

Rules on the municipal ombudswoman / -man

PART I. Regulations

Article 1: Mandate Contract

§1. The appointment of the ombudswoman / -man is done by mandate. This mandate is determined by the council. The duration of the mandate is 5 years. The first year is considered probation.

The mandate legally ends after the expiration of the duration.

§2. When the mandate's mission and profile have not changed, the council may, following a proposal of a special council committee, decide to grant the holder a new term of office without a new notice and without a new candidate selection.

§3. The council may, well motivated, prematurely terminate the mandate. The ombudswoman- / man can terminate the mandate prematurely at her or his own request.

Article 2: Job requirements

The job requirements are determined by the council on a A-10 level, in a separate job profile, which aligns with the mission of the ombudswoman / man.

Article 3: Inconsistencies

The function of ombudswoman / -man is incompatible with

1. The exercise of:

1.1 any salaried office

1.2 a public office through election

1.3 a legal profession

1.4 an administrative or management position in a political party or political movement

1.5 an administrative or management position in a trade union

1.6 an administrative or management position in a non-profit organisation in which the city participates in majority

2. the profession of notary, judge or bailiff

3. the military or clergy

4. another by the city or its subsidiaries, by the Public Centre for Social Welfare or any other body or authority, as stated in Article 6, salaried position.

Article 4: Independence

The ombudswoman's/man's mandate is independently exercised under the authority of the City Council. Lump sum financing, approved by the City Council, reinforces this independence. The mandate contract defines the expectations regarding this lump sum.

Article 5: Oath

The ombudswoman / -man takes an oath in front of the city council and the mayor and promises that she / he will fulfill the obligations of her / his duties.

Article 6: Authority

The ombudswoman / -man can impartially address complaints relating to a municipal body, the municipal administration (including districts and local police), the Public Centre for Social Welfare of Antwerp, autonomous municipal companies, autonomous bodies, social housing companies and any other private or public entity to which a task of public interest is entrusted.

Article 7: Legal position

§1 The administrative and financial status of the city staff shall apply to the ombudswoman / man, subject to the specific regulations that apply to the ombudswoman / man.

§2. Personnel provided by the city and the Public Centre for Social Welfare must be evaluated by the ombudswoman / man on the basis of the municipal evaluating system, without adversely affecting the independence of the ombudswoman / man.

Article 8: Operational plan

§1. The implementation of the mandate requires an operational plan, which is submitted for approval to the council within three months from the appointment.

§2. The minimum annual reporting to the council should be linked to the implementation of the operational plan.

Article 9: Assessment

§1. The assessment of the mandate is carried out by an assessment committee in accordance with Article 39, §3 municipal decree and Article 65 of the basic rules of administrative organization.

§2. An intermediate assessment can take place around the end of the second year of the mandate.

§3. The final assessment is done, not a day later than ninety days before the expiration of the mandate, on the basis of the job profile, the implementation of the approved operational plan and the mandate contract.

§4. The assessment committee decides, by absolute majority, on the carried out mandate with 'favourable' or 'unfavourable'. The assessment committee then makes a recommendation to the city council.

Article 10: Mandate regulations

The mandate rules of the city's business managers are not applicable to the ombudswoman's man's mandate. The decision of the Flemish Government of December 7, 2007, laying down minimum standards for the mandate system of the municipal staff (Belgian Official Journal, December 24, 2007), applies. The provisions specifically made in these regulations are additional to the decision of the Flemish Government of 7 December 2007 laying down minimum standards for the mandate system of municipal employees.

Article 11: Derogation

The ombudswoman / -man is discharged from duties by the council in the following cases:

1. at their own request
2. upon reaching the retirement age;
3. if she / he accepts a position or office that is incompatible in accordance with Article 3 with the function of ombudswoman / -man;
4. if she / he is permanently unfit due to illness to perform his / her duties;
5. for serious reasons, to be determined by the council with an absolute majority.

TITLE II Functioning

Article 12: Competence Description

Any person (natural or legal person or unincorporated association), that has a complaint about the way she or he has been treated by a body or authority indicated in Article 6, has the right to turn to the ombudswoman- / man, after she or he has first addressed the relevant city services.

The intervention is done either following a complaint or at the request of the Board of Mayor and Aldermen.

The interested party may submit the complaint both verbally and in writing, he / she may be assisted by a counsel of choice.

The intervention of the ombudswoman / -man is free of charge.

The ombudswoman / -man is empowered to launch an investigation into how a body or authority referred to in Article 6 has behaved in a certain situation or certain situations and subject to formulate an opinion. The ombudswoman / man will inform the institution or service concerned.

Article 13: Non-treatment

The ombudswoman / -man refuses a complaint when:

1. the identity of the applicant is unknown;
2. the complaint relates to facts and acts which occurred 12 months before the complaint;
3. the complaint was not raised with the appropriate authority itself.

Article 14: Unauthority

The ombudswoman / man is not authorised to investigate complaints relating to:

1. generally applicable rules and regulations;
2. general policy of the city government;
3. transactions and events which fall outside the competence of the bodies and services referred to in Article 6;
4. matters for which the applicant can or could apply to the supervisory authority or to an administrative court;
5. matters for which the applicant took the initiative in a civil action or for which criminal proceedings have been instituted;
6. work and actions of the local police in its capacity as judicial police;
7. all matters covered by medical confidentiality.

Article 15: Duty of discretion

The ombudswoman / man will observe the necessary discretion concerning information of which she / he has knowledge by virtue of his / her function. She / he will not reveal the name of the applicant, if the latter requests this.

The confidentiality obligation also applies to employees of the ombudswoman / -man.

Article 16: Notification to the applicant

The ombudswoman / -man confirms receipt of the complaint in writing to the applicant within ten days of receiving the complaint.

Once the ombudswoman / -man does not treat the complaint or stops the investigation, this will be reported to the applicant, stating the reason.

The applicant may consult his file at any time.

Article 17: Right of investigation

The ombudswoman / man has the right to examine all documents necessary or useful, obtained from the bodies or services mentioned in Article 6.

She / he can, if it is required for the purpose of research, visit all places, with the exception of housing. She / he may invite everyone for a discussion on the matter.

Article 18: Request for examination

The Board of Mayor and Aldermen and the commission for general administrative affairs may ask the ombudswoman / -man to set up a specific investigation.

Article 19: Review and follow-up

The ombudswoman / man assesses whether the bodies or services mentioned in Article 6 may or may not have acted responsibly.

If a complaint is wholly or partly justified, it shall be brought to the attention of the Board of Mayor and Aldermen, with recommendations. When the Board of Mayor and Aldermen does not agree with these recommendations, it gives notice to the ombudswoman / -man, stating the reasons.

The ombudswoman / -man transmits the decision of the Board of Mayor and Aldermen in a written statement to the applicant.

A series of complaints concerning the same matter can be transferred to the Board of Mayor and Aldermen, as a cluster.

Article 20: Semester Report

In the second half of each year the ombudswoman / -man provides an intermediate report to the Board of Mayor and Aldermen and the City Council with a list of valid complaints and

general trends and observations. At the request of the Board and / or the City Council it is discussed in a dedicated council committee.

Article 21: Annual report

In the first half of each year, the ombudswoman / -man reports in writing on his / her work, in front of a joint session of the council and of the board of the Public Centre for Social Welfare
A common theme committee is organised.