

# Regulations on Complaints Procedure Undesirable Behaviour Wageningen University & Research

As enacted by the Executive Board of Wageningen University & Research on 6 May 2019.

## Article 1 Definitions

In these regulations on the complaints procedure arising from the CAO NU and the CAO WR, the following definitions apply:

### 1.1 Organisation:

Wageningen University & Research, i.e. Wageningen University and Wageningen Research (Foundation and subsidiaries).

### 1.2 Executive Board:

Executive Board of Wageningen University and Executive Board of Wageningen Research Foundation.

### 1.3 Supervisory Board:

Supervisory Board of Wageningen University and Supervisory Board of Wageningen Research Foundation.

### 1.4 Employees, PhD candidates, students, etc.:

Employees are defined as all individuals who work within the organisation, whether or not through an employment contract. Wageningen University PhD candidates are defined as all PhD candidates who work within the organisation, whether or not through an employment contract. Students are defined as all individuals who follow a study programme at the organisation. The following individuals are also entitled to invoke this complaints procedure: former employees, former PhD candidates and former students who were employed by or conducted their PhD research at the organisation or studied at the organisation less than three years ago.

- Where reference is made to an employee/work environment, this also includes a student/study environment.
- The male pronoun 'he' should be read as 'he or she.'
- The term individual is also used to mean employee/PhD candidate/student.

### 1.5 Notification:

A notification is a statement by an employee, PhD candidate or student to a confidential counsellor regarding undesirable behaviour they have been personally subjected to.

### 1.6 Complaint:

A complaint is a statement by an employee, PhD candidate or student regarding undesirable forms of personal interaction they have been subjected to, where the Complaints Procedure Undesirable Behaviour is invoked.

### 1.7 Notifier:

The employee, PhD candidate or student who notifies the confidential counsellor about undesirable behaviour they have personally experienced.

### 1.8 Complainant:

The employee, PhD candidate or student who submits a complaint about undesirable behaviour to the Executive Board via the complaints officer.

### 1.9 Defendant:

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

### 1.10 Wageningen University & Research Integrity Code:

The Wageningen University & Research Centre Integrity Code enshrines the principles underlying ethical behaviour at Wageningen University & Research Centre. These principles describe the desired behaviour of everyone who is part of Wageningen University & Research Centre and guide the way in which Wageningen University & Research Centre acts towards its students, clients, partner organisations and towards society in general.

### 1.11 Undesirable behaviour:

Depending on the nature of the complaint or situation, various regulations have been included within the overarching integrity code. Complaints Procedure Undesirable Behaviour is one of

those regulations. In this context, undesirable behaviour is defined as follows: sexual harassment, harassment, discrimination, aggression, violence and bullying in the workplace or study environment.

- 1.12 **Sexual harassment:**  
Sexual harassment is defined as any form of sexual advance, request for sexual favours or other sexually explicit verbal, non-verbal or physical behaviour that is experienced as undesirable.
- 1.13 **Harassment:**  
Harassment is undesirable behaviour that is aimed at or results in the violation of the dignity of an individual and the creation of a threatening, hostile, insulting, humiliating or hurtful environment.
- 1.14 **Discrimination:**  
Discrimination involves making an unlawful distinction between groups of individuals in regards to religion, philosophy of life, sexual orientation, race, sex, political persuasion, disability (physical or otherwise), skin colour or appearance, or anything else referred to in Article 1 of the Dutch Constitution, including behaviour that is experienced as discriminatory by the individual who is confronted with it.
- 1.15 **Aggression and violence:**  
Aggression and violence involves incidents in which a person is psychologically or physically harassed, intimidated, threatened or attacked under circumstances directly related to the performance of their duties or their study at the organisation. Aggression and violence include taunting, cursing, throwing objects and hitting.
- 1.16 **Bullying:**  
Bullying involves systematic hindering, harassing, or causing a physical or mental discomfort, focused on the same individual and often over a prolonged period of time. Bullying within the organisation includes the systematic inflicting of mental, physical or sexual discomfort 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 for the individual, mocking, gossiping, and threatening.
- 1.17 **Confidential counsellor:**  
The independent officer appointed by the Executive Board whom the employee, PhD candidate or student can initially contact with a complaint relating to undesirable behaviour.
- 1.18 **Occupational social worker:**  
The occupational social worker is an independent professional whom employees, PhD candidates, etc. can contact for assistance and support.
- 1.19 **External Complaints Committee:**  
The external Complaints Committee is appointed by the Executive Board to advise on the submitted complaint(s).
- 1.20 **Mediator:**  
The mediator is the individual nominated by the Board, and accepted by the complainant and defendant, who jointly seeks a solution.
- 1.21 **Complaints officer:**  
The employee appointed by the Executive Board to whom the complaint can be submitted and who is charged with providing administrative support in the handling of the complaint. This complaints officer is the contact person for both the Executive Board and the external Complaints Committee. The complaints officer also monitors the complaints procedure. After submitting the complaint, the complaints officer will inform the complainant and defendant of their rights and obligations as stated in the complaints procedure. The complaints officer explicitly refers to article 3.7 (about the complainant's assistance), article 3.8 (about the defendant's assistance and article 3.14 (about the hearing). The position of complaints officer is incompatible with the role of confidential counsellor.
- 1.22 The complaints officer issues an annual report to the Executive Board about the number of complaints, the nature of cases handled, and the recommendations made to the Executive Board. These reports are anonymised. The Executive Board will bring this report to the knowledge of the confidential counsellors and the participational bodies.

**1.23 Disadvantaging:**

It is forbidden to place individuals at a disadvantage because they have utilised the complaints procedure, have provided relevant assistance or have been heard as a witness.

**Article 2 Complaints Committee**

- 2.1 If an employee, PhD candidate or student submits a complaint concerning undesirable behaviour, the complaints officer will submit the complaint directly to the human resource portfolio holder of the Executive Board. The human resource portfolio holder, if he sees no possibility of reaching a solution through the informal initial procedure, will then present the complaint to an independent external committee (hereinafter referred to as the Complaints Committee) for advice.
- 2.2 The Executive Board may also request the Complaints Committee to investigate undesirable behaviour without a complaint being submitted first.
- 2.3 The Complaints Committee is charged with the following three tasks:
- Rendering a decision on the admissibility of the complaint;
  - Investigating the complaint(s) of undesirable behaviour;
  - Issuing a recommendation to the Executive Board regarding the complaint(s).
- 2.4 The external Complaints Committee consists of at least two members and a chairman/vice-chairman. These members should have sufficient legal expertise and expertise on undesirable behaviour. The Complaints Committee is supported by a secretary appointed in consultation with the Executive Board, who is not a member of the Committee. The members of the Committee may have no direct or indirect connection with Wageningen University & Research.

**Article 3 Complaints procedure**

- 3.1 A complaint about undesirable behaviour must be submitted in writing to the Executive Board via the complaints officer. If there are multiple complainants against the same defendant, each complainant must submit a separate letter of complaint. As minimum, the letter of complaint must contain the following:
- a A description of the complaint;
  - b The name(s) of the defendant(s);
  - c A description of steps already taken by the complainant.
- The Complaints Committee has the option of combining individual complaints concerning the same case and processing and assessing them as one.
- The Supervisory Board will take over the duties of the Executive Board as defined in these regulations if the complaint has been submitted by or against a member of the Executive Board
- 3.2 The complaints officer will ensure that a Complaints Committee is appointed in consultation with the Executive Board and will send the complainant a confirmation of receipt and a copy of the complaint regulations.
- 3.3 A complaint may be submitted within three years from the time at which the undesirable behaviour occurred.
- 3.4 A complaint is deemed non-admissible in the following circumstances:
- a The complaint does not concern undesirable behaviour as referred to in these regulations;
  - b The time limit for submitting a complaint has lapsed;
  - c The complaint was filed anonymously;
  - d The complaint has previously been handled by the Committee, unless new facts and/or circumstances are involved;
  - e A legal procedure regarding the complaint is pending or has been completed.
- 3.5 The Complaints Committee is entitled to acquire information from the Executive Board if it is deemed necessary for the performance of its duties. Furthermore, the Committee is authorised, whether or not at the request of the complainant or defendant, to hear other individuals/witnesses (internally or externally) or consult with internal or external experts. This authorisation is to be used as sparingly as possible; in principle only witnesses are heard who can testify about relevant events at first hand.
- 3.6 The Complaints Committee will hear the complainant and defendant within 15 working days after receiving the complaint. Together with the invitation to the hearing, the defendant will also

- receive a copy of the complaint and any other relevant documents submitted by the complainant. Information about the complainant or defendant provided by third parties can only be submitted by the complainant or defendant after receiving written permission from the third party.
- 3.7 The complainant can receive counselling from his or her confidential counsellor and/or another individual from within or outside the organisation during the complaint procedure.
- 3.8 If so desired, the defendant can receive assistance from an occupational social worker and/or another individual from within or outside the organisation when initiating the complaint procedure.
- 3.9 If the complainant or defendant receives assistance from a legal advisor, the Executive Board may, in exceptional cases, decide to provide a legal advisor to the complainant and/or defendant.
- 3.10 If the complaint is declared founded or unfounded, the Executive Board may, in exceptional cases, decide to compensate the legal assistance costs of the complainant or defendant respectively.
- 3.11 If the Committee deems it necessary for a witness to be heard anonymously, the Committee can make a substantiated decision to do so.
- 3.12 The investigation must be completed within 40 working days after hearing the complainant and defendant. If the investigation cannot be completed within 40 working days, the Complaints Committee will report on its findings to date to the Executive Board. This report may include a possible request for an extension of the above-mentioned time limit by a maximum of 30 working days. If the complainant and defendant agree, the time limit can be extended even further. Such an extension could enable a solution via mediation for example.
- 3.13 At every hearing, the secretary and two members of the Complaints Committee, including the chair, must be present. The hearings of the Complaints Committee are closed to the public. A written report is drafted by the secretary about each hearing to aid the Committee in formulating a recommendation to the Executive Board. In addition, if the parties involved have given their permission, the hearing can be electronically recorded; the Committee can listen to these recordings to help formulate its recommendation. These reports will be sent to both parties for informational purposes after the reports of the hearing (or hearings) of the complainant and defendant have been approved by the Committee chair. These reports will be sent no later than one week before a final session, if any, is scheduled. The witnesses will only receive the report pertaining to their own hearing, also exclusively for information purposes.
- 3.14 Regarding the hearing, the following must be taken into account:
- a The complainant and defendant are heard in each other's presence.
  - b If the Complaints Committee (possibly as a result of a request to this effect from one of the parties involved) deems that both parties being heard in each other's presence is not desirable, the parties will initially be heard individually.
  - c If the Complaints Committee has decided to handle multiple complaints involving the same case (see Article 4.1) as a group, a group hearing may also take place.
  - d Attendance at hearings is mandatory for parties involved in the case who are employed at Wageningen University & Research.
  - e The complainant and defendant are entitled to see all documents related to the complaint; these can be obtained through the secretary.
- 3.15 After the investigation has been completed, the Complaints Committee will provide a reasoned recommendation to the Executive Board. This recommendation by the Committee to the Executive Board must at least include the following:
- a The nature of the complaint;
  - b Who is/was affected by the undesirable behaviour;
  - c Whether the complaint is founded or unfounded;
  - d If the complaint is founded, a recommendation to the Executive Board regarding measures to be taken.
  - e If the complaint gives cause for this, the recommendation may also include advice regarding the aftercare process.
- 3.16 Within 15 working days after receiving the recommendation from the Complaints Committee, the Executive Board will formulate a written decision regarding the complaint. This decision is based

on the Complaints Committee's recommendation, including possible measures to be taken. If the Executive Board intends to deviate from the recommendation, they must discuss this in advance with the chair or the Complaints Committee. In such a case, the time limit may be extended by 10 working days. If the Executive Board decides not to follow the recommendation of the Complaints Committee, this is reported and explained in its formal decision. The complaints officer informs the complainant, the defendant, the confidential counsellor (if involved with the procedure) and the members of the Complaints Committee about the decision of the Executive Board, including the recommendation submitted by the Complaints Committee and the reports of the hearings. If the Executive Board deems this opportune, it will also inform the corresponding Management Council about the outcome and any further actions to be taken.

- 3.17 Both before and during the handling of the complaint, the Executive Board may decide to take temporary measures at the request of the complainant and/or the Complaints Committee under the following conditions:
- if it is necessary for the wellbeing of the complainant, and/or;
  - if an untenable situation develops for one or more of those directly involved.
- 3.18 The complaint may be withdrawn at any time.

#### **Article 4 Confidentiality**

- 4.1 To ensure the privacy of the complainant, defendant and witnesses, all directly or indirectly involved parties in a complaints procedure have a confidentiality obligation. Physicians and justice system officials are exempt from this obligation.
- 4.2 The confidentiality obligation is in force during the preparatory process, the complaints procedure itself and after the decision by the Executive Board. If a situation involving unrelenting rumours arises within the relevant organisational unit or department, the Management Council of the unit (sciences group or equivalent) is permitted to announce within the unit whether the complaint was founded or unfounded, how the complaint procedure took place, and what the impact in practice will be as result of handling the complaint. This announcement must take place after the Executive Board's decision. All parties must make efforts to prevent damage (or further damage) to persons or interests, or to limit this damage as much as possible.

#### **Article 5 Formal title of regulations and date of enactment**

These regulations are formally titled "Regulations on Complaints Procedure Undesirable Behaviour Wageningen University & Research"; they were enacted by decision of the Executive Board on 20 July 2015 and amended on 6 May 2019

#### **Notes on the Regulations on Complaints Procedure undesirable behaviour**

Specific time limits have been set for parts of the complaints procedure. The table below specifies the time limit for each activity under the corresponding Article.

#### **Time limits**

Article:	Time limit:	Activity:	Reasoning:
3.6	15 working days	Hearing the complainant and defendant and determining the admissibility of the complaint.	Hearing complainant and defendant simultaneously will accelerate the handling of the complaint. Complainant and defendant can also be informed simultaneously by the Complaints Committee about the procedure that is to be followed.
3.12	40 working days	Further investigation of the complaint (including hearing the complainant, defendant and other individuals) and subsequently submitting a recommendation to the Executive Board.	The time limit for determining the admissibility of the complaint, investigating its content and submitting a recommendation to the Executive Board is 40 working days. This is necessary for planning

and preparing for the hearings.  
This time limit may be extended;  
see Article 4.9.

30 working days Possible extension of the time limit  
for the investigation by the  
Complaints Committee if the  
procedure cannot be completed  
within 40 working days.

3.16	15 working days	The Executive Board will make a decision on the basis of the recommendation by the Complaints Committee.	The time limit in which the Executive Board must make a decision regarding possible measures has been set to 15 working days, given that it is in everyone's interest to settle the case as quickly as possible but with due care.
	Extension of 10 working days		If the Executive Board does not wish to follow the recommendation of the Complaints Committee, consultation with the chair of the Complaints Committee is required, and the above time limit may be extended by 10 working days.

If the above time limits cannot be met, the parties involved shall be informed of this by the complaints officer.