

Annual report of the Staff Ombudsperson
2022

Radboud University
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'... I have laboured carefully, not to mock, lament, or execrate human actions, but to understand them, '

B. Spinoza in *Tractatus Politicus*

Contents

1. Introduction
2. Visibility of the Ombudsperson in the organisation
3. Accessibility of the Staff Ombudsperson
4. Establishing contacts with claimants and the working method of the Staff Ombudsperson
5. Background of claimants
6. Nature of the complaints
7. Observations and findings
8. Internal and external contacts
9. Intentions

1. Introduction

The first annual report of the first Staff Ombudsperson

The year under review was a year of becoming acquainted and exploring the duties of this new position,

which was created on 1 January 2022 following a decision in 2021 in accordance with the Collective Labour Agreement (CAO) of Dutch Universities 2019-2020. The position has a magnitude of 0.6 FTE and is functionally part of the Administration Office.

Location of the office of Staff Ombudsperson

From January to July 2022, the office of the Staff Ombudsperson was located at Huize Heyendaal. After this, the Ombudsperson worked from her home office. The meetings with claimants took place on campus, with the exact location depending on the claimant's workplace; to ensure anonymity, the meetings were not held near the claimant's workplace.

Objective and duties

The objective of the position is to help ensure a healthy and safe working environment and enhance the learning capacity of the university as an organisation. The Ombudsperson is an independent, authoritative and impartial officer appointed by the Executive Board. The Ombudsperson independently supports individual employees, groups of employees and/or supervisors in the analysis and resolution of problems concerning personnel.

A Staff Ombudsperson provides a place where anyone can go with complaints, so that discussing, addressing and learning from problems becomes an integral part of a healthy organisation. A question or problem can be presented without having to initiate formal proceedings. The Ombudsperson helps the complainant think about the best way to solve problems and can play a role in their solution

- . In response to reports or complaints from employees or on her own initiative, the Ombudsperson can enquire whether the conduct of a part of the university or an employee in a particular matter has complied with prevailing standards

- . This could be about a particular action or indeed the failure to take action.

The work of the Ombudsperson is to advise, mediate, handle complaints and conduct independent enquiries as detailed in the Ombudsperson Regulations. The interventions focus on de-escalation.

Work this year has centred mainly on *advice* and *personal mediation*. In every reported case so far, the claimant had an option to submit a *complaint* to another body at Radboud University under the Regulations on Undesirable Behaviour, the Regulations on Employee Disputes, the Whistle-blower's Regulations or the Regulations on Academic Integrity. As a result the Ombudsperson did not have the competence to formally handle these *complaints*. The claimants were made aware of the other complaint options in those cases.

The Staff Ombudsperson has given both solicited and unsolicited advice to supervisors.

After informing the Executive Board and/or Deans that *enquiries* were indicated in certain situations, two enquiries commissioned by management were initiated in 2022, with the Ombudsperson being indirectly involved. One of these enquiries has been completed, the other is ongoing. In the latter enquiry, the Staff Ombudsperson provided input regarding the aim of the enquiry. As for the completed enquiry, the Ombudsperson has not received the report with conclusions and recommendations.

The Staff Ombudsperson initiated one enquiry herself, which is still ongoing.

2. Visibility of the Ombudsperson in the organisation

Because the position of Staff Ombudsperson was added to an already extensive landscape of help providers, the challenge was to make it clear exactly what the position entails, when it is appropriate to contact the Staff Ombudsperson and how this position differs from that of confidential advisors and complaint committees.

The availability of the Staff Ombudsperson was publicised in the Radboud University staff newsletter. By attending meetings in various parts of the organisation, including meetings and activities on social safety on campus, the Staff Ombudsperson also enhanced her visibility. At the case level, there has been contact with many staff and officials of Radboud University during which the role of Staff Ombudsperson has also been explained. However, there is still a way to go in terms of visibility.

3. Accessibility of the Staff Ombudsperson

Anyone working for Radboud University can contact the Staff Ombudsperson directly by telephone or email to make an appointment. The majority of appointments are made by phone and/or e-mail. An appointment can usually be made within five working days of initial contact. Details regarding the Staff Ombudsperson can be found on the Radboud University intranet site.

During the year under review, the Staff Ombudsperson held many interviews with claimants, the claimants' supervisors, supervisors' superiors, supervisors with their own questions, HR advisors, legal advisers of claimants, and others. In 2022, the Ombudsperson processed 95 reports. Several interviews were often held for each report, especially when personal mediation was involved.

During 2022, the Staff Ombudsperson did not yet have secretarial support. A registration system for complaints was also lacking, so the registration was done in the digital office environment of the mediation office of the Staff Ombudsperson.

4. Establishing contacts with claimants and the working method of the Staff Ombudsperson

Location

Most of the interviews with claimants took place on campus: in meeting rooms at Huize Heyendaal, the Ellinor Ostrom building, the Maria Montessori building and the Berchmanianum. A few interviews were held at other Radboud University locations. There were also instances when a claimant preferred to consult on 'neutral ground' or online. Interviews with HR officers or supervisors often took place at their workplace, online or by phone.

Confidentiality

An interview with a claimant begins by emphasising that the conversation is confidential and that the Staff Ombudsperson cannot disclose anything that is discussed to third parties. The employee then indicates what led him or her to make an appointment. The confidentiality obligation of the Staff Ombudsperson can be lifted only with the consent of the staff member concerned. This can happen if, at the end of the interview or after a number of interviews, it is concluded, for example, that the matter should be brought to the attention of the supervisor or the Dean of the faculty, or that it is desirable for the matter to be discussed with a third party such as the confidential advisor for academic integrity.

Independence

The Staff Ombudsperson takes the role of a neutral outsider, which means that she may express understanding of the situation of the claimant, but does not necessarily share the claimant's point of view. When a claimant seeks advice and/or personal mediation, another party is usually in the picture. In that case – with the consent of the claimant – a hearing can take place with this other party if personal mediation is requested. During such personal mediation, the Staff Ombudsperson can be directive, which is not the case during formal mediation. If contact with the other party is not desired by the claimant, personal mediation cannot take place.

Possible actions

Depending on the content of the complaint, the actions of the Staff Ombudsperson can vary. The following actions can be distinguished: listening, information provision, counselling, referral, enquiry and personal mediation in dealing with the problem and de-escalation of the conflict. A combination of the above actions is the rule rather than the exception.

Hierarchy of responsibility

The Staff Ombudsperson reports to the Executive Board and prepares an annual report on her activities.

5. Background of claimants

M/F

Of the 95 claimants, 57 were women and 35 were men. If a complaint was submitted anonymously, the M/F distinction was not indicated.

More female than male claimants visited the Staff Ombudsperson.

M/F	NUMBER	
	R	%
F	57	60
M	35	37
ANONYMOUS		
	3	3
Total	95	100

Nationality NL/ OTHER

Of the claimants, 78 had Dutch nationality, 17 had other nationality.

NL/OTHER	NUMBER	%
NL	78	82
Other	17	18
TOTAL	95	100

Academic staff/Support staff

Of the 95 claimants, 59 were academic staff and 33 were support staff. Two cases involved former employees.

More academic staff than support staff visited the Ombudsperson.

Of the academic staff, 11 cases involved PhD candidates.

ACADEMIC STAFF/SUPPORT STAFF	NUMBER	%
Academic staff	59	62
Support staff	33	35
Third parties	3	3
TOTAL	95	100

Faculty/service

The table below shows which faculties and organisational units the claimants came from.

FACULTY/SERVICE/INSTITUTE	NUMBER	%
Faculty of Philosophy, Theology and Religious Studies	17	18
Faculty of Social Sciences	12	13
Faculty of Law	11	12
Nijmegen School of Management	10	11
Radboud Services (except sports centre, HR and ILS)	10	11
Radboud Sports Centre	9	9
Faculty of Science	7	7
Faculty of Arts	6	6
HR	3	3
Information & Library Services	2	2
Donders Institute	2	2
Faculty of Medical Sciences	2	2
Radboud Centre for Social Sciences	1	1
Titus Brandsma Institute	1	1
Anonymous	1	1
Faculty of Science Donders	1	1
TOTAL	95	100

11 claimants were PhD candidates.

6. Nature of problems and actions taken

The table below shows categories of problems with the corresponding numbers of complaints.

CATEGORY	NUMBER
Undesirable behaviour	19
Conflict with supervisor	13
Teamwork problems	12
Treatment	11
Terms of employment	9
Career issues	7
Dismissal issues	5
Personal issues	4
Reorganisation	3
Reintegration	3
Legal position	2
Whistle-blowers report	2
Working conditions	1
Discrimination	1
Other	3
TOTAL	95

Undesirable behaviour includes the 15 reports of inaction/non-intervention and lack of transparency from management that led to a sense of insecurity among claimants who were bystanders ("allowed trial by media" and "culture of silence"). These fell into two groups: 1) expressions of solidarity for a colleague who they felt had been treated unfairly in a very complex situation; 2) expressions of their own sense of insecurity, created by the lack of support from management when a colleague was openly accused without substantiation and, in their view, even involved abuse of power.

Transgressive behaviour such as harassment and aggression are listed under "treatment". Of the 11 cases, in 9 the harassment took place by the supervisor. In these cases, harassment led to a sense of insecurity. The feeling of insecurity related to the fear of ultimately losing their job. Often, the difference in power was not sufficiently recognised by the supervisor.

Work conflicts with the supervisor are listed under "*conflict with supervisor*" and conflicts with colleagues are listed under "*teamwork problems*".

Labour disputes with supervisors are diverse. These may include leadership style, unmanageable workload, performance issues, clash of personalities, not being heard/seen/taken seriously, not receiving enough support, violation of privacy and problems in supervision of PhD candidates. Personal mediation was used especially in these disputes with supervisors.

Employees on temporary contracts felt vulnerable in a labour dispute and only wanted counselling, but not personal mediation, as this would require contacting their supervisors.

Most PhD candidates (10 out of 11) did not want their PhD supervisor to be informed of the contact with the Staff Ombudsperson. This made it impossible to provide further help, other than counselling.

It turned out that especially PhD candidates of non-Western origin feared severe consequences, such as having to leave the country, if their study was terminated prematurely.

External PhD candidates, especially those of non-Dutch origin, are not sufficiently informed about the regulations applying to their situation, especially if the PhD supervisor does not want to continue supervision.

Regarding *teamwork problems*, there was often a notable lack of clarity regarding role and competence, the scope of which was often exceeded. Colleagues, being academic staff, often see each other as competitors, which can negatively affect teamwork. The heavy workload also causes a lot of tension that prevents staff members from being the best version of themselves.

Career issues involve appointments, appraisals and promotions. In these complaints, career issues were always accompanied by conflicts with the supervisor and can therefore be seen as a subcategory. There were problems with appraisal procedures, which had not gone according to the employee's wishes. Negative statements about performance and possible loss of employment caused fear of unemployment and loss of income. Improvement plans were perceived as sham processes where the employee was not really given a chance to improve.

Personal issues indicate personal problems in relation to, for example, working hours (e.g. difficult to reconcile with personal circumstances) and applicability of the code of conduct (e.g. workplace relationship). These claimants sought advice.

Reintegration

Employees reported being worried about slow reintegration (with, for example, discussions about suitable work) or overly ambitious reintegration during which the Occupational Health Officer and HR Officer insisted on faster reintegration than employees believed they could handle.

Whistle-blowers report

There were two such complaints, which ultimately turned out to involve academic integrity. The complaints were referred to the Confidential Advisor for Academic Integrity.

Complaints submitted via which channel

VIA	NUMBER	%
Direct	71	75
Confidential		
Advisor	18	19
Campus		
Psychologist	3	3
HR	2	2
Chief		
Diversity		
Officer	1	1
TOTAL	95	100

Most complaints (71) were submitted directly to the Staff Ombudsperson, 10 claimants were referred by the confidential advisors and 8 claimants indicated that they were referred to the Staff Ombudsperson by the confidential advisors. Three claimants were referred by the Campus Psychologist, two by HR and one by the Chief Diversity Officer.

Actions taken

ACTIONS TAKEN	NUMBER	%
Advice	73	77
Personal mediation	13	14
Complaint noted	6	6
Enquiry	3	3

TOTAL	95	100
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In 73 cases, advice was given, which terminated the complaint process. Personal mediation took place in 13 cases.

The cases in which personal mediation took place involved conflicts with supervisors, teamwork problems with colleagues, career issues and reintegration problems. In each case, separate interviews were held with employee and supervisor or colleague. A minimum of one and a maximum three personal mediation meetings then took place. In many cases, agreements could be reached to alleviate the problems, but not all could be solved. In a number of cases, the Dean or the supervisor's superior had to be approached to reach a solution or make a decision.

Personal mediation was refused by staff in some cases because they feared confrontation or possible escalation. Help was then limited to advising and providing the claimants with ideas on how they could initiate the conversation with their supervisor without escalating the conflict.

Six complaints were noted for data collection purposes. In these cases the claimants did not want advice or personal mediation but did want the complaint to be noted in case similar complaints were made in the future, which could help in recognising a pattern and could lead to an enquiry.

One complaint was made regarding the assessment of lecturers by students, which does not always go through the correct channels, creating a socially unsafe situation for the lecturers. The claimant asked if this system could be clarified and simplified with the necessary safeguards for the lecturer. This question indeed led to an enquiry by the Staff Ombudsperson. This enquiry is still on-going.

In two cases, an enquiry was indicated, which was made known to the Faculty Board and/or Executive Board. The Faculty Boards subsequently commissioned the enquiries.

7. Observations and findings

- A common theme in many complaints was the perceived lack of openness among management, which leads to a sense of social insecurity. Openness and transparency was particularly lacking in complex situations. These situations are complex due to legal constraints and the differing interests of those involved. However, the missing information is then filled in by the parties on various sides, thus reinforcing the existing polarisation. Openness is considered one of the core values of an employee at Radboud University, alongside courage and connection. When this openness is not shown by supervisors, confusion and mistrust arise. When openness is constrained due to legal reasons, commitments to those involved or previous agreements, employees would appreciate being openly informed about this. Honestly explaining the consideration of interests involved gives clarity and provides insight into the moral assessment process of supervisors. Employees have expressed a need for this.
- There is no central registration of PhD candidates (employees, grant-funded and external), their PhD supervisors, or information on premature study termination and the reasons for this. Such registration could provide insight into the causes of problems reported by PhD candidates, after which appropriate interventions could take place. This is particularly important because PhD candidates who submitted complaints explicitly indicated that no action should be taken by the Staff Ombudsperson due to their extreme dependence on their PhD supervisors. If data are available based on which conclusions can be drawn that cannot be associated with a specific claimant, solutions can be found without revealing the identity of the claimant.

- The absence of clear regulations for external PhD candidates leads to distressing situations, not only for these external candidates, but also (in some cases) for their supervisors. In particular, if a PhD supervisor terminates their supervision, there is no clear regulation on the rights of the external PhD candidate in this situation, for example with regard to articles already written, which causes substantial stress for the candidate. A clear description of the mutual rights and obligations when beginning an external PhD programme can prevent a lot of discussion afterwards.
- In the context of diversity, relatively little attention is paid to employees with disabilities. A gap is noted between what is required by law and personalisation to the needs of a individual, for example in cases involving long-term rehabilitation and residual disabilities. There is a need for a central enquiry point with sound knowledge about the rights and obligations of employees with disabilities. The central enquiry point must be able to provide objective information, not only to employees but also to supervisors.
- Radboud University has a strong focus on social safety. Much attention is rightly paid to diversity and inclusion of minorities. However, there is still some catching up to do, especially in supervisory positions. Constant attention should be paid to this. However, in order to create a close-knit community among all of us, the challenge is to involve *everyone* equally in discussions on this topic. The voice of every colleague is worth being heard. We do not always have to agree, but we should at least try to stay in respectful communication with each other. In case of polarisation, the "silent middle" should be invited to speak up more often.
- Support staff are also important in achieving excellent research results and high-quality education. They do not always feel sufficiently seen, heard and valued.

8. Internal and external contacts

At internal contact meetings the Staff Ombudsperson maintains her independent and impartial position.

Meetings were held with key actors in the organisation: the Executive Board, Deans, the Director of Radboud Services, the Head of Internal Audit, Division Directors and representative bodies at central and decentralised levels.

The Staff Ombudsperson held regular consultations with the coordinator of confidential advisors for undesirable behaviour, Heleen Kloosterhuis, and through her at the case level with the other confidential counsellors for undesirable behaviour, academic integrity and whistle-blowing complaints.

The Staff Ombudsperson liaised periodically with the Vice-Chairperson of the Executive Board, Agnes Muskens, and with Chief Diversity Officer Rona Jualla – van Oudenhoven and Anoeska Soedamah, campus psychologist.

Regular contact took place with HR Division staff such as Angelique van Veggel, Labour lawyer/policy officer, Liesbeth Strijbos, Head of the Expert Centre Employment and Ilja Hijink, Senior Policy Officer for Social Safety, Diversity & Inclusion.

At the case level, contact was also made with the HR advisor of a faculty or business unit, if necessary for case resolution.

The Staff Ombudsperson participates in the Social Safety Platform, which is working on an e-learning course on social safety for supervisors, among other activities.

Contact was also made with:

- PON, PhD organisation Nijmegen
- DisABILITY and Accessibility Committee
- RU Assistant Network
- PhD candidates network Faculty of Law
- Donders Graduate School

A DPIA (Data Protection Information Assessment) is taking place with the aim of establishing a registration system for Ombudspersons and Confidential Advisors. As part of this assessment, frequent contact is made with privacy officers, ICT and Information Management staff requiring their input. The Staff Ombudsperson spent much time on the DPIA in 2022.

The Staff Ombudsperson attended meetings such as the National Meeting on Social Safety for PhD Candidates at the University of Twente (10 November 2022) and the meeting at Radboud University on "Academic Integrity under Pressure" (22 September 2022).

The Staff Ombudsperson is a member of the VOHO (Association of Ombudspersons in Higher Education) and is part of a peer review group of Ombudspersons from the universities of Maastricht, Eindhoven, Twente and University of Amsterdam.

With respect to training, in 2022 the Ombudsperson attended the course on Conflict Management Training & System Design from Training Group Kaleidoscope and the Reports and Enquiries workshop from VOHO (Association of Higher Education Ombudspersons).

The Ombudsperson also participated in a survey from UNL (Universities of the Netherlands) on Social Safety at universities; this included input on the role of Ombudspersons.

9. Intentions

- In 2023, work will continue on enhancing the visibility of the Staff Ombudsperson. Publicity efforts will focus in particular on non-academic support staff.
- A team will be formed with the Student Ombudsperson (to be appointed), with both Ombudspersons replacing each other temporarily. Where possible, the Student Ombudsperson will be onboarded by the Staff Ombudsperson.
- More attention will be paid to conducting enquiries initiated by the Ombudsperson if this benefits the organisation and its employees.
