



The Radboud University Complaints Regulations regarding Undesirable Behaviour

April 2021

Introduction

In order to promote well-being in the study and working environment, Radboud University wishes to eliminate undesirable behaviour. To prevent and deter such behaviour, the Executive Board, with the consent of the Works Council and the Student Council, has adopted these Complaints Regulations regarding Undesirable Behaviour. These regulations also implement Article 1.12 of the Collective Labour Agreement for Dutch Universities (*CAO Nederlandse Universiteiten*).

Article 1 Definitions

1. **Undesirable behaviour:**
direct or indirect undesired remarks or acts, manifested in verbal, non-verbal or physical behaviour towards a person, which is experienced by the latter as undesirable and unwanted and which constitutes a violation of their integrity, in such a way that it results in work- or study-related psychosocial stress. This includes harassment, sexual harassment, discrimination, aggression and violence and bullying in circumstances directly related to their employment or their studies.¹²
2. **Harassment:**
any form of verbal, non-verbal or physical behaviour aimed at or resulting in the violation of a person's dignity and the creation of an intimidating, hostile, degrading, humiliating or offensive environment, which is in any event understood to be the case when when submission to or rejection of such behaviour is used as the basis for decisions which affect the person concerned.
3. **Sexual harassment:**
any form of verbal, non-verbal or physical behaviour with a sexual connotation aimed at or resulting in the violation of a person's dignity, in particular when an intimidating, hostile, degrading, humiliating or offensive environment is created, which is in any event understood to be the case when when submission to or rejection of such behaviour is used as the basis for decisions which affect the person concerned.
4. **Discrimination:**
the unjustified treatment of a staff member or student in a different way than another staff member or student in a comparable situation is, has been or would be treated on the grounds of religion, philosophy, political orientation, race, nationality, gender, sexual orientation, marital status, disability, chronic illness or age, or on any other grounds.
5. **Aggression and violence:**
incidents in which a staff member or student is mentally or physically harassed, threatened or attacked.

¹ Article 1, paragraph 3e of the Working Conditions Act (*Arbowet*), as well as the relevant legislative history

² The term 'studies' also includes study association activities that are related to the degree programme and are organised under the joint responsibility of a faculty

6. **Bullying:**
all forms of intimidating behaviour of a structural nature on the part of one or more staff members (colleagues, supervisors) or students directed against a staff member or student or a group of staff members or students who is or who are unable to defend themselves against such behaviour.
7. **Staff member:**
a person who, in whatever capacity, is employed by or performs work for Radboud University under the responsibility of Radboud University or who was employed or performed work for the university at the time of the occurrence or last occurrence of undesirable behaviour.
8. **Student:**
a person who is or was a student, prospective student, former student, external student, prospective external student or former external student of Radboud University at the time of the occurrence or last occurrence of undesirable behaviour.
9. **Executive Board:**
the Executive Board of Radboud University.
10. **Supervisory Board:**
the Supervisory Board of Radboud University.
11. **Complainant:**
the staff member or student who, in accordance with these regulations, submits a complaint about unacceptable behaviour experienced by them to the Executive Board, the Complaints Committee, the confidential advisor or the Supervisory Board.
12. **The Accused:**
the staff member or student against whom a complaint has been submitted in accordance with these regulations regarding undesirable behaviour.
13. **Complaint:**
a complaint submitted in accordance with these regulations by a staff member or student in the context of their own work situation or in the context of their studies regarding undesirable behaviour as referred to in these regulations.
14. **Complaints Committee:**
the Complaints Committee for Undesirable Behaviour, also referred to as the Complaints Committee, appointed by the Executive Board of Radboud University in accordance with these regulations.
15. **Confidential advisor:**
a person who has been appointed as such by the Executive Board and who has been trained to provide support to the complainant regarding complaints of undesirable behaviour.
16. **Parties directly involved:**
the complainant and the accused, as well as the advisor of the complainant and the accused. If the complainant is assisted by a confidential advisor as well as an advisor, they are also considered to be directly involved.
17. **Parties involved:**
all other persons involved in the handling of the complaint, such as witnesses and experts.

18. Decision:

the decision of the Executive Board of Radboud University on the recommendation issued by the Complaints Committee.

19. Scope of application:

the Complaints Regulations apply to staff and students of Radboud University in the event of undesirable behaviour as referred to in Article 1, paragraph 1 of these regulations.

Article 2 Confidential advisors for undesirable behaviour

Appointment and composition

1. The Executive Board appoints at least six confidential advisors for undesirable behaviour for a period of four years. There are confidential advisors for undesirable behaviour for both staff and students. Reappointment is permitted.
2. The Executive Board may remove a confidential advisor from their post: at their own request, as a result of poor performance as a confidential advisor or if the confidential advisor no longer satisfies the requirements for appointment.
3. Members of the Supervisory Board, members of the Executive Board, the deans and vice deans of the faculties, the directors of operations of the faculties, the division directors of Radboud Services, the secretary of the university, the directors of teaching and research institutes, members of the Works Council, HR staff, occupational health officers and staff welfare officials may not be appointed confidential advisor.

Duties

4. a. The confidential advisor is the point of contact for staff and students who experience undesirable behaviour and advises on possible solutions that the staff member or student can implement themselves.
b. The confidential advisor offers support, guidance and advice on possible informal solutions, such as those offered by a supervisor or student advisor, mediation, arbitration, etc. NB: Mediation and arbitration do not fall within the remit of confidential advisors. They may, however, establish whether mediation or arbitration is an appropriate solution.
c. The confidential advisor only acts on behalf of the staff member or student if they have given them permission to do so.
d. If necessary, the confidential advisor will refer the staff member to the occupational health officer, staff welfare services, legal support or the police in connection with reporting a crime or for any other form of assistance. Students may also be referred to the student dean or university psychologist, for example, in addition to legal support or the police.
e. In the event of a labour conflict, the confidential advisor refers the staff member to the confidential advisor for academic staff if it concerns academic staff, or to staff welfare services if it concerns non-academic staff.
f. If necessary, the confidential advisor informs the staff member of the possibility of submitting a formal complaint to the Executive Board, the Supervisory Board or the Complaints Committee.
g. The confidential advisor provides aftercare.
h. Advising and supporting the accused does not fall within the remit of confidential advisors. If an accused party contacts the confidential advisor, they will be referred to other types of support.

- i. The confidential advisor manages the archive records held by them in accordance with the GDPR and destroys them when they are no longer relevant.
- j. The confidential advisor issues solicited and unsolicited advice to the Executive Board and the responsible management team regarding the prevention and combatting of undesirable behaviour.
- k. The confidential advisor for undesirable behaviour submits a contribution for the Confidential Advisors' Annual Report on their work activities.
- l. The confidential advisor provides information in a broad sense about the way in which they carry out their work.

Accountability and confidentiality

- 5. The confidential advisor reports on their activities in retrospect to the Executive Board by way of a contribution to the Radboud University Confidential Advisors' Annual Report. This Annual Report presents a general account of the cases dealt with and the activities carried out. It must not be possible to trace the Annual Report back to individuals. An oral explanation of the report is given to the Executive Board.
- 6. a. The confidential advisor only acts on behalf of the staff member or student if they have given them permission to do so.
 b. The confidential advisor has, with the exception of the provisions in paragraph 5, a duty of confidentiality with regard to the facts that have come to their knowledge in their capacity as confidential advisor. This rule may only be deviated from with the explicit consent of the complainant. The duty of confidentiality will also lapse if a criminal offence is committed and the police request information through the Public Prosecutor's Office, or if a labour dispute regarding undesirable behaviour is brought before the courts.
 c. Within Radboud University, the confidential advisor has the right of non-disclosure with regard to anything that has come to their knowledge by virtue of their role as confidential advisor.
 d. The confidential advisor may not be disadvantaged as a result of the performance of their duties as confidential advisor.

Article 3 Complaints Committee for Undesirable Behaviour

Appointment and composition

1. The Executive Board appoints a Complaints Committee for Undesirable Behaviour.
2. The Complaints Committee comprises the following:
 - a chair and a deputy chair
 - two members and two deputy members
 They must not be affiliated in any way with Radboud University.
3. The chair, deputy chair, members and deputy members all have sufficient knowledge/expertise with regard to undesirable behaviour and are beyond reproach; they are required to submit a Certificate of Good Conduct (VOG, *Verklaring omtrent het Gedrag*) Additionally, the chair and deputy chair have a legal background.
4. The Executive Board appoints the chair and deputy chair for a period of four years. The other members of the Complaints Committee are appointed for a period of two years.

Reappointment is permitted. In appointing members, efforts will be made to achieve an even distribution of male and female members.

5. When dealing with a complaint, the Complaints Committee consists of a chair and two members.
6. The Complaints Committee is supported officially by a lawyer from Radboud University, who acts as secretary to the committee.

Task and powers

7. The Complaints Committee investigates complaints and issues an opinion on the merits thereof to the Executive Board.
8. Without prejudice to statutory provisions or other binding regulations, the Complaints Committee is authorised, at all stages of the complaint process, to
 - a. obtain information from all staff members, students and bodies of the university;
 - b. request access to all documentation and correspondence insofar as it is present within Radboud University and which it deems relevant for assessing the complaint;
 - c. consult independent or university-affiliated experts or other third parties, insofar as it considers this necessary for the formation of its opinion. The requested information may only be refused, giving reasons, if providing the information would infringe the privacy of one or more staff members, unless the other staff member does not object to being involved in the matter or another legal basis exists for providing information.
9. If the complaint concerns one or more students, the Complaints Committee will always seek the advice of a university psychologist.
10. The committee may advise the Executive Board to make a provisional ruling if:
 - this is necessary for the wellbeing of the complainant;
 - an untenable situation develops for one or more of those directly involved;
 - this is deemed necessary for the advancement of the investigation.

Article 4. Submitting a complaint

1. A staff member or student who has experienced undesirable behaviour in their study or working environment (as referred to in Article 1, paragraph 1) has the right to submit a complaint, with or without the assistance of the confidential advisor, to:
 - a. the Executive Board;
 - b. the Complaints Committee.
2. The Executive Board forwards the complaint to the Complaints Committee for advice without delay.
3. A complaint must be submitted in writing or digitally, including a date and signature, within two years of the occurrence of the undesirable behaviour, with the exception of the cases referred to in Article 5, paragraph 2c.
4. The complaint must at least contain:
 - a. a description of the undesirable behaviour;

- b. the name of the accused;
 - c. the date;
 - d. the time, place and circumstances;
 - e. a description of the steps already taken by the complainant and the relevant documents;
 - f. the names and addresses of any witnesses or details of any other evidence.
- Anonymous complaints shall not be handled.
5. A complainant may withdraw a complaint until such time as the Complaints Committee has submitted its report to the Executive Board.
 6. If the complaint has been submitted directly to the Complaints Committee and the Complaints Committee is handling it, the Complaints Committee will inform the Executive Board of this without delay.
 7. The Executive Board informs the relevant dean(s), director(s) or the secretary of the university³ of the existence of the complaint as soon as the Complaints Committee has announced its intention to proceed with the substantive review of the complaint.
 8. If the complaint relates to a member of the Executive Board, it is submitted to the Supervisory Board – either directly or via the confidential advisor – which then appoints an ad hoc Complaints Committee to deal with the complaint on the basis of the provisions in these regulations. The ad hoc Complaints Committee reports to the Supervisory Board. The Supervisory Board exercises the powers assigned to the Executive Board by these Complaints Regulations and is also responsible for providing the ad hoc Complaints Committee with administrative support.
 9. Without prejudice to statutory provisions or other binding regulations, all staff members and students of Radboud University are obliged to cooperate with the Complaints Committee within the reasonable period set to a degree that can reasonably be expected for the Complaints Committee to properly exercise its powers.
 10. All individuals who are involved in a complaints procedure are obliged to maintain confidentiality regarding all information of which they become aware in the course of the complaints procedure, with the exception of the stipulations of Article 9 of these regulations.

Article 5 Non-consideration of a complaint

1. A complaint is deemed inadmissible and will not be dealt with if it does not meet the requirements set out in Article 4, paragraph 4 of these regulations.
2. Furthermore, a complaint is deemed inadmissible and will not be dealt with if it relates to behaviour
 - a. that does not fall under a form of undesirable behaviour as defined in Article 1;
 - b. that has been addressed in a previously submitted complaint and has been handled in accordance with this article;
 - c. that took place more than two years prior to the submission of the complaint, unless

³ In their role as supervisor of the management office

- it pertains to a complaint regarding sexual harassment and/or a complaint that the Complaints Committee decides should still be dealt with;
 - d. that is the subject of investigative proceedings by order of the public prosecutor or of a prosecution, or if the behaviour is part of the investigation or prosecution of a criminal offence and an investigation by order of the public prosecutor or a prosecution is ongoing in relation to that offence.
3. a. Once the complaint has been received, the Complaints Committee first examines whether the complainant's complaint is admissible under the Complaints Regulations and should be dealt with. For this purpose, the Complaints Committee may hold an exploratory interview with the complainant, a report of which will be drawn up.
b. If the complaint does not yet meet the requirements stipulated in Article 4, paragraph 4, the Complaints Committee will give the complainant the opportunity to supplement the complaint within a period set by the committee.
 4. The Complaints Committee is not obliged to deal with the complaint if the interests of the complainant or the severity of the behaviour clearly do not warrant this.
 5. The Complaints Committee will notify the complainant and the Executive Board in writing of its decision not to handle the complaint as soon as possible, but no later than two weeks after receipt of the complaint.
 6. If a complaint is deemed inadmissible and will therefore not be dealt with, the accused shall not be informed of the fact that a complaint has been made against them.

Article 6 Handling the complaint

1. The Complaints Committee will immediately (within two weeks at the latest) acknowledge receipt of the complaint to the complainant, confirm that the complaint will be dealt with and invite the complainant to attend a hearing.
2. a. Once the complaint has been accepted by the Complaints Committee, the accused will be informed of the fact that a complaint has been made against them and that it is being dealt with. The complainant will receive a copy of the complaint.
b. The complainant will then be invited to attend a hearing.
3. a. The hearings of the Complaints Committee are closed.
b. The complainant and the accused are heard separately, unless the Complaints Committee considers it desirable for them to be heard in each other's presence.
c. The complainant and the accused may be assisted by an advisor at all hearings of the Complaints Committee.
d. The Complaints Committee may decide to hear third parties/witnesses/experts, either at the request of the complainant or the accused or otherwise.
e. If an expert is called in, a written expert report may be requested.
f. Only the Complaints Committee is permitted to make recordings of hearings. The recordings remain in the possession of the Complaints Committee until they are destroyed following closure of the file.
g. A report will be drawn up of each hearing. This report will be signed for approval by the person heard, with or without comments, and from that moment on it will form part of the Complaints Committee's file. If the person heard refuses to sign the report for

approval, a note to that effect will be added to the report before it is added to the file.

4. The complainant and the accused may inspect all documents and reports relating to the handling of the complaint, unless the committee is of the opinion that there are compelling reasons against this. The committee will offer the complainant and the accused the opportunity to respond to the file before the Complaints Committee draws up its report and advice.
5. The Complaints Committee will inform the complainant and the accused about the further handling of the complaint. The Complaints Committee will deal with a complaint as soon as possible, insofar as a scrupulous procedure allows.
6. After the hearing(s), the Complaints Committee will issue a report to the Executive Board on the merits of the complaint. Once the committee has sent its report to the Executive Board, it will notify the complainant and the accused accordingly.
7. During the handling of the complaint by the Complaints Committee, the following principles apply:
 - Several complaints about one person will be dealt with together, unless a complainant explicitly objects to this.
 - The Complaints Committee may consult the complainant and the accused, at any stage of the complaints procedure, to ascertain whether alternative forms of dispute resolution, such as mediation, are possible. The complainant and the accused themselves decide whether they wish to cooperate with this. During the mediation process, the Complaints Committee will keep the complaint on file. After the end of the mediation, the complainant will inform the Complaints Committee whether they wish to withdraw the complaint.
 - The privacy of those involved will be protected as much as possible.
 - Third parties/witnesses employed by or studying at Radboud University will be given the opportunity by the employer to be heard if the Complaints Committee considers it desirable to hear the third party/witnesses concerned.
 - The original reports of hearings and other documents will remain in the possession of the Complaints Committee during the complaints investigation.
 - At the end of the complaints investigation, a copy of the entire file, including the reports of the hearings, will be submitted by the Complaints Committee to the Executive Board, unless the Complaints Committee has serious objections to this. In that case, the Complaints Committee will notify the Executive Board, stating the reasons.
8. Insofar as the procedures of the committee have not been laid down in this or in any other regulations, they shall be determined by the chair.

Article 7 Report and advice

1. a. The Complaints Committee will present a written report to the Executive Board within eight weeks of the complaint being dealt with.
b. If it is not possible to comply with the deadline of eight weeks, the complainant, the accused and the Executive Board will be informed accordingly, stating the reasons, as well as the date by which the report will be presented. The deadline may be extended by a maximum of two weeks, unless the investigation requires a longer period of time or the complainant and the accused agree to this.
c. The complainant, the accused and the Executive Board will be informed in writing of any

extension of the deadline.

- d. If the handling of the complaint has been postponed due to mediation or arbitration, the deadline for issuing a decision shall be extended by the duration of this process.
- 2. The Complaints Committee's report is not public. The report must include at least the following:
 - a. the details of the complainant and the accused and their hierarchical or functional relationship;
 - b. the substance of the complaint;
 - c. the findings of the Complaints Committee;
 - d. the grounds on which the complaint has been declared admissible;
 - e. the grounds on which the complaint has or has not been upheld.

Article 8 Decision of the Executive Board

- 1. Within fourteen days after the Complaints Committee has issued its report, the Executive Board will send its decision, in writing, to the complainant, the accused and the Complaints Committee. The period of fourteen days may be extended once by an additional fourteen days.
- 2. If a complaint is upheld, the Executive Board may decide to take measures or impose sanctions. In addition, measures may be taken to create a safe (working) environment for the complainant.
- 3. The Executive Board (or one of its members) will explain the Executive Board's written decision to the complainant and the accused in an individual face-to-face meeting.
- 4. The Executive Board will, immediately and in writing, inform the relevant dean or director of the faculty/Radboud Services or the university secretary of its decision.

Article 9 Reporting

Before 1 March each year, the Complaints Committee will submit a written report on its activities in the preceding calendar year to the Executive Board. The report must not contain any personal data.

Article 10 Complaints files

Five years after the advice issued therein, the files relating to a complaints procedure will be removed from the archives of the secretarial office of the Complaints Committee and destroyed. The provisions of the GDPR will be observed in doing so.

Article 11 Protection of parties involved

- 1. No staff member's position within Radboud University will be adversely affected because he or she has been involved, in any way, in a complaints procedure as laid down in these regulations. This principle does not apply if a measure is taken against the accused following an upheld complaint.
- 2. In the event that the Complaints Committee suspects that the complaint submitted was deliberately false, it will inform the Executive Board of this suspicion. The Complaints Committee is not authorised to investigate this further. In this case, the first paragraph of this article does not apply in full to the complainant.

Article 12 Unforeseen circumstances

In the event of circumstances not provided for in these regulations, the Executive Board will decide, with the exception of the stipulations in Article 6, paragraph 8, regarding the working method of the Complaints Committee.

Article 13 Final provisions

1. These regulations will come into force on 6 April 2021 and will replace all previous Complaints Regulations regarding undesirable behaviour.
2. These regulations will be published on the Radboud University website.