

## HKU Regulations to prevent and combat unacceptable behaviour

*Valid as of 1 September 2015*

### CONTENTS

#### § 1 GENERAL

- |           |   |
|-----------|---|
| Article 1 | Goal and policy regarding unacceptable behaviour; scope |
| Article 2 | Definitions   |
| Article 3 | Legal protection and confidentiality                    |

#### § 2 CONFIDENTIAL COUNSELLOR

- |           |   |
|-----------|---|
| Article 4 | Appointment of confidential counsellor; accessibility |
| Article 5 | Tasks of confidential counsellor                      |
| Article 6 | Working methods of confidential counsellors           |
| Article 7 | Dossier and annual reports                            |
| Article 8 | Availability and facilities                           |

#### § 3 COMPLAINTS COMMITTEE FOR UNACCEPTABLE BEHAVIOUR

- |            |  |
|------------|--|
| Article 9  | Complaints Committee   |
| Article 10 | Lodging a complaint  |
| Article 11 | Composition of the Complaints Committee  |
| Article 12 | Working method of the Complaints Committee                                       |
| Article 13 | Decision by the Complaints Committee   |
| Article 14 | Following the Complaints Committee's decision, resolution of the Executive Board |

#### § 1 GENERAL

##### Article 1 Goal and policy regarding unacceptable behaviour; scope

1. HKU aims to provide a safe environment, in which students and staff treat one another with respect. The policy regarding unacceptable behaviour as set out in these regulations places the emphasis on prevention. Managers disseminate HKU's policy and set an example.
2. These regulations are applicable to:
  - staff and students of HKU;
  - persons working or developing activities on commission from HKU.
3. Anyone who encounters unacceptable behaviour in their work or study situation at HKU from another person working or studying at HKU can lodge a complaint about it with a confidential counsellor or the Complaints Committee for Unacceptable Behaviour, during a period of one year afterwards.

## **Article 2 Definitions**

The following definitions apply to these regulations:

- unacceptable behaviour: direct or indirect unacceptable remarks or actions, including harassment (sexual or otherwise), aggression, violence, bullying and discrimination, which are expressed in verbal, non-verbal, physical or psychological behaviour towards a person who experiences this as unacceptable and unwanted, and which form a violation of their integrity such that it leads to psychosocial stress at work.
- complainant: the person lodging a complaint as referred to in Article 1 paragraph 3.
- accused: the person whose behaviour is the subject of the complainant's complaint.

## **Article 3 Legal protection and confidentiality**

1. The Executive Board ensures that the position of a member of staff or student at HKU is not damaged as a result of this member of staff or student being involved in actions within the scope of these regulations.
2. Everyone who is involved in implementing these regulations and thereby has access to details that they know or reasonably suspect to be of a confidential nature is bound to secrecy regarding them.

## **§ 2 CONFIDENTIAL COUNSELLOR**

### **Article 4 Appointment of confidential counsellor; accessibility**

1. The Executive Board appoints a confidential counsellor for each of the three locations. The confidential counsellors carry out their tasks jointly for the whole of HKU.
2. On agreement from the Central Council of Representatives, a confidential counsellor is appointed (each time) for a maximum period of four years.
3. The task of confidential counsellor is carried out as a special task within the regular position of the member of staff appointed as confidential counsellor.
4. In carrying out their tasks, confidential counsellors are accountable to the Executive Board and cooperate with the other confidential counsellors.
5. A complainant may go to a confidential counsellor of their choice, regardless of the location to which the confidential counsellor has been appointed.

### **Article 5 Tasks of confidential counsellor**

1. The tasks of the confidential counsellor include:
  - a. functioning as a point of contact for a complainant and providing support and advice to a complainant;
  - b. at the request of the complainant and if the confidential counsellor judges that this contributes well to their support of the complainant, trying to solve a complaint through mediation;
  - c. at the request of the complainant, supporting the complainant in lodging a complaint with the complaints committee.
2. The confidential counsellor maintains the necessary contacts with persons and officials, in order to convey HKU's goal and policy regarding unacceptable behaviour and to provide information about the possibilities of preventing unacceptable behaviour within HKU. For this purpose, the confidential counsellor discusses the general state of affairs regarding the prevention of unacceptable behaviour with the directors at the location to which the confidential counsellor has been appointed, at least once a year.

**Article 6 Working methods of confidential counsellors**

1. The confidential counsellors ensure that the times and places they are available are generally known.
2. The confidential counsellors refer complainants to the correct point of contact within or outside HKU, if a complaint exceeds the scope of these regulations.
3. The confidential counsellors record each talk in writing.
4. The confidential counsellors are authorised to hear the accused and other parties concerned within HKU. They will only do so insofar as necessary for their tasks and in compliance with strict confidentiality.
5. The confidential counsellors send the complainant a written confirmation with conclusion regarding the complaint, unless the complainant has indicated that they do not wish to receive one.

**Article 7 Dossier and annual report**

1. The confidential counsellor makes a written record of each complaint. Two years after the complaint is dealt with, this report is destroyed.
2. Every year, the confidential counsellor gives the Executive Board an anonymised report of the number and nature of the complaints reported and of the result of the mediation.
3. The confidential counsellor does not notify anyone other than the complainant regarding the content of the complaint or how it is dealt with, unless the complainant gives written permission to do so or unless there is an obligation to disclose the information by law.

**Article 8 Availability and facilities**

1. The Executive Board ensures the provision of the facilities needed for confidential counsellors to carry out their tasks well, including training, working space and an appropriate annual task.
2. Confidential counsellors receive facility support from the location office of the location to which the confidential counsellor has been appointed.
3. Confidential counsellors receive administrative support from a member of staff from the Executive Board Office.

**§ 3 COMPLAINTS COMMITTEE FOR UNACCEPTABLE BEHAVIOUR**

**Article 9 Complaints Committee**

1. HKU has a Complaints Committee for Unacceptable Behaviour. The Complaints Committee makes decisions about complaints regarding unacceptable behaviour.
2. The Executive Board Office is responsible for the administrative and legal support of the Complaints Committee.
3. The Complaints Committee carries out its tasks in accordance with Division 9.1.2 and 9.1.3 of the General Administrative Law Act, insofar as no other provision is made in these regulations.

**Article 10 Lodging a complaint**

1. A complainant can lodge a complaint as referred to in Article 1 paragraph 3 with the HKU Executive Board Office: at the Student Service Centre desk, by post (postbus 1520, 3500 BM Utrecht) or by e-mail ([cvb@hku.nl](mailto:cvb@hku.nl)). The Executive Board Office will send a confirmation of receipt to the complainant.
2. Anonymous complaints will not be dealt with.
3. A complaint must contain a complete and concrete description of the behaviour experienced as unacceptable, as well as stating against whom the complaint is lodged.

**Article 11      Composition of the Complaints Committee**

1. The Executive Board appoints three members, including a chair, to the Complaints Committee, as soon as possible after the Executive Board Office receives a complaint as referred to in Article 10. The appointment takes place for the duration of dealing with the complaint.
2. Regarding the appointment of members of the Complaints Committee, the principles are to represent both sexes and a diversity of knowledge and skills within the committee. At least one of the committee members has legal knowledge. Before proceeding to appointment, the Executive Board discusses it with the Central Council of Representatives.

**Article 12      Working method of the Complaints Committee**

1. A complaint is dealt with in confidentiality and privacy.
2. Both the complainant and the accused may receive support from a confidential counsellor and/or an advisor they choose themselves. The person involving an advisor bears the costs of doing so.
3. Whether or not at the request of the complainant and/or the accused, the Complaints Committee can decide to hear third parties, and can inspect the situation on-site.
4. The Executive Board bears the costs of the work of the Complaints Committee.

**Article 13      Decision by the Complaints Committee**

1. In its decision, the Complaints Committee declares the complaint:
  - inadmissible, or
  - unfounded, or
  - valid.The decision states the grounds on which it is based.
2. If the Complaints Committee decides the complaint is valid, the Complaints Committee advises the Executive Board about suitable measures, on which the Executive Board can pass a resolution in accordance with the Collective Labour Agreement for Universities of Applied Sciences (if the accused is a member of staff) or the Higher Education and Research Act (WHW) and the student charter (if the accused is a student).

**Article 14      Following the Complaints Committee's decision, resolution of the Executive Board**

1. Within two weeks of receipt of the advice from the Complaints Committee, the Executive Board informs the complainant and the accused of its standpoint on the complaint.
2. The Executive Board may accompany its standpoint with one of the following resolutions with regard to the accused:
  - If the accused is a student: a warning, or a total or partial denial of access to HKU buildings and premises;
  - If the accused is a member of staff: a warning, disciplinary measure, suspension or dismissal, in compliance with the Collective Labour Agreement for Universities of Applied Sciences.
3. If the Executive Board passes a resolution as referred to in paragraph 2, this resolution will state the objection or appeal procedure for the interested party.

**From: Collective Agreement for Universities of Applied Sciences**

**Article S-9 Right of complaint**

An employee who is confronted with undesired behaviour of a sexual nature may turn to a counsellor and also lodge a complaint concerning harassment and aggression with a committee established by the employer for that purpose. 'Harassment' is also understood to mean harassment of a sexual nature.

**Article U-1 Sexual harassment and aggression regulations**

The employer will draw up regulations concerning sexual harassment and aggression, regarding which agreement must be reached with the PMR. These regulations will in any case contain the following:

- the purpose of the regulations and the policy regarding sexual harassment and aggression;
- the manner in which counsellors will be appointed, as well as the tasks and powers of these counsellors;
- the manner in which undesired behaviour can be made known to a counsellor;
- regulations for the handling of a submitted complaint regarding sexual harassment and aggression, including the manner in which decisions will be given, by a committee to be established by the employer for that purpose;
- the stipulation that the employer will decide on the measures to be taken, including disciplinary measures, based on the decision of the aforementioned complaints committee. In the event that circumstances arise
- which, in the opinion of the employer, do not permit any delay, the employer may take measures before the complaints committee has given a decision;
- the manner in which the privacy of those involved will be protected.

**From: General Administrative Law Act, chapter 9. Complaint handling**

**Division 9.1.2. Processing of notices of complaint**

**Article 9:5**

As soon as an administrative authority has dealt with a complaint to the satisfaction of the complainant, it is no longer required to apply the remaining provisions of this Part.

**Article 9:8**

1. An administrative authority is not required to deal with complaints relating to conduct:
  - a. about which a complaint had previously been lodged, which was handled in accordance with the provisions of articles 9:4 and following;
  - b. which occurred more than one year before the complaint was lodged;
  - c. against which the complainant could have lodged an objection;
  - d. against which the complainant can still lodge an appeal, unless the conduct consists of failure to take a timely decision, or could have lodged an appeal;
  - e. which is or has been the subject of a decision in proceedings instituted before a court other than an administrative court, or
  - f. as long as this conduct is the subject of a criminal investigation ordered by a public prosecutor or of ongoing prosecution, or plays a part in the investigation or prosecution of a criminal offence which is the subject of a criminal investigation ordered by a public prosecutor or of ongoing prosecution
2. An administrative authority is not required to deal with a complaint if the complainant's interest is manifestly not sufficiently weighty or the conduct manifestly not sufficiently serious.
3. If a complainant's complaint is not going to be considered, he must be informed in writing as
4. soon as possible, but not later than four weeks after receipt of the notice of complaint. Article
5. 9:12.2 applies mutatis mutandis.

**Article 9:9**

The person whose conduct is the subject of the complaint shall be sent a copy of the notice of complaint and of any documents enclosed with it.

**Article 9:10**

1. *The administrative authority shall give the complainant and the person to whose conduct the complaint relates the opportunity to be heard.*
2. *The administrative authority may decide not to hear the complainant if the complaint is manifestly unfounded or if the complainant has stated that he does not wish to exercise the right to be heard.*
3. *A record shall be drawn up of the hearing.*

**Article 9:11**

1. *The administrative authority shall deal with the complaint within six weeks or – if division 9.1.3 applies – within ten weeks after receiving the notice of complaint.*
2. *The administrative authority may postpone dealing with the complaint by four weeks at most. The postponement shall be communicated in writing to the complainant and the person to whose conduct the complaint relates.*
3. *Further postponement is possible insofar as the complainant agrees to it in writing.*

**Article 9:12**

1. *The administrative authority shall notify the complainant, in writing and stating reasons, of the findings of the investigation into the complaint, of its opinion on the complaint and the consequences, if any, it will attach to it.*
2. *When sending this notification the administrative authority shall state with which ombudsman and within what time limit the complainant may subsequently file a request for investigation of the complaint.*

**Article 9:12a**

*The administrative authority shall keep a register of the written complaints lodged with it. The complaints registered shall be published annually.*

**Division 9.1.3. Additional provisions for a complaints advisory procedure**

**Article 9:14**

1. *A person or committee shall be charged by law or by decision of the administrative authority with handling and advising on complaints.*
2. *The administrative authority may give the person or committee only general instructions.*

**Article 9:16**

*If the conclusions of the administrative authority differ from the opinion, the reason for this difference shall be stated in the conclusions and the opinion shall be enclosed with the notification referred to in article 9:12.*