

COMPLAINTS PROCEDURE FOR INAPPROPRIATE BEHAVIOUR

AT THE HAGUE UNIVERSITY OF APPLIED SCIENCES

VERSION 2018

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UNIVERSITY OF
APPLIED SCIENCES

PREAMBLE

Collegiality, respect and consideration for others with regard to everyday etiquette are all essential for a pleasant, stimulating working environment, with inappropriate behaviour bringing a swift response. Creating and maintaining such an environment requires the active input of everyone who works and/or studies at The Hague University of Applied Sciences. Addressing inappropriate behaviour is always a good approach, either by speaking directly to the person involved, or by involving a third party, such as the confidential advisor. You can discuss such a problem or impending problem confidentially with the confidential advisor. The exact duties of the confidential advisor are set out in this regulation. If you decide to involve the confidential advisor, you then have the option of lodging an official complaint with the Inappropriate Behaviour Complaints Committee. Lodging an official complaint with the Complaints Committee is not always necessary – for example, if a solution is found at an earlier stage (through mediation, or if the interview with the confidential advisor has had the desired result).

In addition to this complaints procedure for inappropriate behaviour, THUAS has a Staff Ombudsman. You can contact the Staff Ombudsman as an employee if, for example, you are being subjected to unlawful behaviour or behaviour not in accordance with the regulations. The Ombudsman may investigate your complaint and ascertain whether regulations have been correctly applied, whether procedures have been followed, and whether those involved have acted carefully. The exact duties of the Staff Ombudsman are set out in the Staff Ombudsman Regulation.

THUAS also has an Integrity Code. This is an ethical and professional code that is intended to serve as a guideline for creating and maintaining the best possible study and working environment. Finally, THUAS has Whistleblower Regulations. These regulations provide employees and students with an adequate and safe way of reporting any suspicions of abuses within The Hague University of Applied Sciences. In addition, the Whistleblower Regulations enable a confidential advisor to assess the integrity of decisions, practices or acts of THUAS against the THUAS Integrity Code.

CHAPTER 1

General provisions

Article 1. Basis and definitions

1. Under this Complaints Procedure for Inappropriate Behaviour, the Executive Board of The Hague University of Applied Sciences implements Article U-1 of the Collective Labour Agreement (CLA) for Higher Professional Education.
2. The following terms are used in this regulation:
 - a. inappropriate behaviour: psychosocial workload (PSW) as referred to in the Working Conditions Act. This will, in all cases, include (sexual) intimidation, aggression and violence, bullying and discrimination in circumstances that are directly related to studies or employment, which can cause stress.
 - b. (sexual) intimidation: any form of verbal, non-verbal or physical behaviour that can be of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when an intimidating, hostile, degrading, humiliating or offensive environment is created.
 - c. aggression and violence: an incident or incidents in which an employee or student is mentally and/or physically harassed, threatened or attacked under circumstances that are directly related to their studies or employment. Aggression and violence can be verbal, non-verbal, physical and/or psychological (for example: threats, intimidation via email).
 - d. bullying: any type of intimidating behaviour with a structure that involves one or more employees/students targeting an employee/student or a group of employees/students who is or are unable to defend themselves against this behaviour. An integral element of bullying at work or whilst studying is the repetitive nature of this behaviour over time. Bullying is not a one-off incident. This behaviour takes various forms, but is most commonly expressed through words, gestures, actions or threats. Often, the perpetrator's aim is to intentionally offend or humiliate another person.
 - e. discrimination: making a distinction on grounds of race, gender, sexual orientation, religious conviction, marital status, age, disability and/or chronic disease, among other things.
 - f. complainant: the employee or student who reports to the confidential advisor or submits a complaint to the Complaints Committee regarding the inappropriate behaviour of another employee or student.

- g. accused: the employee or student about whom the complainant has filed a report to the confidential advisor regarding inappropriate behaviour or about whom the complainant has submitted a complaint to the Complaints Committee regarding inappropriate behaviour.
- h. report: a statement from an employee or student detailing that they have personally been confronted with inappropriate behaviour in their work or study environment. The statement can be made to a confidential advisor;
- i. complaint: a complaint regarding inappropriate behaviour that has been submitted to the Complaints Committee in accordance with this regulation.
- j. Complaints Committee: the committee established by the Executive Board, which is responsible for dealing with complaints relating to inappropriate behaviour.
- k. confidential advisor: the confidential advisor as appointed by the Executive Board.
- l. employee: the individual who is employed by or was employed by The Hague University of Applied Sciences, under whatever title.
- m. student: a student, prospective student, former student, external student, prospective external student or former external student.
- n. organisational unit: a faculty, service, Academy for MPC.

Article 2. Confidentiality

1. The complainant and the accused, as well as every employee and every student at THUAS who, as a result of this regulation, has received information or been provided with written documentation regarding a (possible) incident of inappropriate behaviour, is obliged to treat this information confidentially with regard to third parties and to ensure that the documents referred to are not seen by third parties.
2. The confidential advisors ensure that all persons affected by the handling of a report or a complaint procedure are informed of this duty of confidentiality.

Article 3. Reporting a complaint

1. Any THUAS employee or student who encounters inappropriate behaviour in their work or study environment can report this to a confidential advisor. THUAS employees or students at can submit a complaint to the Complaints Commission as soon as possible, but at the latest up to a year after the inappropriate behaviour occurred. It is preferable if the complainant submits their complaint through the intermediary of the confidential advisor.
2. The complaint, as referred to in the first paragraph, must relate to the behaviour of an employee who works at THUAS or a student who is enrolled at THUAS.

CHAPTER 2

Confidential Advisors

Article 4. Appointment

1. The Executive Board appoints one confidential advisor for students for each faculty. The academy of M&PC uses the confidential advisor from one of the faculties. There are three confidential advisors for staff.
2. The aim is to ensure the greatest possible diversity.
3. When appointing confidential advisors, the Executive Board ensures that all members of staff and students at The Hague University of Applied Sciences have access to a confidential advisor.
4. The confidential advisors preferably do not handle issues from within their own organisational unit.
5. The implementation process for appointing confidential advisors applies.
6. It is not possible to appoint the following persons as confidential advisors:
 - a. Members of the Executive Board
 - b. Deans of faculty
 - c. Directors of Service Departments
 - d. The Secretary of the Executive Board
 - e. Programme managers/unit heads/MPC programme managers
 - f. Senior lecturers/team leaders or team leaders
 - g. Staff Ombudsman
 - h. Members of the General Council and the Faculty/Service Department Council.
7. The appointment is for a term of three years, with the option of a one-time extension of 3 years. The circle of confidential advisors advises the Executive Board on whether to make a new appointment or extend the current appointment.
8. The confidential advisor position terminates:
 - a. At the end of the term of appointment
 - b. At the request of the confidential advisor in question
 - c. If the confidential advisor takes on a position referred to in Paragraph 4
 - d. At the end of their employment contract
 - e. As a result of removal from their post by the Executive Board due to dysfunction

Article 5. Tasks and responsibilities

1. The duties of the confidential advisor are:
 - a. To provide information about inappropriate behaviour
 - b. To be someone the complainant can turn to and to offer support
 - c. To provide information and advice about possible ways of putting an end to the inappropriate behaviour
 - 1 – By means of informal solutions
 - 2 – By involving a mediator
 - 3 – By means of the formal complaints procedure as referred to in the Complaints Procedure for Inappropriate Behaviour
 - d. To provide support throughout the process of resolving the issue, including conducting interviews with those who are directly involved
 - e. To provide support to the complainant in the event of a formal complaints procedure
 - f. To provide follow-up support

Article 6. Performance

1. When carrying out their duties, the confidential advisor takes account of the importance of being able to carry out their teaching and other (operational) processes as normal. Instructions from the Executive Board (for staff) or a Director (for students) will be followed.
2. In carrying out their duties, the confidential advisor is solely accountable to the Executive Board.
3. The confidential advisor only performs actions for the benefit of the complainant with the approval of said complainant.
4. The confidential advisor has a duty of confidentiality relating to facts of which they become aware that could undermine the privacy of the complainant. Exceptions to this can only be permitted with the express permission of the complainant.
5. The confidential advisor can rely on a right of non-disclosure at internal level, which means that they can invoke this right in relation to any person within the organisation.
6. The provisions of Paragraph 4 do not apply in the event that statutory provisions dictate otherwise.
7. The confidential advisor will compile a dossier for each report they handle, which dossier will not be accessible to third parties. The confidential advisor will share information in this dossier that was provided in confidence only with the consent of the person(s) involved. The dossiers will be destroyed after five years.
8. Each year, the confidential advisors report jointly, before 1 April, to the Executive Board regarding the number and nature of the reports they received, the results of mediation and their other duties, as well as the ways in which they were able to carry out their duties (including indication of any difficulties encountered). The Executive Board makes the report available to participants for information purposes.

CHAPTER 3

The Complaints Committee

Article 7. Submitting and withdrawing a complaint

1. The complainant submits the complaint by email to the Legal Protection Office (loketrechtsbescherming@hhs.nl). The complaint must include:
2. A concise and objective description of the inappropriate behaviour encountered (what happened, when and where) If possible, an indication of the type of inappropriate behaviour to which the complaint relates.
3. The names of the accused and the complainant.
4. Any steps that may have been taken by the complainant and the written documentation relating to this; these documents should be attached.
5. The date.
6. The complainant can submit the complaint with or without consulting the confidential advisor.
7. The Legal Protection Office provides the complainant with written confirmation of receipt of the complaint. In the event that one of the requirements of Paragraph 1 has not been met, the secretary of the Complaints Committee gives the complainant two weeks to rectify the omission.
8. The complainant can withdraw their complaint at any time. In this case, the Complaints Committee immediately terminates the handling of the complaint and as soon as it is possible informs the accused about it.
9. The Complaints Committee does not deal with anonymous complaints.
10. Multiple complaints about the same person can be included.
11. The complainant and the accused can obtain support from legal counsel of their choice during the procedure with the Complaints Committee, and the complainant can obtain support from a confidential advisor.

Article 8. Simplified appeal handling procedure and opposition

1. The Chair of the Complaints Committee is able to provide a recommendation to the Executive Board immediately in the event that they believe that the Complaints Committee manifestly lacks jurisdiction, that the complaint is clearly inadmissible or that the further handling of the complaint is not necessary as the complaint is clearly unfounded. The Executive Board makes a decision about the recommendation within a week of receiving it.

2. In the event that the decision of the Executive Board is in accordance with the recommendation, the complainant can appeal to the Complaints Committee within fourteen days after the date on which the decision was sent to them. In the event that the Executive Board does not follow the recommendation, the Complaints Committee shall handle the complaint.
3. As a result of the appeal, the decision as referred to in Paragraph 1 shall cease to exist, unless the Complaints Committee again believes that the complaint should be declared inadmissible or unfounded. Prior to providing a new recommendation, the Complaints Committee shall provide the complainant with the opportunity to attend a hearing.

Article 9. Preparation

1. In the event that a simplified complaint handling procedure does not take place, the secretary sends a copy of the complaint to the accused, as well as copies of any other documents submitted by the complainant. The secretary gives the accused three weeks to respond to the complaint in writing.
2. The secretary sends a copy of the response from the accused to the complainant.
3. If the complainant indicates that they wish to submit a response to the statement of defence, or if the accused indicates that they wish to express themselves regarding this response, they can submit a request within three working days of receiving the statement of defence or the response to the statement of defence respectively. The Chair decides on this request within three working days.
4. The Complaints Committee or the secretary of the Complaints Committee obtains further information if necessary.
5. At any stage of the complaints procedure, the Complaints Committee can ask the complainant and accused whether alternative forms of dispute resolution, such as mediation, are possible. Complainant and accused decide for themselves whether to cooperate here. The Complaints Committee holds the complaint during mediation. After the end of the mediation, the complainant notifies the Complaints Committee whether they are withdrawing the complaint.

Article 10. Hearing

1. The Complaints Committee invites the complainant and the accused to a hearing. The hearing takes place behind closed doors.
2. The Complaints Committee hears the complainant and the accused together, unless the Complaints Committee decides that a direct confrontation between the parties would be too stressful for the complainant. The legal counsel of the party that is not being heard may also be present during the hearing.

3. The Complaints Committee can, whether or not requested to do so by the parties, decide to hear information from witnesses, experts or other persons who may be able to provide insights/information. The Complaints Committee can, on serious grounds, decide to hear witnesses, experts or other persons without the parties being present. The legal counsel of the complainant and the accused may be present during the hearing.
4. A concise report of the hearing is compiled. The complainant, accused, witnesses, experts and third parties must sign the report they have been given and return it to the Complaints Committee no later than one week after receipt, with any observations. If any person refuses to sign, this is included in the report, together with the reasons for this refusal where possible. If the report is not returned on time, the report is deemed to have been approved without observations, unless the person involved can invoke force majeure. The confirmed report is sent to all parties. Confirmed reports from witnesses, experts and third parties are sent to parties after all witnesses, experts and third parties have been heard.
5. At the end of the investigation, the complainant and accused are given one final opportunity to respond to all documents and reports. The Chair of the Complaints Committee decides whether this is done in writing or verbally.

Article 11. Advice

1. The Complaints Committee provides the Executive Board with advice regarding the admissibility and justification of the complaint. If the complaint has been filed against (a member of) the Executive Board, the Complaints Committee provides the Board of Trustees with advice regarding the admissibility and justification of the complaint.
2. The complaint made by the complainant is inadmissible in the event that:
 - a. The complaint does not fall within the scope of the definitions of inappropriate behaviour as described in Article 1, Paragraph 2, a) to e) inclusive
 - b. The complaint relates to behaviour about which the Complaints Committee has already made a decision
 - c. The inappropriate conduct took place more than a year prior to submission of the complaint
 - d. The conduct is the subject of a dispute that has been brought to court or about which a judicial decision has been made
 - e. As long as an investigation into the conduct regarding which a complaint has been submitted has been ordered by the prosecutor or is already the subject of proceedings.

3. The advice from the Complaints Committee contains the findings from the investigation carried out by the Complaints Committee. The advice contains any potential conclusions that the Complaints Committee believes the Executive Board should draw. The Complaints Committee is able to make recommendations.
4. The Complaints Committee informs the complainant and accused about the advice when the advice is sent to the Executive Board.

Article 12. Recommendations

1. In the event that the Complaints Committee considers the complaint to be justified, it can recommend the Executive Board carry out measures for which the Executive Board is authorised.
2. The measures as referred to in the previous paragraph are:
 - a. With regard to students, on the basis of the student charter:
 - Issuing a warning or reprimand
 - Denying access to all or part of the buildings and terrain of The Hague University of Applied Sciences for the duration of at most one year
 - Disenrolling the student
 - b. With regard to employees, on the basis of the Collective Labour Agreement for Higher Professional Education:
 - Suspending the employee as a disciplinary measure
 - Taking disciplinary measures:
 - Written reprimand
 - Transfer
 - Suspension
 - Dismissal
3. In the event that the Complaints Committee considers the complaint to be unjustified, it can recommend the Executive Board carry out (general) measures for which the Executive Board is authorised. These measures aim to prevent situations arising that are similar to those that are the subject of the complaint.
4. If the Complaints Committee determines that a fraudulent complaint has been (intentionally) submitted, the Complaints Committee advises the Executive Board to declare the complaint unfounded. The Executive Board can take disciplinary measures against the complainant. In that case, the complainant cannot invoke the provisions of Article 16, Paragraph 1. In the event of a fraudulent complaint, the accused is vindicated.

Article 13. Decision of the Executive Board

1. The Executive Board makes a decision within three weeks after receiving the advice.
2. In the event that the decision of the Executive Board does not correspond with the advice issued by the Complaints Committee, the reasons for this must be stated in the decision.
3. The Executive Board informs the following parties of its decision:
 - a. The Complaints Committee
 - b. The complainant
 - c. The accused
 - d. The relevant Dean of Faculty and/or Director of Service Department, MPC Director.
4. In the event that the complaint is about (a member of) the Executive Board, the Board of Trustees makes a decision within three weeks after receiving the advice.

Article 14. Appeals

It is not possible to appeal against a decision of the Executive Board on the basis of Article 11, Paragraph 2. In the event that the Executive Board decides to impose a measure, a student is able to submit an objection to this decision to the Disputes Committee. Employees are able to appeal to the Appeals Committee for Higher Professional Education.

Article 15. Members of the Complaints Committee

1. The Complaints Committee consists of three members, including the Chair. The Chair comes from outside the university of applied sciences. An official secretary is attached to the Complaints Committee.
2. The Executive Board appoints the members of the committee for a period of two years. The members can be reappointed immediately. The members can be members of the Complaints Committee for a maximum of six years in a row.
3. The principles for the composition of the Complaints Commission are (multiple points may apply at the same time):
 - a. That at least one member is female
 - b. That at least one member is male
 - c. That at least one member, not the Chair, is a member of staff at the university of applied sciences; that the Chair is a legal professional
 - d. That at least one member is a behavioural expert, and is an expert in the field of discrimination, sexual intimidation, aggression and violence and the power relations involved
 - e. Members of the Executive Board, Deans of Faculty, Directors of Service Departments and the MPC Director are excluded from membership.

4. The Executive Board also appoints an alternate member for each member of the Complaints Committee. The appointment criteria stated in this article apply accordingly.
5. Membership of the Complaints Committee ceases:
 - a. At the end of the term of appointment
 - b. At the request of the member in question
 - c. If the member no longer fulfils the requirements of this article
 - d. As a result of removal from their post by the Executive Board due to dysfunction
6. Members of the Complaints Committee not employed by the university of applied sciences are remunerated in accordance with the university of applied science's attendance fees regulation for the Staff Appeals Committee. Members of the Complaints Committee that are employed by the university of applied sciences can claim a maximum of 40 hours per year. In the event that it is necessary to exceed 40 hours per year, prior discussions are carried out with the Director of the Board. At the start of their role, new members of the Complaints Committee, in consultation with the Director of the Board, follow a course or training session to prepare them for their role.
7. The members of the Complaints Committee and the Secretary are obliged to keep everything that comes to their knowledge during the handling of the complaint confidential.
8. The Complaints Committee fulfils its task without bias. Any member of the Complaints Committee may be challenged by one of the parties on the basis of facts that could impair the impartiality of the member in question. A member may also ask to be excused on the basis of such facts or circumstances. The other (sitting) members will then decide as quickly as possible whether the recusal should be permitted.
9. The Complaints Committee compiles an annual report of its findings and operations before 1 April, even if there are no complaints. The Complaints Committee presents this annual report to the Executive Board. The Complaints Committee is responsible for ensuring that the confidential nature of its activities is not impaired by this annual report.

CHAPTER 4

Final provisions

Article 16. Legal protection

1. The Executive Board ensures that the confidential advisors, members of the Complaints Committee, complainants and witnesses summoned are neither directly nor indirectly harmed as a result of carrying out their role, making a report, submitting a complaint or appearing as a witness, with respect to carrying out their (other) roles, in terms of their careers or, in so far as students are concerned, in the course of their studies.
2. The Executive Board ensures that for as long as a complaint has not been declared justified, the accused is neither directly nor indirectly harmed by a complaint that has been filed in terms of carrying out their role or in terms of their career, or, in so far as students are concerned, in the course of their studies.

Article 17. Hardship clause

In the event of situations for which this regulation does not provide, the Executive Board will decide.

Article 18. Entry into force

This regulation will enter into force on 1 August 2018 and will replace the preceding Complaints Procedure for Inappropriate Behaviour.

Article 19. Reference title

This regulation can be cited as "Complaints Procedure for Inappropriate Behaviour of The Hague University of Applied Sciences". Adopted by the Executive Board on 22 May 2018 and approved by the General Council on 11 July 2018.

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The Hague University of Applied Sciences



thehagueuniversity.com



info@hhs.nl



+31 (0)70 445 00 00



Johanna Westerdijkplein 75
2521 EN The Hague

