

Complaints procedure for inappropriate behaviour at Utrecht University

Preamble

The Executive Board wants everyone within Utrecht University, both staff and students, to treat each other with respect and integrity and to be able to work or study in a pleasant and safe environment. The general framework for everyone's behaviour is laid down in the Utrecht University Code of Conduct, with specific rules of conduct in - amongst others - the Code of conduct to prevent and tackle inappropriate behaviour.

If the learning or working environment is adversely affected by the behaviour of others (fellow students, lecturers, colleagues, supervisors), it is important to discuss this with them. If this does not help or if individuals feel unable to address the other directly, there are various ways of raising this within the organisation, for example with one of the Confidential Advisers or by lodging a formal complaint. If inappropriate behaviour is reported to someone other than a Confidential Adviser, that person offers the person making the report initial assistance, but the person making the report will preferably be referred to a Confidential Adviser for further assistance.

The purpose of this complaints procedure is to provide individual staff members or students with the means to end an inappropriate situation he or she is in caused by inappropriate behaviour.

Confidential Advisers and the Committee deal with reports and complaints carefully and in the strictest confidence. Similarly, in situations where an attempt is made to discuss and resolve the complaint informally, everyone involved is asked to exercise due care and confidentiality.

These regulations lay down a procedure for dealing with complaints.

I. General provisions

Article 1

In these regulations, the terms below have the following meanings:

university:	Utrecht University;
Executive Board:	the Executive Board of the university;
complaint:	a document signed by the employee or student making the complaint, stating name and address of the complainant, about perceived inappropriate behaviour;
employee:	a person employed by the university or working under the responsibility of the university as a temporary employee, interim worker or trainee;
student:	a person enrolled at the university as a student, <i>extraneus</i> or course participant;
inappropriate behaviour:	any conduct, act or omission of an act, the physical, mental or social consequences of which are perceived as negative. This includes in any case intimidation, sexual harassment, discrimination, aggression, violence and bullying in the workplace or study environment;
intimidation:	any form of verbal, non-verbal or physical conduct with the purpose or effect of violating a person's dignity, adversely affecting work or study performance or creating an unsafe working or study environment;
sexual harassment:	any form of verbal, non-verbal or physical conduct of a

	sexual nature that has the purpose or effect of violating a person's dignity, adversely affecting work or study performance or creating an unsafe working or study environment;
discrimination:	to discriminate without justification, insult or act violently against staff or students on the grounds of religion, personal beliefs, political opinion, race, sex, gender identity, sexual orientation, nationality, civil status, age, disability or chronic illness or for any other reason;
aggression and violence:	to harass, threat or attack an employee or student psychologically, physically or verbally;
bullying:	intimidating behaviour of a structural character by one or more employees or students against one or more employees or students;
person making the report:	the employee or student who reports inappropriate behaviour to the Confidential Adviser;
Confidential Adviser:	the independent officer appointed by the Executive Board to whom the employee or student confronted with inappropriate behaviour or the accused can turn for advice and support;
person making the complaint:	the employee or student who submits a complaint about inappropriate behaviour to the Executive Board;
the accused:	the employee or student to whose behaviour the complaint relates;
complaints committee:	the Committee for Inappropriate Behaviour appointed by the Executive board to deal with and advise on complaints on inappropriate behaviour.

Article 2

1. Anyone who, in the working or study environment at the university, experiences inappropriate behaviour by an employee or student of the university may, for a period of three years thereafter, turn to a Confidential Adviser or submit a complaint to the Executive Board, which immediately forwards the complaint to the complaints committee.
2. The complaints committee will not deal with anonymous complaints unless the situation of Article 12 is relevant.
3. Complaints submitted more than three years after the event occurred to which the complaint relates will not be considered, unless the complaints committee sees reason to make an exception in a particular case.

Article 3

Anyone who acquires knowledge of confidential information in any way within the framework of this procedure is obliged to keep this information confidential.

Article 4

Persons who have invoked this complaints procedure, provided assistance in this respect or acted as witness may not suffer any unnecessary disadvantage in the progress of their study, their career prospects or otherwise.

II. The Confidential Adviser for inappropriate behaviour

Article 5

The Executive Board will appoint two or more Confidential Advisers to whom the person making the complaint or the accused can turn. If more Confidential Advisers are appointed, the Executive Board may appoint one of them as coordinator. The appointment or designation will be for two years with the possibility of extension.

Article 6

A Confidential Adviser is accountable solely to the Executive Board for the performance of his or her duties.

Article 7.

The tasks of the Confidential Adviser include in any case:

- a. acting as a point of contact for employees and students who are confronted with inappropriate behaviour;
- b. assisting and supporting the person making the report and, if necessary, referring him or her to experts;
- c. advising on any steps to be taken;
- d. informing about the university complaints procedure and the resulting consequences, before any steps are taken in this respect;
- e. making an effort, at the request of the person making the report, to find a solution to the undesirable situation through mediation;
- f. supporting the person making the report at his or her request in submitting a complaint or supporting the accused in preparing a response to the complaint;
- g. advising the Executive Board and other relevant organisational units, on request and otherwise, on preventing and tackling inappropriate behaviour;
- h. providing information and publicity on his or her own position;
- i. registering reports and reporting anonymously to the Executive Board each year on the number and nature of reports. The file of a report must be destroyed no later than two years after the processing of that report has been completed.

Article 8

A Confidential Adviser will not act in respect of a particular report without the consent of the person who contacted the adviser.

Article 9

To the extent necessary for performing the mediation task, a Confidential Adviser has access to all organisational units and all relevant files, in compliance with privacy legislation. In this context, the Confidential Adviser is entitled to hold discussions with all staff members or students.

Article 10

A Confidential Adviser may not simultaneously assist both the person making the report and the person to whom the report relates. In such case the Confidential Adviser must refer one of the two to a fellow Confidential Adviser.

Article 11

If there are special facts or circumstances that could make it difficult to form an impartial opinion, a Confidential Adviser may refer the person making the report or the person to whom the report relates to another Confidential Adviser.

Article 12

A Confidential Adviser is authorised to bring a case to the attention of the Executive Board if the advisers receive one or more reports that the persons making the report have not submitted or will not submit to the complaints committee for reasons of their own. The names of the persons making the report will not be mentioned without their permission. The Executive Board may then request the complaints committee to give advice on the report or reports.

Article 13

A Confidential Adviser will maintain the necessary contacts with persons and institutions that can identify inappropriate behaviour within the university on account of their position.

III. The complaints committee

Composition

Article 14

The Executive Board will appoint a complaints committee to deal with and advise on written complaints on inappropriate behaviour.

Article 15

- The complaints committee consists of:
 - a. a chair and a deputy chair, who is also a member;
 - b. one member and one substitute member to be appointed from among the university's academic staff;
 - c. one member and one substitute member to be appointed from among the university's support and management staff;
 - d. one member and one substitute member to be appointed from among the students enrolled at the university;
- The substitute members will in any event take office if one of the members feels that personal circumstances make it difficult for him or her to form an opinion.
- For the investigation of a complaint, the committee may be temporarily extended to include experts, whether or not employed at the university.

Article 16

The chair, deputy chair, members and substitute members of the complaints committee

- a. have sufficient psychosocial and/or legal knowledge with regard to inappropriate behaviour;
- b. are of irreproachable behaviour.

The chair and the deputy chair must also have extensive experience in chairing a committee.

Article 17

The chair, deputy chair, members and substitute members are appointed by the Executive Board for a term of three years. They may be reappointed.

Article 18

- When appointing the chair, deputy chair, members and substitute members, the Executive Board will strive for the greatest possible diversity in the members' backgrounds.
- A Confidential Adviser cannot also be appointed as a member or substitute member of the complaints committee.

Article 19

The complaints committee will be assisted by one of the lawyers of the Legal Affairs Department, who acts as the secretary.

Article 20

The members of the committee may not have any personal interest in dealing with the complaint and may not be involved in the complaint.

Task

Article 21

The task of the complaints committee is to

- a. investigate complaints about inappropriate behaviour;
- b. advise the Executive Board on the admissibility and merits of a complaint.

If the complaint concerns a member of the Executive Board, the committee will advise the Supervisory Board. The Supervisory Board then takes over the duties from article 34 from the Executive Board;

- c. register complaints and provide the Executive Board each year with an anonymised report on the number and nature of the complaints. The file of a report must be destroyed no later than two years after the processing of that report has been completed.

Powers

Article 22

- To the extent necessary for performing its task, the complaints committee has access to all organisational units and all relevant files, in compliance with privacy legislation. In this context, the complaints committee is entitled to hold discussions with all staff members or students.
- The complaints committee may consult experts, whether or not employed at the university. A report will be made of the consultation.

IV The complaints procedure

Article 23

A complaint must be submitted in writing with or without the help of the Confidential Adviser and must state the following:

- a. the description of the inappropriate behaviour;
- b. the name of the accused;
- c. the steps taken by the person making the complaint in this respect and any written documents relating thereto. These documents will be submitted to the complaints committee.

The complaint must be addressed to the Executive Board, at the Legal Affairs Department, Postbus 80125, 3508 TC Utrecht.

Article 24

- A complaint will be investigated by three members of the complaints committee, including the chair or deputy chair. If the person making the complaint or the accused is a student, one of the three members will be the student member or substitute student member. In the following articles, 'the committee' is taken to mean the three members dealing with the matter.
- If the three investigating members deem such necessary, they may discuss their findings in the full complaints committee before advising the Executive Board.

Article 25

As soon as the Executive Board has received a complaint, it forwards the complaint to the secretary of the complaints committee. The secretary will confirm receipt of the complaint in writing and inform the person making the complaint that the admissibility of the complaint will first be examined.

Article 26

The committee will assess the admissibility of the complaint within three weeks of receipt. A complaint is not admissible

- if it does not comply with the definitions of this procedure;
- if it has been submitted after the term specified in Article 2 and the complaints committee sees no reason to make an exception in the particular case;
- if it is submitted anonymously, unless the situation of Article 12 is relevant;
- if it has already been dealt with by the committee earlier, unless new facts or circumstances have come to light;
- if there is a concurrence with objection proceedings, legal proceedings or a

- criminal investigation;
- if the interest of the person making the complaint or the severity of the inappropriate behaviour described is manifestly insufficient.

Article 27

If the complaint does not yet meet the requirements of Article 23, the committee may give the person making the complaint the opportunity to supplement the complaint. The three-week period for assessing admissibility will then commence from the time of receiving the additional information.

Article 28

If the committee considers the complaint inadmissible, it will immediately advise the Executive Board of this.

Article 29

If the committee considers the complaint admissible, it will:

- inform the person making the complaint that the substance of the complaint will be assessed and that in principle the maximum duration of processing is ten weeks, calculated from the date of receiving the full complaint;
- inform the accused of the complaint by sending the complaint and related documents, information about the further procedure and draw attention to the possibility of being assisted by a Confidential Adviser or a counsellor of their own choice ;
- give the accused the opportunity to respond in writing to the complaint within a specified time limit, and
- immediately upon receipt, forward the accused's written response to the person making the complaint.

Article 30

1. As part its investigation, the committee will give the person making the complaint and the accused the opportunity to be heard, unless they state in writing that they waive their right to be heard.
2. In principle, the person making the complaint and the accused will be heard in each other's presence, but this can be deviated from if a joint hearing impedes the careful handling of the complaint or if the committee expects facts or circumstances to emerge which should not be disclosed to the other party for compelling reasons.
3. The committee may - whether or not at the request of the person making the complaint or the accused - also hear other persons as witnesses or experts.
4. A written report of each hearing will be drawn up by the secretary and signed for approval by the person involved. If the person involved is not prepared to sign, he or she will be given the opportunity to add written comments to the report.

Article 31

During the investigation the person making the complaint and the accused may be assisted by a counsellor of their own choice, from within or outside the university.

Article 32

The hearings of the committee are not public.

Article 33

Within ten weeks of receiving the full complaint, the committee will advise the Executive Board on the merits of the complaint and on a possible reimbursement of the fee of the legal counsellor who assisted the person making the complaint or the accused.

If the ten-week period is not feasible, delivering the opinion may be postponed by four weeks. Longer postponement is only possible with the written consent of the person making the complaint.

Article 34

- Within four weeks of receiving the committee's advice on the admissibility (Art. 28) or merits (Art. 33) of the complaint, the Executive Board will take a decision on the complaint and on any measures or sanctions to be taken. If the Executive Board deviates from the advice, it will explain why.
- The Executive Board will send the person making the complaint and the accused its decision in writing, together with the committee's advice.
- The Executive Board will inform the committee of its decision.

IV. Final provisions

Article 35

The Executive Board will ensure that this procedure is sufficiently communicated.

Article 36

This procedure can be cited as the 'Complaints procedure for inappropriate behaviour'. The procedure has been adopted by the Executive Board in accordance with the University Labour Representation Board, and as far as students are concerned with the consent of the University Council, on 9 April 2019 and will replace the Complaints procedure for intimidation, aggression, violence and discrimination of 1 July 2003.