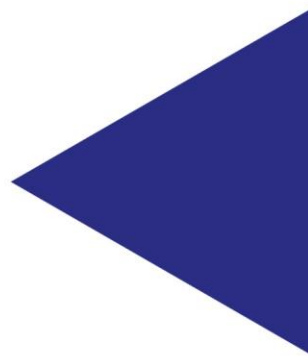
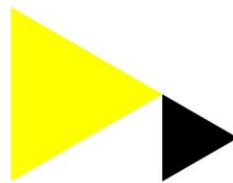


# AUAS Staff Ombudsperson Regulations

HR

Adopted by the Executive Board on 27 May 2023  
Version 3.0 (Technical amendment)



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# AUAS STAFF OMBUDSPERSON REGULATIONS

## 1. Preamble

The Staff Ombudsperson is an independent official appointed by the Executive Board who, in response to complaints from employees or on his own initiative, investigates whether an organisational unit or a member of AUAS's staff has acted properly and with due care in a particular matter. The focus here is on the correctness and fairness of the application of rules and procedures

The Staff Ombudsperson may issue advice, refer the employee to someone else, mediate and examine cases and issue a ruling on them. The Staff Ombudsperson will examine the options available with the employee in the first meeting. This could be mediation or advice. Asking the Staff Ombudsperson a question will result in advice and an information process. Submitting a request to the Staff Ombudsperson will result in mediation, and where appropriate, in an investigation of the complaint, reporting and a ruling as specified in the AUAS Staff Ombudsperson Regulations.

The Staff Ombudsperson's duty is to identify potential institutional problems, problematic issues and injustices, based on questions, reports or complaints submitted to him. Where appropriate, the Staff Ombudsperson may offer suggestions through recommendations to the competent authority to avoid the consequences of the incorrect and unfair conduct.

AUAS strives for well-organised education and research. Clear and carefully established rules and procedures ensure the smooth running of daily affairs. However, AUAS is a complex organisation and despite all diligence, regulations and efforts something may go wrong during implementation. A mistake could be made when applying regulations and procedures, or a difference of opinion may arise on what the correct interpretation or application is. This could make an employee feel that they have been duped. The principle is that such situations should be resolved where they arise, so that employees first put their issues to the person with whom or the department with which they have an issue. However, in practice there are some situations that cannot be solved in this way.

AUAS has full confidence on the self-cleansing capability of the organisation, which means that internal matters can also be solved internally. AUAS therefore attaches much value to employees being able to raise matters where an organisational unit or a member of AUAS's staff has failed to act properly and with due care with a Staff Ombudsperson, as an independent and impartial party. The Staff Ombudsperson is a complaints officer who conducts solicited and non-solicited investigations to establish whether an employee or organisational unit acted properly and with due care in the light of the rules and procedures or their application. The appointment of a Staff Ombudsperson enables AUAS to receive signals that will contribute to the improvement of internal processes in a careful and accessible way. In short, the Staff Ombudsperson is a mirror for the organisation (and not an opposing force). With a focus on the careful and proper application of the rules and procedures, the Staff Ombudsperson is an important component of AUAS's entire complaints process, along with the confidential advisers, the Inappropriate Behaviour Complaints Committee and other Complaints Committees. The Regulations lay down the position, working method, duties and powers of the Staff Ombudsperson.

Where the male form of address is used in these regulations, this should be read to include all other forms of address.

## 2. Related regulations and other relevant sources of information

- AUAS Code of Conduct
- AUAS Integrity Code
- AUAS Regulations on Inappropriate Behaviour
- AUAS regulations governing the reporting of (suspected) instances of wrongdoing, irregularities or integrity violations
- Performance and Appraisal Regulations (with regard to the job classification change and complaints procedure)
- AUAS privacy policy and policy on processing personal data
- Ethical assessment of research and compliance with research integrity at AUAS

## 3. Definitions

**Article 1** For the purpose of these Regulations, the terms below are defined as follows:

**Recommendation:** a suggestion that the Staff Ombudsperson makes to the organisational unit of AUAS that is authorised to implement it, or where appropriate to the Executive Board, to avoid or remedy the damage caused by the consequences of improper or negligent conduct, or to avoid a repeat thereof.

**Provision of advice:** an informal form of complaint handling, if the employee wishes to remain in control of their complaint and would like to know whether they are on the right path towards a solution.

**Executive Board:** the institutional administration, as referred to in Sections 1.1 and 10.8 of the Dutch Higher Education and Research Act (WHW).

**Handling a complaint:** the provision of advice, mediation and/or initiation of an investigation by the Staff Ombudsperson in the event of a complaint.

**Accused:** the employee or organisational unit against whom the complaint is directed.

**Mediation:** an informal way of handling a complaint where the Staff Ombudsperson, as impartial third party, searches for paths on which the parties can find a common frame of reference and/or solution to the complaint, thereby solving the complaint informally.

**Amsterdam University of Applied Sciences (AUAS):** university of applied sciences maintained by the Stichting Hogeschool van Amsterdam.

**Complaint:** a report from an applicant regarding the improper or negligent conduct of an employee or an organisational unit of AUAS.

**Employee:** a person who is employed by or carries out or has carried out work at AUAS in whatever capacity. For the purpose of these Regulations, all persons who work for the joint service departments of AUAS and the University of Amsterdam also qualify as employees.

**Report:** any notification made to the Staff Ombudsperson regarding improper or negligent conduct.

**Staff Ombudsperson:** an independent and impartial person who an employee may call upon regarding a complaint or improper or negligent conduct.

**Investigation:** the formal way of handling a complaint in which the Staff Ombudsperson investigates the facts and circumstances surrounding the complaint and from which, in principle, a ruling and recommendations follow.

**Ruling:** ruling by the Staff Ombudsperson regarding whether or not there was a case of improper or negligent conduct in the situation forming the subject of the complaint.

**Request:** the submission of a complaint whereby the applicant requests that the Staff Ombudsperson handles the complaint.

**Applicant:** an employee who submits the request to the Staff Ombudsperson, requesting that he handles the complaint.

## 4. General provisions

### Article 2 Appointment of the Staff Ombudsperson

The Staff Ombudsperson is appointed by the Executive Board of AUAS for a term of four years, with the first year of the first term serving as a trial period. Reappointment is possible, without any limit on the number of reappointments.

### Article 3 Duties and position

- a. The Staff Ombudsperson is an independent and neutral party.
- b. The Staff Ombudsperson handles complaints of employees and establishes whether an employee or organisational unit in acted properly and with due care in the light of the rules and procedures or their application.
- c. The Staff Ombudsperson issues advice, mediates, examines cases and issues a ruling on them at the request of an employee or at his own discretion.
- d. The Staff Ombudsperson's position is incompatible with other jobs within the AUAS, unless it is a job also involving an established independent position and the activities performed as part of the job do not conflict with the activities he undertakes as in his capacity as Staff Ombudsperson.
- e. The Executive Board bears responsibility for making sure that the existence of the Staff Ombudsperson and his activities are known within AUAS.
- f. The Executive Board will provide the Staff Ombudsperson with the tools necessary to perform his duties properly.
- g. The Executive Board will appoint a temporary replacement of the Staff Ombudsperson, as soon as it can be expected that he will be unable to perform his duties for a period longer than six weeks. That replacement may also be working as an Ombudsperson outside AUAS.
- h. The Staff Ombudsperson will be granted discharge at his own request.
- i. The Executive Board may relieve the Staff Ombudsperson of his duties before the end of his term if he seriously abuses the trust placed in him by any act or omission.
- j. A complaint about the Staff Ombudsperson will be put to him first. If the complaint cannot be resolved to the parties' satisfaction, a report may be filed with the Chair of the Executive Board.

## 5. The procedure

### Article 4 Complaints

- a. Complaints must concern the conduct of an employee or organisational unit that was improper and negligent in the light of rules and procedures or their application. This includes actions, decisions and measures, as well as their omission or absence.
- b. Requests for a complaint to be dealt with should preferably be submitted in writing or by email.
- c. Requests must in any case contain:
  - the name and address of the applicant;
  - a description of the treatment to which the complaint relates, when it took place and who or which organisational unit acted in that manner;
  - the reason why the applicant objects to that conduct;

- signature and date.
- d. If a request has been submitted in a foreign language and a translation is required for the proper handling of the complaint, the applicant must provide a translation.
- e. If the request does not fulfil the aforementioned criteria, the applicant will be given the opportunity to fulfil them at a later date.

#### **Article 5 Rejection of a request**

- a. The Staff Ombudsperson is not obliged to deal with a complaint if:
- the request does not meet the requirements set out in Article 10;
  - more than one year has passed since the complaint on the basis of which the request was submitted took place;
  - the complaint is manifestly unfounded;
  - the interest of the applicant or the gravity of the complaint is manifestly insufficient;
  - the applicant is not the person who was subjected to certain treatment.
- b. The Staff Ombudsperson will not deal with a complaint that:
- does not concern the improper or negligent conduct of an employee or an organisational unit of AUAS;
  - pertains to the content of AUAS's general policy, unless, in the opinion of the Staff Ombudsperson, the interests of the applicant have been harmed disproportionately;
  - is anonymous;
  - has already been dealt with or rejected by the Staff Ombudsperson;
  - the applicant could bring (or has already brought) through another complaints, objections, appeals or judicial procedure within or outside AUAS.
- c. If a complaint is brought by the applicant through another complaints, objections, appeals, or judicial procedure, other than pro forma in order to meet deadlines, whilst being handled by the Staff Ombudsperson, the Staff Ombudsperson shall cease handling the complaint.
- d. If, on the basis of this article, the Staff Ombudsperson does not handle the complaint or ceases handling it, he must provide written notice thereof to the applicant as soon as possible, and if applicable to the accused, with a statement of reasons.
- e. If other complaints, objections, appeals or legal procedures are available to the applicant, the Staff Ombudsperson will refer the complainant to the competent authority, giving reasons.

#### **Article 6 Working method**

- a. When handling a complaint and during all stages of any investigation, the Staff Ombudsperson ascertains whether there is any possibility of removing or otherwise resolving the complaint in whole or in part, either by advice and/or referral or by making recommendations to the parties concerned.
- b. Copies of documents submitted to the Staff Ombudsperson are made available to the parties, subject to the provisions of Article 8 on Confidentiality and protection of privacy.
- c. The Staff Ombudsperson will ensure that a copy of the request submitted is made available to the accused, while guaranteeing the anonymity of the applicant, if the applicant so wishes.
- d. When handling a complaint, the Staff Ombudsperson applies the principle of hearing both sides of the argument.

#### **Article 7 Powers**

- a. The Staff Ombudsperson is authorised to:
- on his own initiative or on the basis of a request, initiate an investigation to establish whether or not the conduct of an employee or an organisational unit was proper and careful in the light of the rules and procedures or their application;
  - request information from AUAS organisational units, employees and students, or to request and inspect documents relating to the complaint, for the purposes of the investigation;
  - engage third parties or recommend the engagement of third parties during the handling of the complaint;
  - enter, without permission, places where the accused performs his duties, if he considers this necessary for the investigation;
  - rule, based on the investigation, whether the conduct was improper or negligent;
  - make recommendations to the organisational unit that is competent to implement them, in order to prevent or remedy the consequences of improper or negligent conduct, or to prevent a repeat of the improper or negligent conduct;
  - examine the implementation of a decision taken on the basis of his investigation, ruling and/or

recommendation.

b. Organisational units and employees are obliged to comply with a request as referred to in the preceding paragraph within the terms set by the Staff Ombudsperson.

#### **Article 8 Hearing the parties involved**

a. The Staff Ombudsperson will give the organisational unit and/or the employee to whom the complaint relates (hereinafter referred to as the accused) and the applicant the opportunity to clarify their position in writing or verbally, whether in each other's presence or not - the foregoing being at the discretion of the Staff Ombudsperson.

b. The Staff Ombudsperson may also inform others of the nature of the complaint and allow them to issue written or oral statements on the matter if he feels that this is necessary for a proper evaluation of the Complaint, with due observance of the provisions of Article 10 Confidentiality and privacy.

#### **Article 9 Assessments**

a. The Staff Ombudsperson will assess whether the matter he is investigating does or does not involve improper or negligent conduct, unless he deems an assessment to be unnecessary because the complaint was remedied after the request was submitted.

b. When the Staff Ombudsperson has concluded the handling of a complaint, he will draw up a report setting out his findings and ruling. The report will state whether, and if so, how the complaint was handled. It will also state whether, and if so, what recommendations have been made.

c. The Staff Ombudsperson will send his report to the applicant, to the accused and where appropriate to the Executive Board.

d. The organisational unit that is authorised to implement the recommendation(s) will inform the Staff Ombudsperson within four weeks of receiving the report how the recommendations are being implemented.

e. If the organisational unit decides not to follow through on the recommendations for compelling, policy-related reasons, it will inform the Staff Ombudsperson in writing and stating the reasons within four weeks of receiving the report. The Staff Ombudsperson will send a copy thereof to the applicant and the Executive Board

**Met opmerkingen [A1]:** Please note, source states Article 8, which I believe is incorrect.

**Met opmerkingen [A2R1]:** Klopt, moet inderdaad 10 zijn

## **6. Concluding provisions**

#### **Article 10 Confidentiality**

a. The Staff Ombudsperson has a duty to treat as confidential any information that may become known to him while performing his duties, in so far as this is possible given the nature of the case. This same duty of confidentiality must be observed by all persons working for the Staff Ombudsperson, and by persons who are or were involved in a particular case.

b. Confidentiality may be broken in the event that the safety of the person involved has been compromised or there is case of wrongdoing and/or criminal acts.

c. The Staff Ombudsperson will inform the applicant of this proviso.

#### **Article 11 Annual report**

a. The Staff Ombudsperson annually produces a report to the Executive Board, in the form of an anonymised annual report, of the number and the nature of the complaints reported to him and the manner in which they were handled.

b. The Executive Board is responsible for sending the report to the Central Representative Advisory Council (CMR), faculty deans and directors.

c. The Staff Ombudsperson ensures distribution within AUAS.

#### **Article 12 Retention period**

a. Once a complaint has been handled, the associated report drawn up by the Staff Ombudsperson will be archived in the Staff Ombudsperson's records and retained there for a period of five years from the date on which the annual report as referred to in Article 11 was

issued. The retention period is in accordance with the Selection List drawn up by the Netherlands Association of Universities of Applied Sciences.

b. Once the report has been archived in accordance with paragraph (a), the confidential adviser will destroy all other documents relating to the complaint.

**Met opmerkingen [A3]:** Please check, should this refer to the Ombudsfunctionaris? Or does this duty fall under the remit of the confidential adviser?

#### **Article 13      Periodic consultation**

- a. Periodically, but at least once a year, a meeting will take place between the Staff Ombudsperson and the Executive Board, at which the nature and scope of the duties, as well as the working method, of the Staff Ombudsperson will be evaluated.
- b. Periodically, but at least once a year, a meeting will take place between the Staff Ombudsperson and the Executive Board, at which the fringe benefits will be discussed.
- c. Periodically, but at least once a year, a meeting will take place between the Staff Ombudsperson and the Staff Confidential Advisers.

#### **Article 14      Scope of application**

- a. These Regulations also apply to the conduct of persons working at AUAS affiliated legal person(s) or institutions with which AUAS has a partnership and whose conduct has been designated, by decision of the Executive Board, as falling under the competence of the Staff Ombudsperson.
- b. The Executive Board will only take a decision as mentioned in the previous paragraph if the highest competent (management) body of that/those legal person(s) or institutions has declared in writing that it agrees to the application of these Regulations.
- c. That/those legal person(s) or institutions are listed in Appendix A to these Regulations.

#### **Article 15      Entry into force and evaluation**

- a. The Executive Board will ensure the regular evaluation of these Regulations. The evaluation will take place within a year of their entry into force and thereafter at least once every three years.
- b. These Regulations enter into force on 21 July 2023, can be cited as 'AUAS Staff Ombudsperson Regulations' and replace the AUAS Staff Ombudsman Regulations of 2019.

Original regulations: Staff Ombudsman Regulations 2006  
Revised: 2019, 2023