

# Consultation on the Collective Labour Agreement for Dutch Universities (CAO NU)

## National framework for filling university ombudsperson role

Recommendations by VSNU and employees' organisations

SoFoKleS evaluated the national university ombudsperson role pilot in May through June of this year. The results have been recorded in a final report. The report not only focused on the ombudsperson offices at the four pilot universities, but also on the needs and wishes of the other institutions. In its evaluation, SoFoKleS looked into the careful embedding of the ombudsperson role in the institutions' systems, as well as into the duties and accessibility of the ombudsperson.

On Thursday, 10 September, the employers' and employees' delegations at the meeting (OVW: *overleg vakbonden en werkgevers*) drew up an overview of the jointly supported recommendations to accompany the SoFoKleS report. These recommendations were assessed in a seminar on the ombudsperson role on 16 September 2020. In addition, agreement was reached at board level.

### *General OVW recommendations*

On this basis, the VSNU and employees' organisations have drawn up a national framework for filling the university ombudsperson position. This mainly concerns a clear demarcation of the role and scope of the ombudsperson:

- The ombudsperson is incorporated in the **formal structure** of the university and reports to and advises the Executive Board directly.
- The **independent and authoritative position** of the ombudsperson is formally established.
- Prior to an ombudsperson's appointment, the duties and powers of the ombudsperson will be set out in **regulations or statutes**.
- The ombudsperson has the following **powers**:
  - o identifying **undesirable patterns** (e.g. a pattern of undesirable behaviour or lack of social safety);
  - o giving **solicited and unsolicited advice**;
  - o **maintaining contact** with all university staff and students relevant to a report;
  - o **investigating** independently and on own initiative following a report;
  - o playing a **mediating role** if desired.
- Establishing the **scope of action**: the ombudsperson identifies and advises on the more significant trends related to social safety, while maintaining interest in individual cases, but does not deal with legal status issues, reports that are already being dealt with and cases that have been explicitly referred to a specific committee, such as undesirable behaviour. The ombudsperson will take action if a **pattern** is involved.
- The position **complements the assistance structure** and may not duplicate the roles of the confidential advisers or committees.

# Consultation on the Collective Labour Agreement for Dutch Universities (CAO NU)

- The **demarcation between the confidential adviser** and the ombudsperson must be clearly established, as well as with other relevant parties such as a complaints committee. The report states the following in this regard: in principle, the confidential adviser is biased and supports the reporter in tackling the issue at hand. The ombudsperson is impartial, can conduct investigations, and can play a mediating role between a reporter and an organisation. The confidential adviser focuses on individual reporters, while the ombudsperson takes a broader view and advises on underlying improvements that transcend individual reports.
- Drawing up a **profile for the ombudsperson**. In doing so, it is important to have this reflect the described character traits and skills mentioned in the report.
- Establishing an **appropriate interpretation** of the scope of the ombudsperson's role and the associated administrative support.
- Providing **accountability** in an annual report.

At the end of 2022, the way in which the role of university ombudsperson functions as an institute within the sector will be **evaluated**.

## *Elements for the further implementation of the ombudsperson role*

In addition, the report mentions a number of elements that can be fleshed out at an institution itself:

- An ombudsperson **does not have a role as a mediator**, but can create opportunities or take the initiative.
- The **physical presence of** an ombudsperson is important for the sake of approachability and remaining aware of the existing atmosphere at a university. This warrants setting up an easily findable and accessible office for the ombudsperson on or near the campus.
- The ability to guarantee **confidentiality** is a safeguard, in relation to which the ombudsperson must clearly inform employees about the ensured privacy. Anonymous reporting is considered undesirable. If a reporter and the context of a report remains unknown, the parties cannot be heard and given the right to respond.
- Finally, the institutions must decide to appoint a combined ombudsperson for both **staff and students**, or a shared ombudsperson with two different members of staff: one for staff and one for students.

During the implementation, attention should be paid to how a university ombudsperson's performance is assessed within the institution, and the possibilities for this within the framework of professionalism, for example. The question of how to organise this without conflicting with the above principles of independence and autonomy is particularly important.

If the decision is made (e.g. by parties subject to the collective labour agreement, CAO NU) to share the ombudsperson role among several organisations, this should remain based on the above starting points.