



**LEIDEN UNIVERSITY REGULATION ON COMPLAINTS RELATING TO UNACCEPTABLE BEHAVIOUR: (SEXUAL) HARASSMENT, BULLYING, AGGRESSION, VIOLENCE AND DISCRIMINATION**

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This complaint regulation takes account of Article 1:12 of the Collective Labour Agreement (CAO) of the Dutch Universities

## CHAPTER 1: GENERAL

### Section 1.1 Definitions and the right to lodge a complaint

#### Article 1: Definitions

1. In this regulation, the following definitions will apply:
  - a. the University: Leiden University;
  - b. complainant: the person referred to in article 2, first paragraph, who applies to the confidential counsellor or the Complaints Committee with a complaint about unacceptable behaviour;
  - c. defendant: the person referred to in article 2, second paragraph, to whose behaviour the complaint relates;
  - d. confidential counsellor: the person referred to in article 3;
  - e. the Committee: the Complaints Committee referred to in article 4;
  - f. secretary or general secretary: the employees of the university's department of Legal Affairs referred to in article 4, fifth and sixth paragraphs;
  - g. secretarial office: secretarial office of the Committee: PO Box 9500, 2300 RA Leiden;
  - h. authorised representative: a person who acts on behalf of the complainant or defendant during the complaint procedure;
  - i. aide: a person who accompanies a party to a hearing to provide moral support but who may not speak;
  - j. witness: a person who can testify on the grounds of having observed certain behaviour;
  - k. informant: a person who, on the basis of involvement or expertise, can provide information relating to the complaint.
2. In this regulation, unacceptable behaviour is understood to mean:
  - a. harassment/bullying: any form of verbal, non-verbal or physical behaviour, the aim or consequence of which is or may be that a threatening, hostile, insulting, humiliating or offensive situation arises;
  - b. sexual harassment: any form of verbal, non-verbal or physical behaviour with a sexual connotation, the aim or consequence of which is or may be that injury is caused to a person's dignity. This applies in any event if a threatening, hostile, insulting, humiliating or offensive situation develops and/or if submitting to or rejecting such behaviour is used or could be used as the basis for decisions that affect the person involved;
  - c. aggression and violence: verbally, mentally or physically harassing, threatening or attacking others;
  - d. discrimination: any form of making statements about, committing acts towards, or making a decision about a person or making a distinction between persons on the basis of religion, beliefs, political persuasion, race, sex, nationality, heterosexual or homosexual orientation, age or handicap, the aim or consequence of which is that injury is caused to a person's dignity or rights and/or that this person experiences any other detrimental consequences.



## **Article 2: The right to complain and the scope of the complaint regulation**

1. Anyone who works or studies at the University and who experiences unacceptable behaviour during or in relation to their work or study at the University can apply to the confidential counsellor or submit a complaint to the Complaints Committee.
2. The complaint, as referred to in the first paragraph, should relate to the behaviour of a person who works or studies at the University, regardless of whether the behaviour took place in the course of a person's work or study, or in another context.
3. Furthermore, a person who works at the University is understood to mean: a person who has been engaged to work by the University, such as a guest lecturer, a work placement student or a temporary employee.
4. A person who is studying at the University is understood to mean a person who is enrolled at the University. This is also understood to mean any person who studies at the University on a fee-paying basis, regardless of how the fees are paid.
5. The complaint, as referred to in the first paragraph, must be submitted within a year of the unacceptable behaviour occurring. This complaint regulation applies equally to any complainant who is no longer working or studying at the University at the time of submitting the complaint.

## **Section 1.2 The confidential counsellor for unacceptable behaviour**

### **Article 3:**

1. The Executive Board will appoint one or more confidential counsellors.
2. It is the duty of the confidential counsellor to:
  - a. support complainants who have experienced unacceptable behaviour, and provide them with advice and support;
  - b. inform complainants about the possible different ways of resolving the problem or about how to submit a complaint about the matter;
  - c. advise complainants who wish the matter to be mediated or submitted to the Complaints Committee, in which case the counsellor does not act personally as mediator;
  - d. refer complainants to specialists in the field of dealing with unacceptable behaviour, if required;
  - e. advise the Executive Board – at the request of the Board or independently - on preventing and combating unacceptable behaviour;
  - f. register reports and complaints and provide anonymised annual reports of these to the Executive Board;
  - g. provide information and publicity about his or her position relating to unacceptable behaviour;
  - h. maintain contact with people and instances whose position enables them to signal unacceptable behaviour within the University.
3. In terms of the performance of his or her duties, the confidential counsellor is accountable to the Executive Board.
4. The confidential counsellor will treat reports and complaints confidentially, and will only inform third parties with the consent of the complainant.



## **Section 1.3 The Complaints Committee**

### **Article 4: Appointment/composition**

1. The University has a Complaints Committee consisting of three members:
  - a. one member, also a legal specialist, as chairman;
  - b. two members with expertise in combating and/or preventing unacceptable behaviour, as evidenced by their position or experience.
2. Each member of the Committee has a substitute.
3. The members of the Committee may have no personal interest in the handling of the complaint and may not be involved in the complaint.
4. The members and substitute members are appointed by the Executive Board for a period of two years. They can be reappointed an indefinite number of times.
5. In the execution of its administrative duties, the Committee is aided by a general secretary who works at the University's Department of Legal Affairs.
6. The Committee is supported in hearings, in camera and when drafting its conclusion by a secretary who works as a legal specialist at the University's Department of Legal Affairs.

### **Article 5: Complaints Committee: duties**

1. It is the duty of the Committee to:
  - a. investigate complaints about unacceptable behaviour submitted on the basis of article 2;
  - b. investigate incidents relating to unacceptable behaviour that have come to the attention of the Executive Board via a different channel;
  - c. advise the Executive Board about the legitimacy of the complaint and/or the incident under investigation and any measures that may need to be taken;
  - d. register the number and nature of the complaints that have been received and/or incidents that have been investigated and submit an anonymised annual report on these to the Executive Board.
2. The members of the Committee, the secretary or general secretary and the secretarial office are bound to confidentiality on all matters that come to their notice relating to or in connection with the complaint.

## **CHAPTER 2: THE COMPLAINT PROCEDURE AND THE INVESTIGATION OF INCIDENTS AT THE REQUEST OF THE EXECUTIVE BOARD**

### **Section 2.1 Submitting and handling a complaint**

#### **Article 6: Submitting a complaint**

1. The complainant should submit a written complaint to the secretarial office of the Committee. The complaint should be written in the Dutch or English language.
2. If the complainant cannot reasonably be asked to put the complaint in writing, the general secretary will make a report of the complaint submitted verbally; the complainant will sign the report as correct and will receive a copy.
3. The written complaint must contain at least:
  - a. the name and address of the complainant;
  - b. the name, position and workplace of the person to whom the complaint refers;
  - c. a description of



- the incident of unacceptable behaviour, stating the date, time, place and circumstances,
  - the nature of the unacceptable behaviour,
  - a description of the steps already taken by the complainant,
  - the names and addresses of possible witnesses or an indication of possible other items of evidence;
- d. the date and signature.
4. If a complaint is submitted by an authorised representative, the complaint must be accompanied by written authorisation or the complainant must sign the complaint as correct. If the complaint is submitted by a lawyer, written authorisation is not necessary.
  5. Once a complaint has been received, the general secretary will confirm receipt in writing to the complainant.

## **Section 7: Decision about the admissibility of the complaint**

1. The chairman will decide on the admissibility of the complaint.
2. If the chairman judges that the complaint does not meet the stipulations of paragraph 1 to paragraph 4 of article 6, the complainant will be requested to rectify the omission.
3. The chairman is not obliged to consider the complaint if:
  - a. the complaint does not meet or does not sufficiently meet a request as referred to in the second paragraph of this article;
  - b. the complaint does not meet the stipulations of article 2, and there are no valid reasons to excuse the exceeding of the one-year time limit;
  - c. the complaint evidently does not relate to a form of unacceptable behaviour as defined in article 1, second paragraph;
  - d. the complaint is of insufficient importance.
4. The complainant will be notified in writing within three weeks of submitting the complaint – or within three weeks of complying with any request to rectify an omission - whether the complaint will be considered.
5. If the complaint is not to be considered, the complainant will be notified in writing, with an explanation of the reason. The complainant has the opportunity within a week of the date of this decision to submit a written request for the decision to be reconsidered; the full Committee will then reach a new decision within three weeks regarding the admissibility of the complaint.
6. Once it has been decided to accept a complaint for consideration, the Committee will, at the same time as notifying the complainant that it will be handling the complaint, also notify in writing the Executive Board, the director of the relevant University department and/or the dean of the faculty that the complaint is being considered.
7. In this case, the Committee will at the same time write to the defendant, enclosing a copy of the written complaint and – subject to the stipulations of article 13 – copies of all documents sent by the complainant to the Committee, inviting him or her to submit a statement of defence.



## **Section 8: Complaint summary**

1. The chairman and secretary can make a summary of the written complaint, describing the essence of the complaint. If the Committee decides to accept a complaint for consideration, this complaint summary is presented in writing to the complainant for his or her approval.
2. The contents of the complaint summary form the basis on which the complaint will be considered; the remaining content of the documents can serve to illustrate that which is expressed in the complaint summary.

## **Section 9: Retracting a complaint**

1. The complainant can retract a complaint in writing (and verbally during a hearing). The Committee will immediately inform the defendant, the Executive Board, the head of the relevant University department and/or the dean of the faculty accordingly.
2. The defendant can within two weeks submit a written request to the Committee to still consider the complaint. The Committee will meet this request provided the defendant has a significant interest in the Committee pronouncing a verdict on the legitimacy (or otherwise) of the complaint.

## **Section 2.2 Preparatory research**

### **Article 10: Conducting a defence**

1. The Committee will give the defendant the opportunity to submit a written defence to the Committee within three weeks and will inform the defendant of the date by which the Committee must receive this written defence.
2. The chairman can extend this deadline at the request of the defendant by a maximum of three weeks. A longer postponement can only be granted with the approval of the complainant.
3. The Committee will forward to the complainant, subject to the stipulations of article 13, a copy of the statement of defence together with the accompanying documents.

### **Article 11: Gathering information**

1. To prepare for considering a complaint, information – both written and verbal - can be gathered from the complainant, defendant or other persons, by or on behalf of the Committee.
2. Both complainant and defendant will be informed of this.
3. If the Committee or persons acting on behalf of the Committee discuss matters relating to the substance of the complaint and the defence with the complainant, defendant or others, a report will be made of the discussion. The complainant and defendant will receive a copy of any information received and any reports made.

### **Article 12: Submission and disclosure of documents submitted to the Committee**

1. Complainant and defendant may submit further documents to the Committee up to ten working days before the hearing. Documents that are submitted too late will only be admitted providing, in the opinion of the Chairman, they do not compromise the interests of the opposite party
2. Without prejudice to the provisions of article 13, a copy of all documents submitted to the Committee relating to the handling of the complaint will be sent to the parties concerned.



3. The chairman can decide that a document is not relevant to the consideration of the complaint, and may return such a document to the person who submitted it.

### **Article 13: Confidentiality of the documents submitted to the Committee**

1. At the request of the complainant or defendant, the chairman can determine that there are very serious reasons that prevent a document that has been submitted being provided to the opposing party.  
The chairman can also do this in his or her official capacity. The parties will be notified accordingly.
2. If a request to keep documents confidential is rejected, the relevant documents will be returned to the person who submitted them and they will not be included in the judgement reached by the Committee.
3. The above applies equally to documents and information from third parties.
4. If the chairman decides to keep any documents or information confidential, this will be recorded in the written conclusion of the Committee together with a record of the nature of the document and the implications/consequences that the Committee attaches to this.

### **Section 2.3 Resolving the complaint without a hearing**

#### **Article 14:**

1. Until the complainant and defendant are invited to the verbal hearing of the complaint, the Committee can close the investigation into the complaint without a hearing, if:
  - a. the Committee is evidently unqualified to consider the complaint;
  - b. the complainant evidently cannot sustain his or her complaint;
  - c. the complaint is evidently unfounded; or
  - d. the complaint is evidently founded.
2. A decision referred to in the first paragraph of this article will be notified to the Executive Board, the director of the relevant University department and/or the dean of the faculty.
3. If the complaint is evidently founded, the Committee's report to the Executive Board may be accompanied by a recommendation on possible disciplinary or general measures to be taken in the sense of article 26. In such a case, article 28 will apply mutatis mutandis.

### **Section 2.4 Accelerated process**

#### **Article 15:**

1. If the interests of the case require the complaint to be dealt with urgently, the complainant can, at the same time as submitting the written complaint, request that the Committee accelerates the complaint. The chairman will make a decision on this request.
2. If the complainant requests that the Committee accelerates the complaint, he or she must submit his or her complete written complaint to the secretarial office, in line with the stipulations of articles 6 and 7.
3. On the third working day at the latest after receipt of the written complaint in which the complainant requests the accelerated process, the general secretary will inform the complainant (if necessary by telephone) whether this request will be met.
4. If the chairman has decided to accelerate the complaint, the defendant will be informed of this as quickly as possible (if necessary by telephone). A copy of the written complaint will be sent to the defendant and the defendant will be invited to submit his or her defence as quickly as possible, but no less than three working days before the hearing.



5. In the event of an accelerated process, the Committee hearing will take place between one and three weeks after receipt of the complaint.
6. Within two weeks after the hearing, the Committee will draw up the written conclusion. Prior to this, the Committee can inform the parties verbally about the contents of the conclusion.
7. If it is apparent to the Committee from the written defence or from the hearing that the case is not sufficiently urgent to justify the accelerated process or that the case requires standard consideration, the Committee will then determine that the complaint will be considered further in the usual way.

## **Section 2.5 The hearing**

### **Article 16: Determining the date of the hearing and the invitation to the hearing**

1. The Committee will determine the date, location and time of the hearing. In principle, the hearing should take place within six weeks of the decision to accept the complaint for consideration.
2. The Committee will invite the complainant and defendant in writing to attend the hearing.

### **Section 17: Attendance at the hearing**

1. In principle, the hearing will take place in the presence of the full Committee and the secretary.
2. If a Committee member is unable to attend the hearing, the hearing will take place in the presence of at least two members of the Committee and the secretary. If the chairman is unable to attend, a Committee member acts as chairman.
3. The person who has submitted the complaint is obliged to appear at the hearing.
4. The defendant is obliged to attend the hearing if he or she is employed by the University.

### **Article 18: Proceedings at the hearing**

1. Committee hearings are not public.
2. The chairman will determine the procedure at the hearing, taking into consideration sections 19 and 20 of this Regulation on Complaints.
3. The Committee hears the complainant and defendant in the presence of both parties, unless there are important reasons to prevent this.
4. If the parties are not heard in the presence of each other on the grounds of the third paragraph of this article, the authorised representative of each of the parties is permitted to attend the hearing.

### **Article 19: Witnesses and informants**

1. The Committee can invite relevant persons to the hearing as witnesses or informants.
2. The Committee must inform the complainant and defendant in writing at least five working days before the date of the hearing of the name and position of any witness or informant whom the Committee has invited to attend.
3. The complainant and defendant can bring witnesses and informants whom they wish the Committee to hear. The Committee must receive written notification of this, together with a record of the name and position/capacity of these persons, no less than five working days before the hearing.



4. Witnesses or informants who have not been registered with the Committee or have been registered too late will only be permitted to appear before the Committee with the consent of the parties.
5. During the hearing, the Committee can decide not to hear a witness or informant.

## **Article 20: The hearing**

1. After the chairman has opened the hearing, the parties and their authorised representatives are given the opportunity to speak.
2. In principle, the Committee will not hear the accepted witnesses and informants in one another's presence. The parties to the Committee may make suggestions regarding the questions to be asked.
3. After the witnesses and informants have been heard, the parties are given a further opportunity to speak.
4. At the end of the hearing, the chairman closes the investigation, unless there are reasons to continue the consideration of the complaint. The parties are notified accordingly.

## **Section 2.6 Recusal and exemption of members of the Committee**

### **Section 21:**

1. A party can request the recusal of any member of the Committee on the grounds of facts or circumstances that would affect the impartiality of the Committee. A member of the Committee can also seek exemption on the grounds of such facts or circumstances.
2. The request for recusal will be made as soon as the facts or circumstances become known to the requesting party but not after the Committee has reached its conclusion.
3. The request will be made in writing, indicating the reason, and all facts or circumstances must be presented simultaneously. During the hearing, the request can also be made verbally.
4. If the request for recusal is made during the hearing, the hearing is suspended.
5. A member whose recusal is requested can acquiesce to the disqualification.
6. A separate Committee established for this purpose will decide as quickly as possible about the request for recusal.
7. The decision pertaining to the request for recusal or a decision by one of the members to exempt him or herself will be substantiated, and the complainant, the defendant and the Executive Board will be informed accordingly in writing. The member of the Committee to whom the recusal request applies will also be informed in writing about the decision on the recusal request.

## **Section 2.7 Investigating incidents at the request of the Executive Board**

### **Article 22: Opening an investigation**

1. At the request of the Executive Board, the Committee can investigate an incident relating to unacceptable behaviour, as defined in article 1, second paragraph of this Regulation on Complaints, if and insofar as this incident relates to the University or the University community.
2. In its request, the Executive Board must indicate the person or persons involved in the incident and their position and place of work. Furthermore, the incident must be described with due observance of the stipulations of article 6, third paragraph, sections b, c and d.



3. If the Committee decides not to investigate an incident, it will notify the Executive Board indicating the relevant reasons.
4. If the Committee decides to investigate an incident, it will notify in writing the persons involved in the incident, the Executive Board, the director of the relevant University department and/or the dean of the faculty.

### **Article 23: Conducting an investigation**

1. The Committee will inform the person or persons involved in the incident of the request made by the Executive Board to investigate the incident, and will also submit the written request from the Executive Board to those involved. The Committee will give those involved the opportunity to provide in writing their view of the events. In this respect, the deadlines as mentioned in article 10 are applicable.
2. The Committee can gather information needed to conduct the investigation. Articles 11, 12 and 13 apply here mutatis mutandis.
3. In a hearing, the Committee can hear the party or parties involved, as well as any witnesses and informants, with due observance of the stipulations of section 2.5 (the hearing).
4. Any person involved in an incident can recuse the Committee or a member of the Committee. Article 21 will then apply mutatis mutandis.

### **Article 24: Closing an investigation**

The Committee closes the investigation into an incident after it has allowed all those involved in the incident to give their version of the event. If the investigation is closed without a hearing, the party or parties involved will be informed in writing that the investigation has been closed.

## **Section 2.8 Formulating a recommendation**

### **Article 25: Decision in camera**

1. After completing the investigation, the full Committee will consider in camera the recommendation it will make.
2. The Committee will decide on the basis of a majority of votes.
3. The Committee can decide in camera to reopen the investigation of the complaint and/or incident and will inform the parties accordingly.
4. The Committee will formulate a recommendation within six weeks of completing the investigation or the written consideration as referred to in article 12. The chairman can extend this deadline by four weeks.

### **Article 26: Contents of the recommendation**

1. In its recommendation, the Committee will give a verdict, supported by reasons, about the legitimacy of a complaint or about the nature of the incident and any measures or disciplinary measures that may need to be taken.
2. In its recommendation, the Committee can also make general recommendations for improving the University's policy on preventing and combating unacceptable behaviour.
3. The recommendation records the names of the members of the Committee, together with the date on which the recommendation was formulated, and is signed by the chairman and the secretary.



## **Article 27: Submission of the recommendation**

The Committee will submit the conclusion to the Executive Board, the complainant and the defendant, the parties involved in an incident and the director of the relevant University department and/or the dean of the faculty. All addressees are requested to treat the conclusion confidentially.

## **Section 28: Decision of Executive Board**

1. Within three weeks of receiving the Committee's recommendation, the Executive Board will decide whether to adopt the recommendation on the legitimacy of the complaint and possible measures or disciplinary measures referred to in article 26, first paragraph.
2. The Executive Board only diverges from the recommendation of the Committee if it can justify such a decision.
3. The Executive Board will notify the Committee, complainant, defendant, director of the relevant University department and/or dean of the faculty of its decision.
4. Within three months of issuing the recommendation, the Executive Board will notify the Committee whether it sees reason to take any measures, as referred to in article 26 second paragraph.

## **CHAPTER 3: OTHER PROVISIONS**

### **Article 29: Alternative deadlines**

If there is serious reason to do so, the chairman can extend the deadlines set in this regulation. The parties will be informed accordingly.

### **Article 30: Unforeseen situations**

In cases that are not provided for in this regulation, the chairman will make the necessary decision, with due consideration of the stipulations of the General Administrative Law Act.

### **Article 31: Quotation method**

This regulation can be quoted as: Leiden University Regulation on Complaints Relating to Unacceptable Behaviour.

### **Article 32: Publication of the Regulation**

The Executive Board is responsible for ensuring that this regulation is made sufficiently public.

### **Article 33: Validity**

This regulation becomes valid on the day after its adoption by the Executive Board.

This regulation was adopted by the Board of Governors on 16 February 2010 for employees of Leiden University in agreement with the Local Consultative Body, and on 16 February 2010 for students of Leiden University following a recommendation from the student section of the University Council on 3 December 2009.