Research Integrity Complaints Procedure Utrecht University 2019

Preamble

The 2018 Netherlands Code of Conduct for Research Integrity sets out the guiding principles of good and ethical scientific practice and the resulting standards for good research practices, which the institution subscribes to as well and apply for a university as guidelines within the meaning of Section 1.7 of the Dutch Higher Education and Research Act (Wet op het hoger onderwijs en wetenschappelijk onderzoek – WHW).

All those involved in university education and academic research at the institution have their own responsibility when it comes to maintaining academic integrity. Everyone must ensure that the standards are carefully complied with. In the event of a breach of research integrity, a complaint about this can be submitted. The institution will ensure that a careful and honest procedure for the handling of the complaints and the decision-making that follows it is in place. To that end, the Board of the institution has laid down the below regulations. These regulations will be applied by analogy insofar as possible to any investigation into a possible breach of research integrity that is conducted at the request of the Board of the institution without a complaint having been submitted.

Paragraph 1 Definitions


1.1 Breach of research integrity: An act or omission that constitutes a breach of research integrity within the meaning of Paragraph 5.2 under A 1, 2, or 3 of the Code of Conduct.

1.2 Complaint: A written report on an alleged breach of research integrity committed by an employee.

1.3 Complainant: The person who submits a complaint to the Board.

1.4 Defendant: The employee on whose behaviour a complaint has been submitted, or whose actions the committee is investigating at the request of the Board.

1.5 Employee: The person who has or used to have an employment agreement with the institution or is or used to be otherwise employed under the responsibility of the institution. This includes those persons who are not employed with the institution or are only employed with the institution on a part-time basis, insofar as they participate in the institution's research or publish their research under the name and responsibility of the institution. It excludes those persons who are only involved in the research in a supporting role.

1.6 Confidential adviser: The person the Board has appointed as a confidential adviser for research integrity.

1.7 Committee: the committee set up by the Board to handle complaints on breaches of research integrity.

1.8 Board: the Executive Board of the institution.

1.9 Supervisory Board: the Supervisory Board of the institution.

1.10Institution: Utrecht University.
Paragraph 2 General

2.1 Everyone has the right to consult the confidential adviser in the event of an alleged breach of research integrity.

2.2 Everyone has the right to submit a complaint to the Board, which will immediately forward such complaint to the committee. A complaint can only be submitted about a breach of research integrity. The complaint must contain sufficient substantiation of why the complainant feels the defendant has breached research integrity.

2.3 The Board may also request that the committee conduct an investigation into a supposed breach of research integrity without a complaint having been submitted.

2.4 An anonymous complaint will only be handled if the Board sees cause to do so, as it is of the opinion that:
   a. compelling public interests or compelling interests of the institution or the parties involved necessitate it, and
   b. the investigation into the facts can take place without the complainant's involvement.

2.5 If the complaint pertains to a member of the Board, the Supervisory Board will perform the role and exercise the authority of the Board as laid down in the regulations.

2.6 If the complaint pertains to someone who is or used to be an employee of multiple institutions that have subscribed to the Code of Conduct and the complaint could therefore be investigated at several institutions, there may be a joint handling of the complaint, or the institutions involved can otherwise make arrangements on the manner in which the complaint will be handled. In such case, a decision on the manner in which a complaint is handled will be taken by the Board.

2.7 Everyone is obliged to render the confidential adviser or the committee every assistance these may reasonably ask for in the exercise of their authority, within the reasonable term set.

2.8 All those involved in the handling of a complaint are bound by confidentiality with regard to the substance of the complaint and any information that has come to light in connection with the complaint or the procedure. The duty of confidentiality also applies after the end of the procedure, save for the anonymised reflection of the facts in annual reports or on the VSNU website. The committee or the Board may attach fitting consequences to a breach of the duty of confidentiality.

Paragraph 3 Confidential adviser

3.1 Appointment
   a. The Board will appoint one or more confidential advisers for a term of four years. This person can be reappointed for consecutive periods of four years at a time.
   b. The confidential adviser must have an academic background, must have an immaculate academic reputation and must be able to handle contrasts and conflicts. The confidential adviser may not have an ancillary position that could stand in the way of their functioning as a confidential adviser.
   c. The members of the Supervisory Board, the members of the Board, the deans and vice-deans of the faculties and the members of the committee are not eligible for appointment.
   d. The Board may terminate the appointment prematurely
      - at the confidential adviser's own request;
      - due to failure to meet the requirements for appointment;
      - due to unsatisfactory performance as a confidential adviser.
3.2 Duties
The confidential adviser
- will serve as an approachable point of contact for questions and complaints about research integrity;
- will – if this appears to be an option – attempt to mediate or otherwise resolve the complaint through an amicable solution;
- will explain how the complainant can submit a complaint to the Board;
- may not assist the complainant and the defendant at the same time;
- will only perform acts for the benefit of the complainant or the defendant with their permission.

3.3 Accountability
After the fact, the confidential adviser will account for his actions to the Board in an annual report for the benefit of the institution's annual report. This will report, in general terms, on the cases that have been heard, and the activities that have been carried out. It must not be possible for the report to be traced back to a person. In addition, the confidential adviser is bound to confidentiality with regard to all that which has come to their attention in that capacity, and may only derogate from that with the express permission of the complainant and the defendant.

Paragraph 4 Research Integrity Committee

4.1 Appointment and composition
   a. The Board will set up a research integrity committee consisting of a chair and at least two other members. One of these should preferably be a legal expert.
   b. The chair and the members will be appointed by the Board.
   c. The provisions of Article 3.1 apply by analogy, on the understanding that the confidential adviser is not eligible for appointment as the chair or as a member of the committee.
   d. In the appointment, the parties will strive for a balanced representation of the areas of science.
   e. For the purposes of the investigation, the committee may be temporarily expanded with experts or ad hoc members, who may or may not be employed by the institution.
   f. The Committee is assisted by a secretary.

4.2 Duties
The research integrity committee will investigate complaints, determine whether research integrity has been breached and will make a recommendation on that to the Board. At the request of the Board, it can also conduct an investigation and provide a recommendation without a complaint having been submitted.

4.3 Authorities
   a. The committee is authorised to obtain information from all the employees and bodies of the institution. It can request access to or copies of all the documentation and correspondence that it considers relevant to its investigation and may, if it considers this necessary, seize such documentation and correspondence or have it sealed.
   b. The documentation referred to in the preceding paragraph includes data of the research to which the complaint pertains. Those parts of the academic research that are not available to the public and the relevant data must be made available for inspection whenever the committee considers this necessary, to two persons to be appointed to that end by the committee. These persons will perform the inspection in strict confidence and will only share their findings with the committee.
The relevant findings will be included in the committee's recommendations in such a manner that the confidentiality of the research or the research data is not breached.

c. The committee may consult experts or other third parties, regardless of whether these are employed by the institution. A report of the consultation will subsequently be drawn up. The parties will be informed of the identity of the consulted experts or third parties.

4.4 Procedure

a. Insofar as the working methods of the committee are not laid down in these regulations or further regulations, this will be determined by the chair.

b. Unless Article 2.6 applies, a complaint will be handled by the chair of the committee and two other members, who may be joined by one or more experts or ad hoc members. These experts or ad hoc members will be appointed to that end by the Board, at the request of the committee.

c. Members of the committee who are in any way involved with the persons or facts to which the complaint pertains or who otherwise have an interest in the case, will not be eligible for the handling of the complaint.

4.5 Start of the procedure

a. After receipt of the complaint, the committee will inform the complainant and the defendant within two weeks, in writing, of the fact that it has received the complaint, and will inform the parties involved of the procedure it will follow and the substance of the complaint.

b. The committee will determine whether it will be able to handle a complaint on the basis of the following requirements:
   I. the complaint must contain a clear description of the supposed breach of research integrity by one or more employees and must come with any relevant written documentation or other evidence;
   II. the complaint must be dated and must state the name, position and contact details of the complainant. This requirement does not apply if Article 2.4 applies.

c. If the complaint is incomplete, the committee will give the complainant the opportunity to supplement the complaint within a set term. The term referred to in 4.5 under f. will in such case be extended by the term referred to in the preceding sentence or the term within which the supplement was provided.

d. The committee is authorised to recommend that the Board not deal with the substance of the complaint if
   I. too much time has passed since the supposed breach, or the complainant has waited an unreasonably long time to submit the complaint. In this regard, in principle, a term of ten years applies;
   II. the complaint has been investigated by it or a similar committee before;
   III. the complainant has breached the duty of confidentiality under Article 2.8.

e. The committee is also authorised to recommend that the Board not deal with the substance of a complaint if, based on an earlier assessment, it has come to the conclusion that
   I. the complaint is patently unfounded,
   II. the complaint is manifestly of insufficient importance;
   III. the complaint only pertains to a professional difference in opinion;
   IV. the complaint is only based on a conflict in the workplace;
   V. the complaint cannot lead to the conclusion that the actions of the defendant constitute a breach of research integrity.

f. If it is of the opinion that the substance of the complaint should not be dealt with, the committee will make that recommendation to the Board within four weeks.

g. In such case, the Board will decide as soon as possible on whether it will deal with the substance of the complaint and will send its decision to the complainant and the defendant. If the Board decides not to deal with the substance of the complaint, this will be an initial opinion as referred to in Article 5.1.
h. If part f. does not apply or, pursuant to part g., the Board decides that it will deal with the substance of the complaint, the committee will proceed with the investigation. The starting principle in this is that the person involved will be deemed innocent until proved guilty.

4.6 Dealing with the substance of a complaint
a. The committee will determine whether, in addition to the complainant and the defendant, there are other interested parties that must be involved in the procedure. The committee will hear all those involved in the complaint. It will in any case give the complainant and the defendant the opportunity to be heard.
b. The persons involved will be heard in each other's presence, unless there are compelling reasons to hear them separately. In such case, each of them will be informed of what was revealed during the hearing held in their absence.
c. A written report will be drawn up of the hearing, setting out the substance of what was said.
d. The committee may make audio recordings of the hearing. These are only intended to be used as an aid in drawing up the report. After the Board has delivered its definitive opinion, the recordings will be destroyed. Only the committee may make audio recordings of a hearing.
e. During the hearing, the complainant and the defendant may have someone assist them, but may not have someone represent them.
f. The committee may hear witnesses and experts or request that experts submit a written expert opinion.
g. Any relevant information that the committee collects will be made available to all the interested parties for the benefit of a fair handling of the case, unless, based on compelling reasons, the committee sees cause to derogate from this rule. The reasons to not make certain information available will be included in the recommendation.
h. The hearings and other sessions of the committee are not public.
i. Within ten weeks of receipt of the complaint, the committee will submit a report of findings to the Board and a recommendation on the merits of the complaint. In doing so, it will make use of the weighing criteria contained in paragraph 5.2 under C of the Code of Conduct. The committee can extend this ten-week term by four weeks. The persons involved will be informed of the extension in writing. Further extension is possible if the parties involved agree to this in writing.

4.7 Accountability
After the fact, the committee will account for its actions to the Board in an annual report for the benefit of the institution's annual report. This will report, in general terms, on the cases that have been heard, and the activities that have been carried out. It must not be possible for the report to be traced back to a person. In all other respects, the members of the committee and any consulted experts are bound to confidentiality with regard to that which has come to their attention in that capacity. This may only be derogated from with the express permission of the complainant and the defendant.

Paragraph 5 Subsequent procedure
5.1 The Board will determine its initial findings as soon as possible, but in any case within four weeks of receiving the committee's recommendation, and will immediately notify the complainant and defendant in writing. The report of findings and the committee's recommendation will be included with the initial opinion.
5.2 Within six weeks of the date of the initial opinion, the complainant, the defendant and any other interested parties can request an opinion from the National Board for Research Integrity (Landelijk Orgaan voor Wetenschappelijke Integriteit – LOWI).
5.3 If the LOWI's opinion is not requested within the term referred to under 5.2, the Board will determine its definitive opinion on the complaint.
5.4 If the LOWI's opinion has been requested, the Board will include the LOWI's opinion in its definitive decision.

5.5 After the procedure is completed, the Executive Board's opinion will be published on the VSNU website, along with the report of findings and the committee's recommendation, in an anonymised form.

Paragraph 6 Protection of the parties involved
The Board of the institution will ensure that the rights of the complainant and the defendant are protected and that, in terms of career perspectives or otherwise, they do not suffer unnecessary negative consequences. The same applies for any other interested parties, witnesses, the confidential advisers or the committee members.

Paragraph 7 Final provisions
These regulations will take effect on 1 November 2019 and will replace all earlier complaints procedures in the field of research integrity insofar as it concerns complaints submitted on or after that date.