



ANNUAL REPORT OMBUDS OFFICER

Period 1 September 2020 - 31 August 2021

Han Warmelink
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**UNIVERSITY
OF TWENTE.**

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1. OMBUDS PILOT PROJECT

This is the Ombuds Officer's report on the 2nd and also last year of a pilot that was started at the University of Twente in October 2019. The University of Twente is one of the four Dutch universities participating in the Ombuds pilot project, that aims to create a safer working and learning environment at universities. Staff and students of the University of Twente can turn to the Ombuds Officer to report problematic situations related to working or studying at the university. The Ombuds Officer's primary role is to lend a listening ear, and to provide advice, guidance and mediation services. If necessary, the Ombuds Officer can refer people to the appropriate authority, or the Officer may decide to investigate the matter personally. The Ombuds Officer is officially part of the General Affairs department/the secretariat of the Executive Board, but is completely independent and does not report to any other authority.

In the spring of 2020, an external evaluation of the pilot was launched, commissioned by the Collective Labour Agreement (CAO) discussion table. The evaluation report, prepared by SoFoKles (the social fund for the knowledge sector), was published in November 2020. Subsequently, in early 2021, the role of the ombuds specifically at the University of Twente was also evaluated by Meta Advies. In anticipation of the results, it had previously already been laid down in the CAO for Dutch Universities that every Dutch university should have an ombudsperson in place by mid-2021. Based on the agreements and the evaluations carried out, the UT has decided to make the post of ombuds a permanent position, for both employees and students, by extending the appointment of the present incumbent of the post, Dr. Han Warmelink, by four years until 15 October 2025. The position is founded on a statute that was adopted by the Executive Board in the summer of 2021.

The post of ombuds complements the existing services provided by confidential advisors, student counsellors, student psychologists, student advisers and the complaints committee. The Ombuds Officer is an impartial and independent negotiating partner who is approachable for those who work and study at the University of Twente. People can turn to the Ombuds Officer with questions on a wide range of topics or to report issues such as inappropriate behaviour, complaints, appointments, performance/assessments, workload, termination of employment, vocational rehabilitation and switching jobs. Confidentiality is always maintained. The Ombuds Officer deals with any reports in accordance with regulations approved by the Executive Board.

In consultation with the confidential advisors and the complaints committee more precise arrangements were made for the duties of the Ombuds Officer. Confidential advisors primarily offer support to the person reporting an incident or complaint, particularly in relation to inappropriate behaviour, while the Ombuds Officer will focus on solving a reported problem. This calls for a neutral and impartial attitude towards all parties involved. Unlike the complaints committee, the Ombuds Officer does not make judgements in individual cases. However, they are expected to expose problems within the organisation to enable the Executive Board to act accordingly. This public Annual Report aims to support that role.

2. DEALING WITH REPORTS

The Ombuds Officer's main duty is dealing with reports from students and staff. This section provides a picture of the reports received during the reporting period and how they were dealt with in relation to the experience garnered in the 1st year of the pilot.

Number of reports

The Ombuds Officer received a total of 39 reports in the academic year 2020-2021, a year dominated by COVID-19. These were reports of problem situations that required attention and, where possible, a solution. This number is comparable to the first year of the pilot, although it initially looked like the number of reports would be much lower. In the vast majority of cases, reports were submitted by email, often as a request for contact, and sometimes by phone.

	<i>2020-2021</i>	<i>2019-2020</i>
<i>September:</i>	2	-
<i>October:</i>	4	6
<i>November:</i>	2	5
<i>December:</i>	2	1
<i>January:</i>	3	5
<i>February:</i>	1	6
<i>March:</i>	6	3
<i>April:</i>	4	3
<i>May:</i>	6	3
<i>June:</i>	3	6
<i>July:</i>	4	1
<i>August:</i>	2	0

In addition to these new reports, 11 dossiers from the 1st pilot year ran through into the new year, making the total number of reports requiring attention 50. Two of the dossiers from the 1st pilot year are still being processed and another has only recently closed.

Reports through confidential advisor, Human Resources, TGS or SACC

For 15 reports (compared to 5 in the 1st year), it has been established that the problem or part of the problem was first raised with one of the university confidential advisors, Human Resources (HR), Twente Graduate School (TGS) or the Centre for Educational Support / Student Affairs Coaching & Counselling (CES/SACC) and was then referred to the Ombuds Officer with the explicit intention of finding a solution or because the referring body, given the nature of the problem, was not the most appropriate body to deal with the report or a certain part of the report. This appears to indicate that the Ombudsman position, at least within the university support structure, has gained in recognition.

Conversely, the Ombuds Officer drew the attention of several reporting persons to the option of seeking support from a confidential advisor, the CES/SACC or TGS. In some of these situations, agreements had already been made up front with the confidential advisor involved, with TGS and sometimes also with HR to be able to offer support while respecting each other's tasks and responsibilities.

The reporting person

All University of Twente students or employees can file a report with the Ombuds Officer regarding conduct of the UT or persons who are part of the UT. In some cases (see below) the person making the report was not or no longer affiliated with the UT as an employee or student, but the report was based on an action of the UT that involved working or studying at the UT. We opted for a generous interpretation of the reporting person's admissibility.

<i>Not yet employed / not yet a student:</i>	-	(was 2)
<i>Not or no longer employed / no longer a student:</i>	2	(was 3)
<i>Left while report was being processed:</i>	1	(was 4)
<i>Defendant no longer employee:</i>	1	(was 0)

The breakdown by position and gender in the reporting period:

	2020-2021			2019-2020		
	<i>total</i>	<i>female</i>	<i>male</i>	<i>total</i>	<i>female</i>	<i>male</i>
<i>Student:</i>	3	1	2	5	2	3
<i>PhD:</i>	9	3	6	8	4	4
<i>Administrative and Support Staff:</i>	13	10	3	14	7	7
<i>Academic Staff:</i>	14	8	6	12	6	6
<i>Organisation</i>	1			-		

The total adds up to 40 because in one dossier the report was made by two different parties, both directly involved in the problem.

With regard to legal status: of the 39 persons who reported a situation, 16 were employed by the UT on a permanent basis.

The breakdown of reports by nationality is:

	2020-2021	2019-2020
<i>Dutch:</i>	22	22
<i>Foreign:</i>	17 (6 non-Western)	17 (7 non-Western)

Reports by students

When drawing up the Annual Report for 2019-2020, the University Council requested that from then on a distinction be made between reports made by students and those made by employees. The figures show that the number of reports made by students is so low that the added value of drawing up a separate annual report would be negligible.

However, what could be useful is an analysis of these reports by students. It is noteworthy that students turn to the Ombuds Officer 1) if they get bogged down in a procedure or other procedure at the UT, or 2) to raise a problem that affects students in general. Personal study problems are raised elsewhere. It may be assumed that students will then report to the CES/SACC and that their services will provide adequate support.

The work or study place of the reporting person

The 39 reports concerned the faculties and service departments shown below. This does not necessarily mean that these faculties or services were part of the reported problem, but it does mean that the reporting person and/or defendant worked there.

	<i>2020-2021</i>	<i>2019-2020</i>
<i>EEMCS:</i>	5	5
<i>ET:</i>	6	7
<i>TNW:</i>	2	4
<i>BMS:</i>	9	9
<i>ITC:</i>	4	0
<i>LISA:</i>	0	3
<i>CFM:</i>	5	4
<i>CES:</i>	5	3
<i>GA/Executive Board:</i>	0	3
<i>MC:</i>	3	0
<i>Miscellaneous:</i>	0	1

Topics

It goes without saying that the subject matters discussed varied from case to case. However, several categories could be discerned regarding the topics that were raised. A number of categories are mentioned below, followed by the number of dossiers in which this topic was prominent (the total does not add up to 39 because multiple topics are relevant in some dossiers).

	2020-2021	2019-2020
<i>Troubled (individual) working relationship:</i>	16	12
<i>Equal treatment / exclusion:</i>	5	9
<i>Terms and conditions of employment / end of appointment:</i>	11	6
<i>PhD supervision:</i>	5	5
<i>Cultural differences:</i>	3	4
<i>Coronavirus-related reports:</i>	2	4
<i>Intimidation or sexual harassment:</i>	5	3
<i>Scientific integrity:</i>	1	3
<i>Whistleblower report:</i>	2	2
<i>Public access to information:</i>	1	0

This summary shows that a significant share of the reports can also be classified as being part of the domain of confidential advisors. As previously indicated, a useful and clear division of tasks between confidential advisors and the Ombuds Officer has been established, based on agreements but also defined in the course of working. Another share of the reports has a significant Human Resources component. Section 3 will discuss this in more detail. A third main category is reports related to problems in the PhD programme. Last year this often concerned the effects of a thesis supervisor or adviser leaving or the termination of funding. This year the majority of the complaints concerned issues about counselling.

Relationship to complaints procedure / scientific integrity

Occasionally, the question was raised as to whether pursuing the complaints procedure (requesting an assessment) would not be more suitable than turning to the Ombuds Officer. The decisive factor in answering this question was always whether a solution to the identified problem was possible. As was the case last year, the complaints committee was not contacted in any of the cases. For two cases, however, the intervention of the Scientific Integrity Committee was discussed. The Scientific Integrity Committee was ultimately engaged, although the Ombuds Officer remained involved for other aspects of the report.

Nature of the services provided: discussions

For almost all the reports, listening ear support was provided during an appointment in which the alternatives to reaching a solution to the problem were discussed. In some cases a response by email was enough to be able to take a step in the right direction. Only two discussions took place in person during the reporting period: all other advisory consultations and mediation talks took place using Teams. In 15 of the 39 cases multiple discussions or advisory consultations were conducted, which is almost twice as many as last year.

Many of the talks were primarily aimed at determining the problem for which a solution was being sought. In a large number of the reports, problems with official aspects (e.g. decisions) ran parallel with informal aspects (e.g. conduct). In some cases there was also a concurrence of circumstances with other legal or semi legal procedures. See also the section 'bottlenecks in processing'.

Nature of the services provided: mediation and investigation

In 11 of the 39 cases (last year this was 8) mediation by the Ombuds Officer was necessary. Mediation mainly took place for breakdowns in the relationship between an employee and their manager, often with the involvement of HR, and in the relationship between PhD students and their thesis supervisor, usually in consultation with TGS. In other cases, the reporting persons set to work themselves to solve the formulated problem based on the advice given and the discussions, sometimes with the support of third parties.

The Ombuds Officer asked the rector to take note of the problem in one dossier still open from 2019-2020 and in two new dossiers and to take action based on the problem. Furthermore, the correlation in a dozen dossiers from different years led to meetings between the Executive Board, the Ombuds Officer and the board of the faculties where the problems occurred. This means that the Ombuds Officer was able to fulfil the duty of identifying trends and patterns of social and/or institutional insecurity at the UT and to provide solicited and unsolicited advice on these trends and patterns to the Executive Board and other university administrative bodies (see section 3).

The mandate to enlist the help of external mediation or to initiate investigations into trends and patterns on their own initiative was not used by the Ombuds Officer during the pilot.

Results

In 20 cases (was 17 in the previous year), the reporting person was satisfied with the result achieved. This does not mean that the problem was solved, but it did mean that the reporting person could 'move on'. In three cases (was seven), it was not possible to achieve a result or positive result. Eight cases (was five) have not yet been finalised and the results of the remaining cases are unknown because the person involved had left or due to lack of information about the result, for instance.

Bottlenecks in processing

During the processing of the reports, a number of procedural bottlenecks came to light, as a result of which the Ombuds Officer had to disregard certain elements of the report or could not personally deal with these elements. The most important of these, sometimes concurrent, are:

	2020-2021	2019-2020
<i>Not enough information to follow-up (further):</i>	6	8
<i>Concurrence of circumstances with other (semi) legal procedures:</i>	4	6
<i>Involvement of multiple employers:</i>	1	4
<i>Involvement of multiple universities:</i>	0	4
<i>Funding flows from outside the UT:</i>	2	3
<i>Authorisation of the Ombuds Officer:</i>	1	2
<i>Reporting person not/no longer/not employed:</i>	3	2
<i>Finding the right defendant:</i>	2	2

Conclusion

Despite the far-reaching measures taken to combat COVID-19, the 2nd year of the pilot did not proceed very differently from the 1st year. An initial decline in reports was made up for later in the year. Receiving and processing reports through Teams did not prove to be a substantial obstacle, although it is certainly preferable that mediation talks, in any case, take place in person.

The post of ombuds has become more embedded in the university support structure. Section 4 covers this in more detail. Contact with the other players in the support structure ran smoothly and did not lead to conflicts of competence. In fact, the players involved know where to find each other and referrals are made back and forth to address reported problems as adequately as possible. For more fundamental problems, the problems were brought to the attention of the Executive Board or the rector and measures were taken to prevent such problems occurring in the future.

The conclusion that can be drawn from the two-year pilot project is that the post of ombuds meets a need. Especially employees know how to find the Ombuds Officer to help them find a solution to problems they cannot solve with their manager or thesis supervisor. The added value lies mainly in the independent, impartial position of the Ombuds Officer, which enables them to effectively solve reported problems in consultation with those involved.

3. IMPACT OF REPORTS ON POLICY LEVEL

In addition to dealing with reports at dossier level, it is the task of the Ombuds Officer to identify inappropriate patterns and, based on these, to give solicited or unsolicited advice at policy level. As already pointed out in the previous section, a series of reports gave rise to the involvement of the Executive Board in such a broader issue. The issue concerned the effects of a certain method of governance and management within a unit of the University of Twente.

Last year, this section of the annual report was devoted to PhD students who may miss the boat if the funding for their project is terminated early. This year, it will address an observation that has been mentioned in many dossiers over the past two years. That observation relates to the role and positioning of HR at the UT.

The role and position of HR: friend, foe or neutral third party?

The reports dealt with during the pilot project show that these often involve issues with an important component relating to legal status. That in itself is not strange: job satisfaction is not only determined by the content of the work or the colleagues with whom one works, but certainly also by the matter of whether the work corresponds to the job description, whether there are prospects at the end of a temporary appointment, whether assessments are carried out correctly and whether there are any opportunities for professional development training or a position change. If employees are unable to resolve this with their manager and/or HR, the step taken to contact the Ombuds Officer is perfectly understandable.

Nevertheless, the proportion of legal status issues in the reports to the Ombuds Officer was very large, perhaps even too large. When asked why such legal status issues were not resolved earlier in consultation with HR, the reporting persons response was remarkably often: 'HR is not there for me, but for the employer' or 'If I were to engage HR, it would go from bad to worse'. It appears that people perceive that engaging HR in a legal status conflict with the manager is not effective and can even be counterproductive.

Questions that arise in this regard are:

- what could be causes for this perception?
- to what extent is this perception correct?

With regard to the latter question: in the vast majority of cases HR is more than willing to cooperate in solving the problem identified in dossiers, although occasionally they wonder why the Ombuds Officer is intervening. The answer to the latter question is that the Ombuds Officer remains involved until the problem presented to them by the reporting person is solved. As it happens, that problem is rarely the legal status issue as such, but often a troubled working relationship with the manager that is sometimes a consequence and sometimes the cause of the legal status problem.

Nevertheless, there is a perception that HR is not there primarily for the employees, and that they do not adopt an independent, neutral position between employee and manager. The way in which HR presents itself plays an important role in this regard: in the cases dealt with, the manager's preferred solution to the problem often serves as a frame of reference for the stance taken by HR. And because the manager and HR create the impression of being two peas in a pod, employees are not inclined to engage HR: after all, this only gives them an additional opponent instead of an ally.

What also plays a role is the way in which HR wants to resolve a conflict situation, which they sometimes communicate to the person concerned. If an employee is faced with the choice of either agreeing to the solution proposed by the manager and HR or leaving by signing the settlement agreement that had already been sent, then not only are many possible solutions left unexplored, but an employee will also feel that they were not taken seriously and may even feel intimidated.

Reporting persons would like HR to put itself more in their position and proactively discuss matters with them. This no doubt already occurs in many cases, but it does not resolve the underlying issue. That issue is very basic: why is it that employees in problem situations are afraid to call on the department that is specifically aimed to support them, i.e. Human Resources? If it is a conscious choice to present HR as a representative of the employer, then that choice certainly deserves reconsideration. If it is not a choice, but a perception created by the way in which HR works, then it makes sense to re-examine that way of working.

The mission of the University of Twente is: 'It's all about people at the University of Twente: People First is part of our university's High Tech Human Touch philosophy. The wellbeing and future of our students and staff are paramount in everything we do. From research and teaching to personnel management, campus management and our commitment to new technologies.' In light of that mission, renewed consideration of the position of HR is certainly in order.

4. FURTHERING THE UNIVERSITY SUPPORT STRUCTURE

At the University of Twente we are working on the further development of a House of Integrity, based on various principles and consisting of different floors and rooms. The post of ombuds is one of those rooms. During the pilot study much attention was paid to the positioning of the Ombuds Officer in the support structure. Moreover, efforts were made to strengthen contacts with Ombuds Officers of other universities and universities of applied sciences, particularly those participating in the pilot project, namely Maastricht University, Erasmus University Rotterdam and Delft University of Technology. In addition to professional peer supervision, it is important to learn lessons from the way in which the position of the ombudsperson has been structured and implemented elsewhere.

The positioning of the post of ombudsperson

The agreements made between the confidential advisors, the complaints committee and the Ombuds Officer about the division of tasks have contributed to the fact that in practice, when dealing with reports, hardly any misunderstandings have arisen about the powers of each. Much attention was paid to defining the duties and powers of the various participants in the House of Integrity, in protocols and also on the university website. The evaluations of the ombuds pilot project already mentioned above were a good lead to once again compare duties and powers.

Prompted by the same evaluations, and coordinated by S&P, input was provided from various quarters to create Integrity guidelines (<https://www.utwente.nl/organisatie/over-de-ut/integriteit/toolbox/>) which staff and students (especially PhD students) can use to find their way around the support structure. The 'Binnen zonder kloppen' (Enter without knocking, digital resilience in higher education) report published by the OC&W (Inspectorate of Education) notes the following about the roadmap (page 39): *You can find the document 'Integrity Roadmaps for employees' on the website of the University of Twente. This guide will help you to find information on who to contact for specific ethical dilemmas: scientific integrity, bottlenecks in PhD programmes, inappropriate behaviour and cyber security. This is a good example of an integrated approach. It is a very concise document with four clear categories and descriptions of the ethical dilemmas. The document directs the user straight to the relevant contact information and any explanatory notes on the specific officials. From the confidential advisor to the CERT and the privacy officer.*

It was decided at the start of the pilot project to place the Ombuds Officer under General Affairs, specifically the secretariat of the Executive Board. The Ombuds Officer and the secretary of the Executive Board meet every six weeks to discuss matters concerning the post of ombudsman (evaluation, reporting, accessibility) and policy developments that are important for the ombudsperson. This frequent and low-threshold contact makes it possible to pass on observations to the Executive Board effectively and in a timely manner. Individual cases are confidential and are not discussed with the secretary or the Executive Board.

The Ombuds Officer also joins the four weekly meeting of employees at the General Affairs department responsible for matters such as safety and security (social, physical and knowledge), behavioural audit and diversity. They also discuss issues that are relevant at the UT in these areas at policy level. The employees concerned (including the Ombuds Officer) moved to the low-rise building of the Spiegel building near the lecture halls in spring 2021. Since the move, the Ombuds Officer can be found in room C107 and is easy (and anonymously) to reach there.

Contact with other ombudspersons

Meetings with fellow Ombuds Officers takes place within the VOHO (Dutch Association for Ombudsmen in Higher Education). Furthermore, there is frequent contact with the four pilot ombudspersons of Erasmus University Rotterdam, Delft University of Technology and Maastricht University and with both Ombuds Officers at Utrecht University. The UT Ombuds Officer was approached by the University of Groningen to help shape their post of ombudsperson. Pursuant to CAO agreements, every university must have an ombudsperson in place by 1 July 2021. Not all the universities in the Netherlands have succeeded in doing so.

It appears that the role of the ombuds is not the same at all universities and universities of applied sciences. There are differences, for instance, in the positioning of the Ombuds Officer and specifically with regard to complaint assessment, as not every university has a complaints committee as well as an Ombuds Officer. Differences also exist with respect to the target audience: not all universities opt for an ombuds position for both employees and students. The external evaluation report by SoFoKles addressed these aspects, as well as other issues concerning setting up the university support structure.

Finally, it is worth mentioning the involvement of the Ombuds Officer in investigations that took place both at the UT and outside the university relating to social and institutional security. In that regard, contributions were made to various studies, including those by the Royal Netherlands Academy of Arts and Sciences (KNAW), SoFoKles, PhD Network of the University of Twente (P-NUT) and the Working Group Student Involvement.