9. The Executive Board provides the Ombuds Officer with the resources required for the proper performance of his/her duties.
10. Complaints about the functioning of the Ombuds Officer can be submitted to the Executive Board or the Board of Governors respectively if the complaint comes from (a member or members of) the Executive Board.

## **Section 2 Tasks and authorities**

### **Article 3 Tasks and authorities of the Ombuds Officer**

1. The Ombuds Officer performs his/her tasks with due regard for the following purpose of the ombuds position: to—in addition to the existing support structure—from an authoritative and independent position, identify and investigate undesirable (behavioral) patterns within Tilburg University that have a negative impact on a healthy and safe working environment, as well as advising on how to eliminate them, in order to increase the learning capacity of the organization, contribute to an inclusive organization, and improve the working climate.
2. The Ombuds Officer has the following duties:
  - a. advising and referring the Employee or mediating and establishing a dialogue between the parties within the appropriate organizational structures, provided that the parties concerned agree to this. The Ombuds Officer can refer to the competent body/committee and/or to the confidential advisor involved.
  - b. identifying undesirable patterns and advising the Executive Board on these, including identifying systematic shortcomings in (internal) regulations or organizational interpretation or policy and culture regarding social safety and undesirable behavior. To this end, the Ombuds Officer can conduct further inquiries on his/her own initiative.
  - c. conducting inquiries at the request of an Employee, as further detailed in these Regulations.
  - d. providing a (public) annual report on the nature, content, and frequency of reports and interventions/inquiries.
3. The Ombuds Officer is not authorized to mediate after receiving a report or complaint or to conduct an inquiry at the request of an Employee if it concerns a situation as referred to in Article 8, paragraph 1, although Article 8, paragraph 1(a) does not apply to a request for mediation because no formal provisions apply.

### **Article 4 Request for advice or mediation**

1. Every Employee can make an appointment with the Ombuds Officer for an advisory meeting or a request for mediation. This is without specific formalities. The Ombuds Officer will discuss with the Employee whether the problem can be solved wholly or partly without further treatment by the Ombuds Officer. If appropriate, the Ombuds Officer refers the person who reported the matter to the right bodies, committees, agencies, or persons primarily within Tilburg University, but if necessary, outside Tilburg University. If a complaints or disputes procedure is applicable, the Ombuds Officer will point this out to the Employee and the confidential advisor may support the Employee if necessary.
2. If the recommendation as referred to in paragraph 1 does not lead to a solution, the Ombuds Officer can independently mediate to re-establish a dialogue between the parties within the appropriate organizational structures provided the parties concerned agree and provided the Ombuds Officer believes this is appropriate and useful.

### **Article 5 Inquiry into a pattern on his/her own initiative**

1. The Ombuds Officer can start an inquiry on his/her own initiative, whether or not as a result of one or more reports, into a pattern of possible systematic shortcomings in (internal) regulations or problematic patterns in the organization.
2. The Ombuds Officer informs the Executive Board of the inquiry that he/she will be conducting. Articles 11 (Information) and 12 (Experts and review) are applicable to the inquiry into a pattern.
3. After having given the Executive Board the opportunity to respond, the Ombuds Officer concludes the inquiry and draws up a report for the Executive Board in which he/she describes his/her findings and opinion and the considerations on which this opinion is based. The report also states whether recommendations should be made and, if so, which ones. If the inquiry concerns the Executive Board, the Ombuds Officer sends the report to the Board of Governors. The Ombuds Officer sends a copy of his/her report to the HR Division Director.
4. In the report, the Ombuds Officer can make the recommendations he/she deems useful.
5. The person who has the authority to follow up the recommendations, informs the Ombuds Officer within four weeks after receipt of the report if, and if so, how they will be followed up on. If a recommendation is not followed up on, this will be substantiated with reasons.

## **Section 3 Procedure in the event of a petition by the Employee to have a body or Employee examined**

### **Article 6 Petition for an inquiry into the conduct of a body or an Employee**

1. An Employee can petition the Ombuds Officer in writing to conduct an inquiry into the way in which a body or an Employee has behaved towards him/her in a certain matter.
2. Conduct of a body means both an action and a failure to act, as well as an act, conduct, or attitude.
3. The conduct by an Employee in the performance of his/her duties working on behalf of a body shall be deemed to be an act of that body.
4. The Ombuds Officer rules the petition inadmissible if it concerns a situation as referred to in Article 8, paragraph 1. If an (internal) complaints, objection, or appeal procedure is available against the conduct and the applicant makes use of it, he/she is obliged to inform the Ombuds Officer of this immediately.

### **Article 7 Petition**

1. The petition shall contain at least:
  - a. the name and address of the applicant and the organizational unit in which the applicant works;
  - b. the date;
  - c. a description of the conduct to which the petition relates and a statement of which body or Employee that exhibited said conduct;
  - d. the reason why the applicant objects to the conduct;
  - e. the applicant's signature.
2. The petition shall be drawn up in Dutch or English.
3. The Ombuds Officer acknowledges receipt of the petition in writing, in principle, within seven days.
4. The petition may be withdrawn at any time, in which case these Regulations will have no further application and the Ombuds Officer will inform those concerned accordingly.

### **Article 8 No inquiry**

1. The Ombuds Officer is not authorized to conduct an inquiry if:
  - a. the petition does not meet the requirements referred to in Article 7(1) and (2);
  - b. more than two years have elapsed since the conduct giving rise to the petition took place;
  - c. the petition is manifestly unfounded;
  - d. in the opinion of the Ombuds Officer, the interest of the applicant or the significance of the conduct is clearly insufficient;
  - e. the applicant is someone other than the person against whom the conduct took place;
  - f. the matter referred to in the petition concerns a legal status issue or application of the collective labour agreement or other regulations;
  - g. regarding the conduct of the applicant, according to a regulation in force at Tilburg University or by law, a complaints, objections, or appeals procedure is available or has been available and the applicant has not made use of it, or a formal (binding) recommendation has been issued or a ruling has been made;
  - h. the request relates to conduct which is, or has been, the subject of proceedings before a court;
  - i. the petition relates to conduct for which investigative proceedings by order of the public prosecutor or a prosecution is underway, or if the conduct is part of the investigation or prosecution of a criminal offence and a criminal investigation by order of the public prosecutor or a prosecution is underway with regard to that offence.
2. If the Ombuds Officer, pursuant to paragraph 1, does not initiate an inquiry, he/she shall inform the applicant in writing, stating the reasons, as soon as possible but within four weeks of receipt of the petition. At the same time, he/she shall inform the competent authority if no inquiry is initiated because a procedure as referred to in paragraph 1(g) is available.

### **Article 9 Working methods**

When dealing with the petition and in at every stage of a possible inquiry, the Ombuds Officer will examine whether there are possibilities to wholly or partially eliminate the causes of the report to which the petition relates or to solve it in another way, either by giving advice, mediation and/or referral, or by making recommendations to those involved.

### **Article 10 Views and statements**

1. The Ombuds Officer gives the body or person referred to in the petition and the applicant the opportunity to state or explain their respective viewpoints, in writing or verbally, in each other's presence or not—all at the discretion of the Ombuds Officer.
2. The Ombuds Officer may, if he/she considers it necessary for the assessment of the petition, allow others to become acquainted with it, with a request to make written or oral statements, if necessary, under conditions of strict confidentiality. The parties concerned are obliged to comply with such a request within the time limit set by the Ombuds Officer.
3. With due observance of paragraph 2, the Ombuds Officer ensures that a written viewpoint as referred to in paragraph 1 or a written statement as referred to in paragraph 2 is sent to the applicant and defendant as soon as possible after receipt. A report is prepared concerning a verbal viewpoint as referred to in paragraph 1 or a verbal statement as referred to in paragraph 2 and forwarded to both parties by the Ombuds Officer with due observance of paragraph 2.

### **Article 11 Information**

1. The Ombuds Officer is authorized to request information within TiU as well as request and inspect documents relating to his/her inquiry. Persons involved are obliged to comply with a relevant request by the Ombuds Officer, made through their manager, within the term set by him/her. The Ombuds Officer approaches Employees directly for information and/or records if the inquiry or the requested information relates to the manager of the informant in question.

They are not authorized to provide information and/or documents that are subject to a confidentiality requirement. Managers may determine that information and/or documents, which they deem to be subject to confidentiality for important reasons, may only be provided on the condition that the confidentiality is maintained by the Ombuds Officer. Access to personal data is possible only with the written consent of the person concerned.

2. The Ombuds Officer informs the body or person mentioned in the petition and the applicant of a request as referred to in paragraph 1 and of the outcome of that request.
3. If bodies or Employees do not provide the requested information or assistance, the Ombuds Officer can inform the Executive Board of this. The Executive Board will then take the necessary steps.

#### **Article 12 Experts and review**

1. The Ombuds Officer is authorized to call in experts if he or she believes that this is necessary for the inquiry. Recommendations to parties involved can, among other things, be aimed at reaching a practical solution, have a mediating effect, or be referred to a mediator. for example, depending on the situation.
2. The Ombuds Officer may, if in his/her opinion, this is reasonably required for the purposes of his inquiry, enter all places where the body or person named in the petition is carries out their duties without obtaining permission.

#### **Article 13 Assessment framework**

The Ombuds Officer assesses whether the body or person mentioned in the petition exhibited appropriate conduct in the issue he/she is investigating unless he/she deems an assessment unnecessary because the complaint to which the petition relates was removed after the petition was submitted. In the assessment of conduct, including omissions, the Ombuds Officer applies the Tilburg University Code of Conduct and the other conduct and integrity regulations applicable at Tilburg University.

#### **Article 14 Report**

1. After concluding his/her inquiry, the Ombuds Officer draws up a report in which he/she presents his/her findings and opinion. The report also states whether, and if so, which recommendations are made.
2. The Ombuds Officer sends his/her report in any case to the applicant, the body or the Employee mentioned in the petition, the Executive Board, and the Dean/Director of the organizational unit concerned. If the body referred to in the petition is the Executive Board, the Ombuds Officer also sends his/her report to the Chair of the Board of the Governors. The Ombuds Officer provides a copy of the report to the HR Director.
3. If the report contains one or more recommendations, the body concerned or the Employee in question informs the Ombuds Officer within four weeks of receiving the report whether, and if so, how, these will be followed up. If a recommendation is not acted upon, this will be substantiated with reasons.

### **Section 4 Other provisions**

#### **Article 15 Confidentiality**

1. The Ombuds Officer is obliged to maintain confidentiality regarding any information that comes to his/her attention during the performance of his/her duties, in as far as this follows from the nature of the case or confidentiality has been imposed in accordance with Article 11. This obligation also applies to all persons working for him/her.

2. All persons involved in an inquiry, the applicant, the other party, and any third parties consulted, also have a duty of confidentiality regarding anything that may have come to their attention as a result of their involvement. The Ombuds Officer can request the persons involved to agree in writing to their duty of confidentiality.
3. If the duty of confidentiality is violated, the Ombuds Officer may advise the Executive Board, with justification, to take appropriate measures.

#### **Article 16 No objection or appeal**

No objections or appeals can be made against the Ombuds Officer's report within the context of the treatment of a request for inquiry into the conduct of a body or person.

#### **Article 17 Annual report and evaluation**

1. The Ombuds Officer publishes an annual report on his/her activities. The report contains in any case the number of cases handled, an anonymized and non-personalized summary thereof, and any policy recommendations based on the activities of the Ombuds Officer.  
The Ombuds Officer addresses the report to the Executive Board. The report is made generally available.

#### **Article 18 Amendment and entry into force**

1. These Regulations may be amended or repealed by the Executive Board following the Labor Representation Board's consent.
2. These Regulations shall enter into force with effect from July 8, 2021.