

Wageningen UR Regulations on the Complaints Procedure

Regarding Undesirable Behaviour

Preamble

The Executive Board maintains as a fundamental principle for Wageningen UR that all persons directly or indirectly working or studying at Wageningen UR, such as employees, PhD candidates and students, should treat each other with respect and integrity, and should be able to work or study in a safe social environment. Respect, integrity, honesty and safety are the basic norms and values which underlie desirable behaviour.

The Executive Board's policy is preventive in nature and is aimed at avoiding and combatting undesirable behaviour, specifically, intimidation (including sexual harassment), aggression, violence, discrimination and bullying, in both the work and study environment.

These fundamental principles and these Regulations on the Complaints Procedure Regarding Undesirable Behaviour (which are based on those principles) flesh out in more detail the general provisions in the Collective Labour Agreement for DLO and the Collective Labour Agreement for Dutch Universities, as well as the general right of complaint set forth in Chapter 9 of the Dutch General Administrative Law Act. Where necessary, further rules have been added, given the special nature of the complaints procedure. The statutory basis for these Regulations can be found in the Dutch Working Conditions Act and the Dutch Equal Treatment Act.

Each complaint about undesirable behaviour shall be handled with due care and as strictly confidential. The Executive Board believes that it is preferable for a complaint to be resolved informally to the complainant's satisfaction in consultation with the parties directly concerned. To ensure that this process goes smoothly, the Executive Board has designated a confidential counsellor for each organisational unit whom the complainant may contact.

If this informal process does not, however, accomplish the desired resolution or the complainant for his/her own reasons does not wish to utilise the informal process, the complaint may be handled in accordance with the formal procedure laid down in these Regulations. This shall not preclude the Executive Board, though, from taking action to resolve the complaint informally before submitting it to the external complaints committee for advice. In doing this, the Executive Board shall not comment on the substance of the complaint.

Article 1 Definitions

In these Regulations ensuing from the Collective Labour Agreement for Dutch Universities and the Collective Labour Agreement for DLO, the following terms shall have the following meanings:

1.1 Organisation:

Wageningen University and Research Centre, that is, Wageningen University and DLO foundation

1.2 Executive Board:

Wageningen University's Executive Board and the DLO Foundation's Executive Board.

1.3 Complaint:

A 'complaint' shall refer to a statement by an employee, PhD candidate or student about behaviour which he/she personally construes as undesirable.

1.4 Employees, PhD candidates, students and the like:

'Employees' shall mean all persons performing work within the organisation, subject or not to an employment contract. 'PhD candidates' at Wageningen University shall mean all PhD candidates at the organisation with or without an employment contract. 'Students' shall mean all persons studying at the organisation. Former employees, former PhD candidates and former students who worked at, conducted PhD research at or studied at the organisation up to three years ago may invoke this complaints procedure as well.

- References to 'employee'/'work environment' shall also mean 'student'/'study environment'.
- References to 'employee' shall encompass both male and female employees.
- References to 'person' shall also mean 'employee'/'PhD candidate'/'student'.

1.5 Complainant:

The employee, PhD candidate or student who contacts the confidential counsellor with a complaint or files a complaint concerning undesirable behaviour through the complaints officer.

1.6 Defendant:

The employee, PhD candidate or student against whom the complaint is directed.

1.7 Undesirable behaviour:

For purposes of these Regulations, 'undesirable behaviour' shall mean sexual harassment, intimidation, discrimination, aggression, violence and bullying in the workplace or study environment.

1.8 Sexual harassment:

Unwanted sexual advances, requests for sexual favours or other verbal, non-verbal or physical behaviour which also involves one of the following elements:

- 1 submission to such behaviour is either explicitly or implicitly applied as a condition for employing a person;
- 2 submission to or rejection of such behaviour by a person is used as a basis for decisions affecting this person's work;
- 3 such behaviour is intended to undermine a person's work performance and/or to create an intimidating, hostile or unpleasant work environment;
- 4 such behaviour undermines a person's work performance and/or creates an intimidating, hostile or unpleasant work environment.

1.9 Intimidation:

Undesirable behaviour which is intended to undermine a person's dignity (or has this effect) and which creates a threatening, hostile, insulting, humiliating or offensive environment.

1.10 Discrimination:

'Discrimination' shall mean making impermissible distinctions between groups or individuals based on religion, personal beliefs, sexual orientation, race, sex, political opinion, physical or mental disability, skin colour or appearance, or otherwise as referred to in Article 1 of the Dutch Constitution which is undesirable or unwanted or is reasonably perceived as such by the person confronted with it.

1.11 Aggression and violence:

'Aggression and violence' are incidents in which a person is harassed, intimidated, threatened or attacked mentally or physically under circumstances directly related to the performance of work or following a study programme at the organisation. 'Aggression and violence' shall include teasing, using abusive language, throwing objects and hitting.

1.12 Bullying:

'Bullying' involves systematically and seriously obstructing, harassing, or causing physical or mental discomfort to the same period, often for a lengthy period. 'Bullying' within the context of an organisation shall refer to mental, physical or sexual discomfort systemically being caused by one person or a group of persons, as a result of which the complainant is unable to function optimally within the organisation. Examples include social isolation, making work unpleasant or impossible, ridicule, gossip and threats.

1.13 Confidential counsellor:

The independent officer appointed by the Executive Board whom the complainant may contact about a complaint regarding undesirable behaviour.

1.14 External complaints committee:

The external complaints committee set up by the Executive Board to advise the Executive Board on the complaints filed.

1.15 Mediator:

"Mediator" shall mean a person accepted by the complainant and respondent to look for a solution.

1.16 Complaints officer:

The employee who has been designated by the Executive Board to receive complaints and who shall be responsible for providing the administrative support in handling the complaint. This complaints officer shall be the contact person for both the Executive Board and the external complaints committee. In addition, the complaints officer shall monitor the complaints procedure. The same person may not serve as both complaints officer and confidential counsellor.

1.17 Harm:

Adverse action may not be taken against a person because he/she has invoked this complaints procedure, assisted in it or been heard as a witness.

Article 2 The confidential counsellor

2.1 On the local boards' recommendation, the Executive Board shall appoint confidential counsellors, at any rate one for Wageningen University's students and several for employees (including PhD candidates). Preferably, the Executive Board shall appoint one counsellor for each organisational unit, taking into account the organisation's locations.

2.2 The confidential counsellor's duties shall in any event include:

- a. acting as the contact person for employees/PhD candidates/students confronted with undesirable behaviour;
- b. providing care and support to employees/PhD candidates/students and, if necessary, referring them on to experts;
- c. informing the complainant about the complaints procedure described in these Regulations and the consequences ensuing from it, before any action is taken in this respect;
- d. advising the complainant about any steps to be taken;
- e. counselling and providing support to employees/PhD candidates/students who are considering filing a complaint with the Executive Board;
- f. at the complainant's request, finding a mediator;
- g. at the complainant's request, taking steps aimed at finding a solution;

- h. furnishing advice (upon request or otherwise) to the Executive Board and other relevant organisational units on preventing and combatting undesirable behaviour, including giving advice on the organisation's general policy to fight undesirable behaviour;
- i. issuing an anonymised report each year to the Executive Board on the number of complaints and nature of them;
- j. at the complainant's request, appearing before the complaints committee on the complainant's behalf if the complainant is unable to be present.

2.3 The confidential counsellor's powers shall in any event include:

- a. being able to ask to see any relevant personnel information. If privacy-sensitive information of an employee is involved, this shall occur in consultation with the relevant organisational unit's HRM manager. If privacy-sensitive information of a student is involved, this shall occur in consultation with the Head of the Student Services Centre;
- b. insofar as relevant for the confidential counsellor to perform his/her duties, being able to consult internal or external experts on his/her own initiative;
- c. having access to all organisational units and being able to talk to all employees;
- d. being able to bring a matter to the Executive Board's attention if he/she receives one or more complaints which, for the complainant's or complainants' own reasons, have not been or will not be presented to the complaints committee. The confidential counsellor shall consult beforehand with the Corporate HR Director, the director of the relevant Wageningen Graduate School and/or the Corporate Education & Research Director, depending on whether the matter affects the interests of employees, PhD candidates and/or students.

2.4 In fulfilling his/her duties, the confidential counsellor shall not perform any acts relating to an individual case without the complainant's permission.

2.5 The confidential counsellor may refuse to take up a complaint for the following reasons:

- a. conflicts of interests;
- b. personal and/or factual circumstances;
- c. the complaint does not directly pertain to the undesirable behaviour referred to in these Regulations.

If such a situation arises, the confidential counsellor shall refer the matter to another confidential counsellor or body that can take up the complaint.

2.6 The confidential counsellor shall solely be accountable to the Executive Board in performing his/her duties, with the counsellor's maintaining the confidentiality of information which he/she possesses.

2.7 The organisation may not take adverse action against confidential counsellors on account of their handling a complaint or because of their position as counsellor. Consequently, confidential counsellors shall enjoy similar protection against dismissal as members of participation bodies.

2.8 The Executive Board shall provide the confidential counsellor with the facilities necessary for him/her to carry out his/her position.

Article 3 The complaints committee

3.1 If the employee, PhD candidate or student files a complaint concerning undesirable behaviour, the complaint shall be presented directly to the Executive Board (specifically, the Board member responsible for personnel issues) through the complaints officer. It shall submit the complaint to an independent, external complaints committee (hereinafter: 'the complaints committee') for

advice, unless it feels that the informal process (or preliminary process) may still result in a resolution.

- 3.2 The complaints committee shall have three tasks, namely:
 - a. rendering decisions on the admissibility of complaints;
 - b. investigating complaints about undesirable behaviour;
 - c. issuing recommendations about complaints to the Executive Board.
- 3.3 The external complaints committee shall consist of at least two members and a chairman (or vice-chairman). It must have sufficient legal expertise and sufficient expertise regarding undesirable behaviour. The complaints committee shall be assisted by a secretary to be appointed in consultation with the Executive Board. The secretary shall not be a member of the committee. The committee members may not be directly or indirectly affiliated with Wageningen UR in any way.
- 3.4 The complaints officer shall issue an annual report to the Executive Board about the number of complaints, the nature of the cases dealt with and the recommendations to the Executive Board. These reports shall be anonymised. The Executive Board shall make this report known to the confidential counsellors and participation bodies.

Article 4 Complaints procedure

- 4.1 The complainant must file the complaint about undesirable behaviour in writing with the Executive Board through the complaints officer. If there are multiple complainants with respect to the same respondent, each complainant must separately file his/her own letter of complaint. The complaint shall include at a minimum:
 - a. a description of the complaint;
 - b. the respondent's name or respondents' names;
 - c. a description of the steps already taken by the complainant.

The external committee may combine and jointly handle and assess individual cases concerning the same matter.

If the complaint is directed against or has been filed by an Executive Board member, then 'Executive Board' should be interpreted in these Regulations to mean 'Supervisory Board'.

- 4.2 The complaints officer shall ensure that, in consultation with the Executive Board, an external complaints committee is established and shall send the complainant a confirmation of receipt and a copy of the Complaints Procedure Regulations.
- 4.3 Complaints must be filed within three years after the date that the undesirable behaviour occurred.
- 4.4 A complaint shall in any event not be admissible if:
 - a. the complaint does not pertain to the types of undesirable behaviour referred to in these Regulations;
 - b. the period for filing a complaint has lapsed;
 - c. the complaint has been filed anonymously;
 - d. the complaint was already taken up by the committee previously, unless there are new facts and/or circumstances;
 - e. legal proceedings are pending or have been concluded regarding the complaint.

- 4.5 The complaints committee shall be entitled to information from the Executive Board which it deems necessary to perform its duties. Further, at the instigation or not of the complainant or respondent, the committee may examine internal or external persons/witnesses and may consult with internal or external experts.
- 4.6 The complaints committee shall hear the complainant and respondent within 15 working days after receiving the complaint. With the invitation to the hearing, the respondent shall receive a copy of the complaint and any other documents submitted by the complainant with respect to the complaint.
- 4.7 As regards the complaints procedure, the complainant and respondent may be represented by the confidential counsellor and/or someone else from inside or outside the organisation.
- 4.8 If the respondent is represented by a legal advisor, the Executive Board may, in exceptional cases, also arrange for a legal advisor to represent the complainant.
- 4.9 If the complaint is dismissed, the Executive Board may, in exceptional cases, reimburse the respondent for the costs of any legal assistance.
- 4.10 Further to Article 4.5, other persons may be examined as well. If, in the committee's judgment, a witness must be examined anonymously, the committee may, stating reasons, decide to do this.
- 4.11 The investigation must be completed within 40 working days after the complainant is heard. If the investigation cannot be completed within a period of 40 working days, the complaints committee shall issue a report of its findings to then to the Executive Board. A request to extend the aforementioned period by at most 30 working days may be attached.
- 4.12 The secretary and two complaints committee members (including the chairman) shall at any rate be present at each hearing. The committee's hearings shall not be open to the public. The secretary shall draw up a written report of each hearing. The discussion at the hearing shall also – with the permission of the parties concerned – be recorded using recording equipment. Once the committee chairman has adopted the reports, they shall be sent to both the complainant and the respondent for their information. The witnesses shall only receive the report of the examination of them personally, likewise for their information.
- 4.13 The following shall apply to the hearing:
- a. the complainant and the respondent shall be heard in each other's presence;
 - b. if joint examination of the complainant and respondent is deemed undesirable in the view of the committee or one of the parties, the parties shall be heard separately by the committee;
 - c. if the external committee has decided to jointly handle multiple complaints concerning the same matter (see Article 4.1), the hearing may also be jointly held.
 - d. the relevant persons within Wageningen UR shall be obliged to appear;
 - e. the complainant and respondent shall be entitled, through the secretary, to inspect all documents relating to the complaint.
- 4.14 After the investigation has been completed, the complaints committee shall issue a recommendation, with a statement of reasons, to the Executive Board. The committee's recommendation to the Executive Board shall at any rate include the following points:
- a. the nature of the complaint;
 - b. who was affected by the undesirable behaviour;
 - c. whether the complaint is well-founded or not;
 - d. if the complaint is well-founded, a recommendation to the Executive Board on the measures to be taken;

- e. if the complaint provides cause to do so, the recommendation may also contain advice on the follow-up care.

4.15 Within 15 working days after receiving the complaints committee's recommendation, the Executive Board shall take a decision in writing on the complaint based on the complaints committee's recommendation and on any measures to be taken. Before taking a decision, the Executive Board shall consult with the complaints committee's chairman about any intention to deviate from the recommendation. The period may be extended by 10 working days in that case. If the Executive Board does not follow the complaints committee's recommendation, this shall be mentioned in the Executive Board's decision, stating the reasons. The Executive Board's decision, including the complaints committee's recommendation and the reports of the hearings, shall be made known to the complaints officer, the confidential counsellor (if involved in the procedure), the complaints committee members, the complainant and the respondent.

4.16 Both before and during the handling of the complaint, the Executive Board may, at the complainant's and/or complaints committee's request, provide temporary relief if:

- this is necessary for the complainant's well-being; and/or
- the situation is untenable for one or more of the parties directly concerned.

4.17 The complaint may be withdrawn at any time.

Article 5 Confidentiality

5.1 All of the parties directly or indirectly involved in the complaints procedure shall have a duty of confidentiality to ensure the complainant's and respondent's privacy. This duty shall not apply to doctors or law enforcement officials.

5.2 Confidentiality must be observed during the preliminary process and complaints procedure, as well as after the Executive Board's decision. If there are persistent rumours within the organisational unit concerned, the board or the decentralised unit (knowledge unit or similar unit) may, after the Executive Board's decision, inform the relevant employees within the organisational unit about whether the complaint was well-founded or not, the details of the procedure for handling the complaint and the practical effects arising from the handling of the complaint. All parties must exert their best efforts to avoid further harm to persons or interests or to keep this to a minimum.

Article 6 Formal title and effective date

These Regulations shall be cited as the 'Wageningen UR Regulations on the Complaints Procedure Regarding Undesirable Behaviour'. They were amended pursuant to the Executive Board's decision dated 20 July 2015 and shall take effect on 1 September 2015.

Explanation of Complaints Procedure Regarding Undesirable Behaviour

Specific time periods have been set for certain elements of the complaints procedure. The table below shows the time period set for each activity.

Time periods

Article:	Time period:	Activity:	Reasoning
4.6	15 working days	Hearing the complainant and respondent and deciding whether the complaint is admissible.	Hearing the complainant and the respondent jointly will expedite the handling. The complaints committee may also then inform the complainant and respondent of the procedure to be followed.
4.8	40 working days	Further investigation of the complaint (including further examination of the complainant, respondent and any other persons), followed by issuance of a recommendation to the Executive Board.	The time period for determining the admissibility of the complaint, investigating the complaint and issuing a recommendation to the Executive Board is 40 working days, because this needs to be done with due care. This period may be extended (see Article 4.9).
4.9	30 working days	The complaints committee's investigation may be extended if the procedure cannot be completed within the time period of 40 working days.	
4.13	15 working days	The Executive Board shall take a decision based on the complaints committee's recommendation.	The time period within which the Executive Board must take a decision on any measures to be taken has been set at 15 working days, since it is in everyone's interest that the case be handled as quickly as possible, but also with due care.
	Extension of 10 working days		If the Executive Board does not wish to follow the complaints committee's recommendation, the chairman of the complaints committee must be consulted and the period may be extended by 10 working days.

If the aforementioned deadlines unfortunately cannot be met, the complaints officer shall inform the parties concerned.