



**University
of the Arts
The Hague**

Complaints Procedure for Inappropriate Behaviour

version 2022

Article 1 Definitions

The following definitions apply in this complaints procedure:

- a. *Inappropriate behaviour*: behaviour that is generally regarded as undesirable or improper and felt to be inappropriate, intimidating, hurtful or threatening and therefore unacceptable. More specifically the following forms of behaviour are undesirable:
- Sexual harassment: unwelcome sexual advances, requests for sexual favours or other verbal, non-verbal or physical conduct of a sexual nature;
 - Aggression and violence: bullying, psychological or physical harassment, threats or attacks aimed at inflicting mental or physical harm;
 - Discrimination: intentionally making insulting statements about a person or persons in public, orally, in writing or by image, on the grounds of race, religion, belief, sexual orientation or disability, or making any distinction based on these factors.

Inappropriate behaviour as described above also applies if:

- the acceptance of conduct by a person is made, implicitly or explicitly, a condition of the employment or admission to study of that person;
- such behaviour or a person's response to such behaviour forms the basis for decisions affecting that person's work or study;
- such conduct has the purpose or effect of affecting a person's performance of their work or study and/or creating an intimidating, hostile or unpleasant work or study environment.

This list of forms of 'inappropriate behaviour' is not exhaustive.

- b. *Complaint*: a complaint of inappropriate behaviour submitted to the complaints committee.
- c. *Complainant*: a current or former student or employees of the University of the Arts The Hague (hereinafter: the University) who reports a case of inappropriate behaviour to a confidential counsellor or who submits a complaint of inappropriate behaviour to the complaints committee;
- d. *Accused*: the individual whose behaviour is the subject of a complaint to the complaints committee.
- e. *Complaints Committee*: the committee as referred to in Article 3 of this complaints procedure.
- f. *Employee*: an individual who has or has had an employment contract with the University of the Arts, as well as any person who is or has been hired to perform work for the University of the Arts other than under a contract of employment;
- g. *Student*: an individual who is enrolled to follow a course in the University of the Arts and/or to sit interim and final exams, as well as a person who has studied at the University. An external student and a course participant is equated with a student as referred to in the University's Student Charter. Students who are minors may be represented by their legal representatives.

Article 2 Allocation of roles

The University's management is responsible, in collaboration with the heads of the organisational units, for preventing and combatting inappropriate behaviour.

The management is responsible for arranging training opportunities and facilities to enable employees to prevent and combat inappropriate behaviour.

The management will arrange for the presence and accessibility of persons and bodies to whom inappropriate behaviour can be reported in support of measures to prevent and combat inappropriate behaviour.

Article 3 The Complaints Committee

- a. The University has a complaints committee consisting of two members from the organisation, two deputy members and one external chairperson.
- b. The external chairperson may not be an employee of the University.
- c. The members of the complaints committee are appointed by the Executive Board. The members will be appointed for a specified period and may be reappointed by agreement at the end of that period.
- d. The aim is to have equal representation of men and women on the complaints committee, as well as sufficient psychosocial and legal expertise in relation to inappropriate behaviour.
- e. Members of the Executive Board, the faculty management and confidential counsellors may not be appointed to the complaints committee.
- f. The complaints committee will be actively facilitated in performing its work objectively and independently and will not be subject to any influence or attempted influence in deciding whether to deal with a complaint and/or how to handle a complaint. The complaints committee will report any such influence or attempted influence to the University's Supervisory Board.

Article 4 Support for the Complaints Committee

The Executive Board will designate a (permanent) secretary to assist the complaints committee in its work during hearings and interviews.

The members of the complaints committee who are employed by the University will be given every opportunity to perform their work for the committee, in which case their regular work will be performed by suitable individuals within the organisation as far as possible.

Article 5 Submission of a complaint

a. Scope

A employee or student of the University of the Arts The Hague who is or who has in the past been confronted with inappropriate behaviour in their work or studies may submit a complaint to the complaints committee. The complaint must be submitted in writing as soon as possible, but no later than five years after the student's deregistration or the termination of the employee's employment.

b. Form

A complaint submitted to the complaints committee must include:

- a description of the inappropriate behaviour, specifying the time, the place and the details of the incidents as precisely as possible;
- the name of the accused;
- the steps already taken by the complainant and any relevant digital/written documents; these documents must be submitted to the complaints committee.

c. Anonymity

In exceptional circumstances, a complaint may be submitted anonymously in cases involving abuse of power or (sexual) intimidation if there is genuine fear of the consequences of making a complaint for the position of the employee/the study prospects and progress of the student. However, the identity of the complainant must always be known to either the complaints committee's external chairperson or the confidential counsellor from whom the committee receives the anonymised complaint.

The other formal requirements will continue to apply in full.

Anonymised complaints will always lead to an extensive preliminary investigation by the complaints committee's external chairperson.

d. Inadmissibility

The chairperson of the complaints committee will declare a complaint inadmissible if:

- the complaint does not relate to inappropriate behaviour as referred to in this complaints procedure;
- none of the parties concerned are still affiliated with the University in any way;
- the complaint should actually be dealt with by another body/organisational unit/person. In that case, the complaints committee will refer the complaint to the correct body/organisational unit/person.

e. Termination of procedure other than by a decision or inadmissibility

The complainant may request the chairperson of the complaints committee in writing to cease handling the complaint or withdraw the complaint at any time. In that case, the complaints committee will immediately cease to handle the complaint. If the accused has already been notified of the existence of a formal complaint, the individual concerned will also be immediately informed of the termination of the procedure.

Article 6 Challenge and recusal of committee member

A member of the complaints committee may be challenged or may recuse him/herself if:

- he or she is involved in the case by virtue of his/her job or is part of the organisational unit to which the complainant or accused belongs;
- there is a family-law relationship between the complainant or the accused and a committee member;
- he or she has a personal relationship with the complainant or the accused;
- he or she has had any previous involvement with the case.

The other members of the complaints committee will decide as soon as possible whether the challenge or recusal will be upheld. In the event of a tied vote, the challenge or recusal will be upheld.

Article 7 Handling of the complaint

The complainant and the accused may be assisted in the proceedings before the complaints committee by a counsel of their own choosing.

a. Preliminary investigation

Not every complaint of inappropriate behaviour lends itself to the extensive procedure involving the entire committee. The chairperson of the complaints committee will conduct a (brief) preliminary investigation of every complaint that is submitted in order to assess the admissibility of the complaint and to determine whether the complaint qualifies for postponement of the procedure and/or the accelerated procedure. To this end, the chairperson can request information from the relevant organisational unit and the relevant confidential counsellor/study coach/student counsellor/manager, if any. This information will be treated in confidence. The preliminary investigation must **always** be conducted if the complaint is anonymous, in which case it can never lead to a postponement of the procedure or a simplified procedure.

b. Postponement of the procedure

If the preliminary investigation shows that the relevant organisational unit still has the means to address the inappropriate behaviour, in consultation with the chairperson and with the consent of the complainant, that organisational unit will be given the opportunity to do so. The handling of the complaint will then be postponed until those instruments have been exhausted and/or it is anticipated that they will have no effect. If the use of the instruments has the desired effect – putting an end to the inappropriate behaviour – the handling of the complaint will also come to an end. The complainant will be informed of that. The Executive Board will be notified of both the postponement of the procedure and the final outcome.

c. Accelerated procedure

In the accelerated procedure, the complaint will be handled by the chairperson alone, who will search for a solution by conducting one or more confidential meetings with the individuals concerned, separately and jointly where possible. No records will be kept of these meetings. The Executive Board will be informed of the course of the procedure and the method.

d. Extensive procedure

- In the extensive procedure, the complaint will be handled by the entire complaints committee.
- The complaints committee hears the complainant and the accused separately in a formal setting. The accused is given the opportunity to have the final word before the complaints committee issues its decision in writing.
- A report will be made of each hearing. The individual examined during the hearing will be given the opportunity to add written comments to the report.
- Every hearing of the complaints committee will be conducted in private.
- The complaints committee will obtain any further information that it deems necessary, for example by hearing witnesses and other parties who could provide information about the circumstances under which the inappropriate behaviour occurred.

- The complainant and/or the accused may ask to call witnesses, with the exception of minors, and consult experts. Such a request must be addressed to the chairperson of the complaints committee in good time.
- The complainant and the accused may be assisted by an authorised representative and/or counsel who may speak on their behalf during the hearing.
- The complainant and the accused may also be assisted by a confidential counsellor or another trusted person. These persons will play no active role in the hearing.
- The complaints committee will keep the parties informed about the course of the proceedings.

Article 8 Decision and recommendation

- a. Before the procedure is concluded, the chairperson will also announce when the complaints committee will announce its decision. The decision will be announced within four weeks of the conclusion of the procedure. The complaints committee may extend that period once, in which case it will notify the parties in good time.
- b. In its decision, the complaints committee may, stating reasons, declare the complaint:
 - inadmissible;
 - unfounded;
 - wholly or partially well-founded.
- c. If the complaints committee declares the complaint inadmissible, it will inform the complainant of its decision.
- d. If the complaints committee declares the complaint unfounded, it will inform the complainant and the accused of its decision.
- e. If the complaints committee declares the complaint wholly or partially well-founded, it will make a recommendation to the Executive Board, stating the reasons, that measures should be taken. The complaints committee may make recommendations concerning those measures.
- f. Regardless of the advice of the complaints committee, the Executive Board may adopt its own general and specific measures.

Article 9 Rules of Procedure

The complaints committee will draw up further rules of procedure which will require the approval of the Executive Board. These rules of procedure may contain further rules on the complaints committee's procedure. The rules will be published.

Article 10 Decision of the Executive Board

- a. Within three weeks of receiving the decision and/or recommendations of the complaints committee, the Executive Board will make a decision.
- b. The Executive Board must give reasons if it departs from the decision and recommendations of the complaints committee.
- c. The Executive Board will notify the complainant, the accused and the complaints committee of its decision.

- d. The decision of the Executive Board will be inserted in the personnel file and/or the student file of the individuals concerned.
- e. The general rules governing inspecting and receiving copies of personnel files and/or student files and retention periods are applicable.

Article 11 Review of decision and/or recommendations

- a. Both parties may ask the complaints committee to review a decision and/or recommendation on the grounds of facts or circumstances that have emerged later and which, had they been known earlier, might have led to a different decision and/or recommendation.
- b. In principle, the review will be carried out by the same complaints committee.
- c. The possibility of requesting a review will lapse one year after the complaints committee has rendered its decision.

Article 12 Appeal

The recommendation of the complaints committee may not be appealed, save the right of everyone to submit the matter to the civil court.

Article 13 Confidentiality

1. Subject to the provisions of this complaints procedure, everyone involved in a procedure relating to a report or a complaint of inappropriate behaviour has a duty to observe confidentiality.
2. Subject to the provisions of this complaints procedure, anyone who possesses or receives documents relating to a report or a complaint has a duty to regard them as strictly confidential and to treat those documents accordingly.
3. Any person who, intentionally or unintentionally, receives documents as referred to in paragraph 2 and is not authorised to see those documents must surrender them immediately to the chairperson of the complaints committee.

Article 14 Archiving

- a. The reports of the hearings and of the handling of the complaint will be archived by the secretary of the Executive Board after the complaint has been closed.
- b. Data subjects have the right to inspect and to receive copies of documents from the archive relating to them.
- c. The chairperson of the complaints committee will manage the current files of the complaints committee. No one will be allowed to inspect current files.
- d. Apart from the secretary of the Executive Board, only the complaints committee will have access to the archive, unless mandatory legal rules provide otherwise.
- e. Archived files pertaining to complaints will be retained for the legally prescribed period and then destroyed.

Article 15 Accountability and reporting

- a. The complaints committee will report on its findings and activities annually, even if there have been no complaints. This annual report will be presented to the Executive Board and will be made public. The complaints committee will ensure that the confidential nature of its activities is not impaired by the annual report.
- b. The chairperson of the complaints committee will keep the Executive Board informed of complaints that are settled other than by means of the extensive procedure by means of confidential progress reports and confidential final reports.
- c. In exceptional cases, the complaints committee or its chairperson may invoke the hardship clause in order to reach a solution.

Article 16 Entry into force and official title

This complaints procedure replaces the Complaints Procedure for Inappropriate Behaviour, University of the Arts The Hague of May 2019. The complaints procedure can be cited as the Complaints Procedure for Inappropriate Behaviour, University of the Arts The Hague, 2022.

*Adopted by the Executive Board dated 28th June 2022
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