

Annual report Staff Ombuds Officer

LEIDEN UNIVERSITY 2022



Universiteit
Leiden
The Netherlands

Introduction

A Staff Ombuds Officer has been in place at Leiden University since 1 May 2022. This is the first annual report produced by the Staff Ombuds Officer and covers the period from 1 May 2022 to 1 January 2023.

The Ombuds Officer is independent and impartial. This means that the work she performs is not subject to the authority of any other body within the University. Since taking up her role here, the Ombuds Officer has felt free to fulfil her duties. She has not been constrained by any University body or questioned about her actions.

During the period covered by this report, the Ombuds Officer met many staff members working at all levels of the organisation. Everyone was clearly willing to speak with her and the discussions were open and valuable. Contacts with the confidential counsellors and the Ombuds Officer for Students were most helpful and constructive. During this period, the Ombuds Officer received reports from staff members relating to social safety. As a result of all the interviews, the Ombuds Officer has been able to gain a first impression of the work environment within the University.

This report presents a description of the Ombuds Officer's powers, a summary of her work during the period covered by the report, an outline of the number of reported situations and the nature of the underlying problems, and several recommendations.

The Ombuds Officer would like to thank all those who have consulted her, for the confidence placed in her.

1. Procedure

Staff Ombuds Officer Regulations

The powers of the Ombuds Officer are laid down in the Staff Ombuds Officer Regulations.

- **Competence**

Pursuant to the Staff Ombuds Officer Regulations, the Ombuds Officer is competent to conduct an investigation, whether or not on her own initiative, based on a report or a reasonable suspicion, into a pattern of unacceptable behaviour that leads to social unsafety and has been reported to or observed by her. Before proceeding to conduct an investigation, the Ombuds Officer explores whether mediation could provide a solution.

The Ombuds Officer does not investigate reports relating to decisions made by the University (the manager) in its role of employer (such as evaluation or dismissal), or reports relating to behaviour about which a complaint can be submitted to the Complaints Committee for Unacceptable Behaviour. The Ombuds Officer also does not give an opinion on established policy or regulations.

The Ombuds Officer can decide not to conduct an investigation if a report is not submitted within a year after the behaviour occurred.

- **Persons entitled to make a report**

Every staff member, former staff member and co-participation body, and the Trade Union Delegation in the Local Consultative Body of Leiden University is entitled to submit a report to the Ombuds Officer, either by email or in another written format, about a pattern of unacceptable behaviour leading to social unsafety.

- **Investigation**

When the Ombuds Officer conducts an investigation, she sets down the findings of that investigation in a 'report of findings', to which the parties concerned are given the opportunity to respond in writing. The findings are then set down in a definitive report, which is sent to the parties and the Executive Board. The Ombuds Officer is permitted to make recommendations in her report.

- **Annual report**

No later than 1 April, the Ombuds Officer provides the Executive Board with an annual report of her activities during the preceding calendar year, ensuring that none of its content can be traced back to individuals.

The practice

The Ombuds Officer mainly receives reports of unacceptable behaviour by email or telephone. Some of the persons submitting a report contact her on their own initiative, while others are referred to her by, for example, a confidential counsellor, the university doctor, HR advisors or colleagues. Reports are also made by third parties, such as a confidential counsellor.

The Ombuds Officer invites the reporting person to an interview, which takes place in person, via Teams or by telephone. During this interview, the reporting person is given the opportunity to explain their report, and the Ombuds Officer listens carefully to their explanation. This is followed by discussion of whether the reported issue falls within the Ombuds Officer's remit for handling. In situations where the reported issue is individual in character and a complaint could be (or could have been) submitted on the basis of the existing complaints regulations, or the reported issue basically relates to a labour law conflict or concerns University policy/regulations, the Ombuds Officer will refer the reporting person to, for example, a confidential counsellor, a legal advisor or a co-participation body. In cases where the report raises a suspicion of a pattern of unacceptable behaviour, the Ombuds Officer handles the report herself.

During the first interview, the Ombuds Officer will speak with the reporting person and try to obtain a clear picture of the situation, and will discuss the various possibilities for reaching a solution to the problem reported. In this interview, the reporting person will be explicitly informed that the Ombuds Officer is neutral and impartial, does not serve to represent the interests of the staff member and does not have an opinion on the substance of the problem reported. The possibility is thus retained, if necessary, to conduct a neutral investigation into the problem underlying the report.

The Ombuds Officer has the option of providing mediation in order to reach a solution, if she sees a reason to do so and the reporting person agrees to this. In a situation of this kind, she will contact, for example, the person whose behaviour is the subject of the report, the reporting person's manager, the HR advisor or the dean/director, asking them to engage in discussion with the reporting person. It is possible for the Ombuds Officer to participate in this discussion, but it is not always necessary and in some cases not actually desirable, in view of the Ombuds Officer's neutral position.

The Ombuds Officer does not give an opinion on the substance of decisions taken by the University in its role of employer. Moreover, the Ombuds Officer does not have an opinion on policy developed in consultation with the co-participation bodies. However, the Ombuds Officer is permitted to give an opinion on whether staff members have been treated properly, whether the applicable procedures were/are being followed, whether decisions were made carefully and transparently and whether they took sufficient account of the interests of the persons concerned. After all, situations where the University in its role of employer did not act transparently or carefully may constitute a pattern of unacceptable behaviour that leads to social unsafety.

Anonymous reports are not accepted for handling. It must always be possible for an interview to take place between a reporting person and the Ombuds Officer. Interviews are confidential and the Ombuds Officer will only contact other parties involved in the report after obtaining the permission of the reporting person.

The Ombuds Officer works without a secretariat and can be contacted directly by email (ombuds.medewerkers@leidenuniv.nl) and telephone (06-38950408).

2. Summary of the work carried out in 2022

Introductory meetings

Much of the period between 1 May 2022 and 31 December 2022 was spent on introductory meetings with various parts of the organisation. These were held with the following bodies and individuals, among others:

- Board of Governors
- Executive Board
- Deans and directors of operational management of the faculties (except the Faculty of Medicine, where the Ombuds Officer does not have competence)
- Academic/scientific directors and institute managers of different faculties
- Directors of the service departments and expertise centres
- HR at the central, faculty and service department levels
- Legal Affairs
- Chair and secretary of the Complaints Committee
- University Council
- Faculty councils and employee councils
- Confidential counsellors and Ombuds Officer for Students
- Diversity Officer
- Various networks
- Psychological counsellor for PhD candidates
- University doctors
- Career coaches
- Local Consultative Body
- Trade unions

Information sessions

The Ombuds Officer participated in information sessions on social safety for staff members of expertise centres and within networks. Confidential counsellors were also invited to many of these sessions, making it possible to obtain a clear picture of the network of confidential counsellors and how it is organised within the University.

Contact with Executive Board

The Ombuds Officer meets with the President of the Executive Board every three months to discuss the problems observed in a general sense (ensuring the anonymity of the reporting persons). Two of these meetings were held during the period covered by this report.

Professionalisation

The Ombuds Officer is a member of the Association of Ombuds Officers in Higher Education (VOHO) and during the period covered by the report met ombuds officers of other universities. She is also a member of the Association for Complaints Law (VvK), the Association for Education Law (VvO) and the Netherlands Association of Confidential Counsellors (LVV).

Reports of unacceptable behaviour

The Ombuds Officer received and handled a number of reports of unacceptable behaviour in the period covered by this report. She provided mediation, but found no cause to conduct any investigations.

3. Reports of unacceptable behaviour 2022

The Staff Ombuds Officer only handles reports made by staff members. For an overview of the reports made by students, readers are referred to the annual report of the Ombuds Officer for Students.

Numbers

In the period from 1 May 2022 to 31 December 2022 inclusive, 28 situations were reported to the Ombuds Officer. Of these, 22 were reported by individuals who were directly involved and 6 by third parties. The Ombuds Officer spoke with 41 reporting persons. Thirteen situations related to academic staff (WP), 11 to support staff (OBP), 2 to PhD candidates and 2 'other'.

There is a difference between the number of reporting persons interviewed by the Ombuds Officer and the number of situations reported. In several cases, a situation was reported to the Ombuds Officer by multiple individuals and in some cases by people other than those directly involved. In these cases, the Ombuds Officer was contacted by, for example, a confidential counsellor, the Executive Board, an HR advisor, a co-participation body or representatives of the Local Consultative Body or the trade unions.

Many of the reports made to the Ombuds Officer will also have been recorded as a report to a confidential counsellor. The 28 reported situations therefore cannot simply be added to the number of reports recorded by confidential counsellors.

The situations reported related to the following organisational units:

| | |
|------------------------------------------|-----------|
| Faculty of Humanities | 7 |
| Faculty of Science | 6 |
| Faculty of Governance & Global Affairs | 4 |
| Faculty of Social & Behavioural Sciences | 2 |
| Faculty of Archaeology | 1 |
| Leiden Law School | 1 |
| Service departments/expertise centres | 4 |
| Other | 3 |
| Total | 28 |

Handling

Each report needs to be handled on a case-by-case basis. It is therefore not possible to give a general description of how the reports were dealt with. In some cases, a reporting person only needed to tell their story and/or to receive advice on the possibilities for finding a solution to the problems reported. Not all reporting persons actually want the Ombuds Officer to take an active role in the situation reported. The Ombuds Officer's role is then restricted to listening and giving advice, if requested, always explaining that the Ombuds Officer is impartial and neutral. In these cases, the contact is usually limited to just one interview.

In several cases, however, the report led to multiple interviews with the reporting person and/or discussions with the HR advisor of the department/faculty, with the direct manager or with the dean or the director. The purpose of these discussions was to bring the parties concerned into communication with each other, to give the reporting person's complaints a place within the discussion and to encourage the parties to find a solution in mutual consultation. In principle, the Ombuds Officer does not participate in these discussions and simply ensures that they take place and that all the relevant parties can be represented in those discussions, if so desired, by trusted individuals, confidential counsellors or legal advisors, and that sufficient account is taken of the interests of both the reporting person and the person whose behaviour is the subject of the report. After these discussions have taken place, the Ombuds Officer is informed of the outcome and checks that the problem is being addressed or has been resolved in a proper manner.

In 2022 the Ombuds Officer did not avail herself of the power to conduct an investigation, taking the view that an investigation would not offer a solution in the reported situations. She focused instead on providing mediation between the parties concerned and facilitating discussion between them.

Topics

The topics of the reports vary considerably. There were reports relating to unsafety experienced in consequence of the manager's attitude, reports from managers who felt insufficiently supported by their own managers, reports from PhD candidates about supervision (or the lack thereof) and unrealistic performance expectations, reports of undermining behaviour and bullying by colleagues and managers, and reports relating to the lack of transparency in creating job vacancies and the handling of job applications, and to whether or not chairs (professorships) are established.

| Topic | Number | Nature of the reports |
|-----------------------------------------------|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Racism and discrimination | 2 | Prejudice, use of words and position of women. |
| Appointment policy/ job application procedure | 3 | Lack of transparency with respect to the process of creating job vacancies and selection, lack of independence within the Appointment Advisory Committee, suspicion of favouritism towards candidates. |
| Unsafety due to manager and/or colleagues | 15 | Harassment, bullying, gossiping, undermining, abuse of power, failure to keep agreements. |
| Temporary contracts/contracted hours | 1 | Lack of information provision and lack of transparency about the decision-making, lack of clear communication about the right to a contract and the contracted hours. |
| Suspicion of malpractice | 1 | |
| Unsafety in supervision (PhD candidates) | 2 | Lack of supervision, harassment, high performance expectations, abuse of power. |
| Other/anonymous | 4 | Not competent/not accepted for handling. |
| Total | 28 | |

4. Recommendations

After a relatively short period of 8 months and based on 28 reported situations, it is not really possible to arrive at general conclusions about the status of social safety within Leiden University. However, the first impressions gained in the introductory meetings and the interviews with reporting persons and managers during the period covered by this report have given rise to several recommendations.

- **Communication:** Many problems appear to be caused or exacerbated by failures in communication. Too much communication takes place by email, and continues for too long, in situations that evidently call for a face-to-face discussion in which the parties can clear up misunderstandings, explain decisions and answer questions. Sometimes there is no communication whatsoever and staff members' questions simply receive no response. When questions are answered late, or not answered at all, staff members are left in uncertainty for too long and their dissatisfaction with the situation or the absence of a decision increases unnecessarily. In practice, they then involve third parties in the problem, in their attempt to have their questions answered, which makes the situation (even) more complex. Actions such as replying to emails and engaging in discussion at an earlier stage show respect to the staff member and can help to keep problems more manageable.

- *Procedure/substance:* The form/procedure receives more attention than the reason for a report. Generally speaking, a report can be seen as an expression of feelings of dissatisfaction or unsafety. The most appropriate response to this is to engage in open discussion about the dissatisfaction and/or unsafety experienced by the reporting person. That discussion must not be about whether the reporting person took the right path or followed the right procedure when making the report, or whether the reporting person's statement is true or not. The manager's efforts should be focused initially on gaining a clear picture of the problem, and the manager must be willing to both ask questions and listen to the answers to those questions. This is the only way to create space to discuss how a solution can be found, in consultation with the reporting person. This solution will usually not be black or white, true or false, but will often arise in the willingness of all parties involved to reflect on their own behaviour and to set aside their personal considerations. Seeking to engage in discussion about the problem experienced instead of fixating on the procedure is a valuable endeavour, in the sense that the problem does not continue to fester and can be resolved more quickly.
- *Vulnerability:* Asking for help is difficult. People making a report to the Ombuds Officer are afraid that it will have consequences for their career, such as not being given a permanent appointment or missing out on a promotion. It is always hard to assess whether that risk is realistic, but it does indeed appear to be present in a number of situations: for example, in cases where the appointment procedure is less than transparent or there is a dependency relationship in which personal likes and dislikes can be decisive for how someone's career progresses. It is the responsibility of all staff members, managers and the Executive Board to ensure that the work environment is (or becomes) one in which staff members can report an experience of unsafety without becoming a victim of 'cancel culture'. Additionally, the person whose behaviour has been reported is afraid of losing their position in consequence of a report. It is essential to ensure that the interests of both the reporting person and the accused are treated carefully, and therefore to create an environment in which discussions about social safety can take place at an early stage, in a setting that is safe for both parties, without any unjustified risk of retaliation.

Managers also find it difficult to ask for help. It is far from easy to discuss social safety with staff members, while the manager may often be blamed for causing that unsafe situation. To ensure that a discussion proceeds smoothly and remains focused on finding an effective and practicable outcome, the manager must be given support. Leiden University provides support in the form of leadership training courses, HR advisors and external professionals, with a list of preferred suppliers available from HR. A range of assistance is offered; people only need to make use of it.

- *Success stories:* Within the University there are examples of situations where staff members reported the social unsafety they experienced and this report led to a solution that had no adverse consequences for their career. If we can raise awareness of these success stories, showing that discussion of how to treat each other can take place without danger, then people's confidence in the organisation's problem-solving ability will grow. Moreover, when we focus on what is going well, this generates pride and hence new energy to work together on increasing the safety of the work environment.

- *Short-term:* The Ombuds Officer has noticed that the resolution of a workplace conflict is quite often sought in a short-term solution, such as secondment or transfer of the person who reported being involved in a conflict, or of the person who displays unacceptable behaviour. These are decisions that have only a temporary effect or no effect at all, because the core of the problem is not discussed or addressed. It appears that more attention should be given to finding a broader and longer-term solution for creating a safe work environment. This can be achieved, for example, by seeking solutions in open discussion with more senior managers and HR.
- *Unknown unsafe situations:* The Ombuds Officer is naturally not able to assess patterns of socially unsafe behaviour that have not been reported to her. She has observed that the necessary procedures have been arranged within the organisation; there are confidential counsellors, complaints regulations and complaints committees, and since 1 May 2022 there has been an Ombuds Officer. Nevertheless, the Ombuds Officer still has the impression that within the University there are patterns of unacceptable behaviour, both serious and less serious, that are not being reported. Of course, she can only guess at the reason for not reporting experienced unsafety, but the fear for one's own career appears to play a major role in not reporting such behaviour, as it does in reports where the Ombuds Officer is not given permission by the reporting person to take action.

The Ombuds Officer also observes that another reason given for not reporting or referring problems (or only doing this late in the process) is that the existing procedures are not known or are mistrusted. 'I didn't know who to contact', 'I didn't know where I could refer the complainant', 'I have no confidence in the complaints procedure', 'there's really no point in it', are all statements that the Ombuds Officer has heard in discussions with HR (and other) advisors, managers and people who made reports. These statements are at odds with the fact that the procedures have been designed properly (they are neutral and independent), that members of the network of confidential counsellors are available (and can be found on the website) and that discussions with them often lead to a solution. Active efforts will have to be made to inform staff members at all levels of the organisation about the role of confidential counsellors and the Ombuds Officer and about the complaints procedures, so that they know more about these roles and procedures, and their confidence in them can grow.

- *Availability of interview rooms:* The Ombuds Officer and the coordinating confidential counsellor do not have their own offices and have only very limited access to interview rooms in the University buildings. Access to interview rooms in neutral territory (i.e., neutral for the reporting persons) is a prerequisite for holding a discussion about an unsafe work environment. The Ombuds Officer requests the Executive Board to make provision for this.



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