

Complaints and Disciplinary Procedures Regulation for Reporting and Processing Inappropriate Behaviour: sexual intimidation, aggression, violence, harassment and discrimination towards UM students and staff.

### *Introduction*

*The Executive Board has enforced a pre-emptive policy aimed at preventing and combating inappropriate behaviour, particularly sexual intimidation, aggression, violence, harassment and discrimination in the workplace and academic environment. Despite the implementation of such a policy, students and staff may still be confronted with these behaviours. Each individual complaint will therefore be handled carefully and confidentially.*

*The plaintiff may opt to have his or her complaint processed via a formal or informal procedure. The plaintiff can request a formal procedure at any time. If the informal procedure does not lead to the desired result, a formal procedure may be initiated instead.*

*Informal procedure: The purpose of the informal procedure is to bring an end to the inappropriate behaviour in consultation with the parties directly involved and their line managers. The plaintiff may retain the services of a Confidential Adviser during this process. Before submitting an oral or written complaint, the plaintiff may wish to meet with the Confidential Adviser to discuss how best to end the inappropriate behaviour. The informal procedure deals with the effects of inappropriate behaviour for the plaintiff and other involved parties.*

*Formal procedure: This procedure formally addresses the written complaint of inappropriate behaviour towards the plaintiff and meets the requirements outlined in article 6 of this document. During the formal procedure, the Complaints Committee will investigate all relevant facts and schedule a hearing with the plaintiff and the accused on behalf of the Executive Board. The committee will submit an advisory statement and a hearing report to the Executive Board who will then inform the plaintiff in writing of any substantiated findings and offer their opinion and any binding conclusions that may result.*

*Students: The Higher Education and Scientific Research Act (WHW) has been amended by the Administration Reinforcement Act (wet versterking besturing) to allow students to submit a complaint with the Complaints Service Point at any time. The written complaint will be processed in accordance with the Collective Complaints Committee Regulation for Inappropriate Behaviour.*

*All references made to the pronouns 'she' or 'her' throughout this text will also denote 'he' and 'him'.*

*The Maastricht University Executive Board will enforce the following in accordance with all necessary legal requirements:*

- 1. The Working Conditions Act*
- 2. The General Administrative Law Act (AWB) with particular emphasis on chapter 9: Complaints Procedure*
- 3. The Higher Education and Scientific Research Act with particular emphasis on chapter 7, Title 4: Safeguarding the rights of internal and external students.*

*Additional emphasis will also be given to:*

1. *Article 1.12 Collective Labour Agreement for Dutch Universities 2007—2010 (CAO-NU)*
2. *The Collective Complaints Committee Regulation for Inappropriate Behaviour*
3. *The Complaints Service Point Regulation for UM Students*
4. *The Individual Written Complaints Regulation*

In accordance with the Collective Labour Agreement for Dutch Universities (1 March 2010–1 January 2011, extended to 1 January 2012), the Maastricht University Executive Board has implemented the following regulation:

The Complaints and Disciplinary Procedures regulation for Reporting and Processing Inappropriate Behaviour: sexual intimidation, aggression, violence, harassment and discrimination.

## Section 1 General

### Article 1 Scope of implementation

This regulation involves the processing of complaints for inappropriate behaviour (sexual intimidation, aggression, violence, harassment and discrimination) towards an employee, student, prospective student, former student, external student, prospective external student, former external student, non-degree seeking student, prospective non-degree seeking student, or former non-degree seeking student.

### Article 2 Right of petition

1. Employees and students have the right to submit a complaint about the inappropriate behaviour of a fellow employee or student referencing sexual intimidation, aggression, violence, harassment or discrimination.
2. The conduct of any student or individual employed by the Executive Board directly reflects upon the Executive Board itself and shall be handled as such.
3. The Executive Board is responsible for the appropriate processing of oral and written complaints regarding the conduct of the administrative bodies and individuals over which it presides.

### Article 3 Definitions

1. The following definitions will apply throughout this document:

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|----------------------------|---|
| a. The regulation          | the complaints and disciplinary procedures regulation for inappropriate behaviour: sexual intimidation, aggression, violence, harassment and discrimination towards UM students and staff                 |
| b. Inappropriate behaviour | inappropriate behaviour will refer to any form of sexual intimidation, aggression, violence, harassment or discrimination that causes stress in the academic or work environment                          |
| c. Stress                  | a condition characterised by negative physical, social or psychological consequences  |
| d. (sexual) intimidation   | any form of sexually-tinged verbal, non-verbal or physical behaviour aimed at degrading or demeaning an individual, particularly if it creates an intimidating, hostile, humiliating or hurtful situation |

e. Aggression and violence	an incident in which a student or employee is physically or verbally harassed, threatened or attacked
f. Harassment	any type of intimidating behaviour of a structural nature by one or more students or employees against one or more students or employees
g. Discrimination	unfair treatment based on religion, lifestyle, political inclination, race, gender or other factors without due cause or justification
h. Complaint	an expression of dissatisfaction by the plaintiff regarding the inappropriate behaviour of a student or employee
i. Plaintiff	the individual submitting a complaint about inappropriate behaviour
j. Accused	the individual against whom the complaint was lodged
k. Complaints Committee	the Complaints Committee for Inappropriate Behaviour as defined in the Collective Complaints Committee Regulation for Inappropriate Behaviour
l. Student	prospective student, current student, former student, prospective externals student, current external student, former external student, prospective non-degree seeking student, current non-degree seeking student, former non-degree seeking student, participant enrolled in a faculty institution
m. Employee	the individual currently or formerly employed by the Executive Board at a UM institution (e.g. guest lecturer, participant, intern, security guard, etc.)
n. Institution	Maastricht University
o. UM Executive Board	administrative body as defined in the General Administrative Law Act, Institutional Board as outlined in the Higher Education and Scientific Research Act (WHW) and Working Conditions Act
p. Line manager	administrative manager
q. Confidential Adviser	the confidential contact person as outlined in article 10 and 11 of this document
r. Executive Secretary	Executive Secretary inappropriate behaviour as outlined in article 14
s. Service Point	the Complaints Service Point (LRS); the facility referred to in article 7.59a of the act
t. The act	the Higher Education and Scientific Research Act
u. Collective Complaints Committee	the committee outlined in the Complaints and Disciplinary Procedure for Inappropriate Behaviour signed by the Executive Board

## Section 2 Informal Complaints Procedure

### Article 4 Reporting inappropriate behaviour to the Confidential Adviser

1. Any individual that experiences or is witness to inappropriate behaviour can discuss this with the Confidential Adviser before lodging an official written or oral complaint.
2. The goal of reporting inappropriate behaviour is to record, document, or obtain advice on dealing with it effectively.
3. Any individual that reports inappropriate behaviour to another official (e.g. HR Officer, company doctor, student dean) will be referred to the Confidential Adviser.

### Article 5 Submitting a written or oral complaint

1. The employee can submit an informal oral or written complaint to:
  - a. the line manager of the individual against whom the complaint is being filed
  - b. the Executive Board
2. To ensure confidentiality, the student may submit the oral or written complaint directly to the Confidential Adviser. The student may also choose to submit this to the Complaints Service Point in accordance with the Complaints Service Point Regulation for UM Students
3. The oral or written complaint must contain an explanation of the inappropriate behaviour, the name(s) of the individual(s) involved and the date on which the incident occurred.
4. The line manager will handle the complaint as outlined in article 12 of this document.
5. A complaint about a member of the Executive Board can be submitted to the Supervisory Board. In this instance, the Supervisory Board will replace the Executive Board in their capacities as outlined in this document.
6. If the informal procedure does not produce the desired results or if the plaintiff presents substantiated arguments for not pursuing the complaint by way of the informal procedure, he or she may appeal to the Executive Board for a formal procedure as outlined in section 3 above. In this instance the complaint must meet the requirements outlined in article 6 below.
7. The plaintiff may be accompanied by the Confidential Adviser and/or a representative during the proceedings.

## Section 3 Formal procedure: processing a written complaint

### Article 6 Written complaint

1. A written complaint details inappropriate conduct towards the plaintiff and meets the requirements outlined in article 2.
2. The written complaint must be signed and contain:
  - a. the name and address of the plaintiff;
  - b. the date;
  - c. a description of the behaviour that prompted the complaint;
  - d. the name of the accused.
3. If the complaint was written in a language other than Dutch or English and a translation is required for proper processing, these costs will be borne by the plaintiff.
4. The student must submit the written complaint to the UM Complaints Service Point in accordance with the Complaints Service Point Regulation for UM Students.
5. The employee must submit the written complaint in confidence to the Executive Board, addressed to the Executive Secretary Inappropriate Behaviour, Minderbroedersberg 4-6, 6211 LK Maastricht.

6. The written complaint will be processed in accordance with the Collective Complaints Committee for Inappropriate Behaviour.

#### Article 7 No processing obligations

1. The Executive Board is not obligated to process a complaint if:
  - a. it involves an incident for which a previous complaint was filed and handled in accordance with the rules outlined in this section;
  - b. the incident occurred more than three years before the complaint was filed (with the exception of sexual intimidation);
  - c. the plaintiff had the right to object the complaint;
  - d. the plaintiff had the right to appeal the complaint;
  - e. the incident was heard by a judiciary body other than an administrative judge due to the implementation of a procedure;
  - f. the incident is or was subject to a court-ordered investigation or penal investigation.
2. The Executive Board is not obligated to process the complaint if it does not serve the interests of the plaintiff or if the incident was not sufficiently substantiated.
3. Before implementing articles 1 and 2, the Executive Board must seek advice from the Complaints Committee regarding the inappropriate behaviour.
4. The Executive Board will send a written notification to the plaintiff regarding their decision not to process the complaint as soon as possible but no later than four weeks of receiving the complaint.

#### Article 8 Sanctions

For substantiated complaints the Executive Board may choose to impose sanctions on the individual found guilty of inappropriate behaviour:

- for employees: disciplinary measures in accordance with the CAO-NU;
- for students: disciplinary measures in accordance with article 7.57h of the WHW;
- other individuals: denied access to the Maastricht University building and grounds for a pre-determined period and, wherever possible, termination or discontinuance of contractual relations.

#### Article 9 No appeal

1. It is not possible to appeal a decision regarding the processing of a complaint as outlined in the General Administrative Law Act (AWB).
2. If a follow-up complaint can be lodged with an individual or institution this will be announced when the original complaint is filed (e.g. the opportunity to submit a complaint to the National Ombudsman).

#### Section 4 Individuals involved in inappropriate behaviour complaint

##### Article 10 Confidential Adviser, Complaints Committee, line manager

1. The Executive Board will appoint an independent Confidential Adviser.
2. The Confidential Adviser is responsible for implementing the tasks outlined in article 11 with the plaintiff's consent.
3. The Executive Board will provide clear instructions and professional expertise to ensure a smooth and efficient complaints procedure.
4. The Executive Board will appoint a Complaints Committee to process and advise on the formal procedure as outlined in the Collective Complaints Committee Regulation for Inappropriate Behaviour.
5. The Executive Board may only play an advisory role as regards the Confidential Adviser, Executive Secretary Inappropriate Behaviour and members of the Complaints Committee.

## Article 11 Confidential Adviser tasks and responsibilities

1. The Confidential Adviser is responsible for:
  - a. assisting the plaintiff and offering emotional support;
  - b. informing and advising the plaintiff on ways to terminate the inappropriate behaviour:
    - by offering informal solutions,
    - by contacting a mediator,
    - by launching the formal procedure as described in section 3 of this document,
    - by referring the plaintiff to (external) experts
  - c. supporting the plaintiff in finding potential solutions by facilitating discussions with the involved parties;
  - d. offering follow-up care.
2. In accordance with section 10 article 2, the Confidential Adviser is authorised to appeal to individuals and organisations outside the university. The officer will only make such an appeal if necessary and insofar their function requires.
3. Without prejudice to article 12, the plaintiff may decide to submit a written complaint to the Executive Board if he or she feels the desired results were not achieved through mediation by the Confidential Adviser. On behalf of the Executive Board, the Complaints committee must adhere to the Collective Complaints Committee Regulation for Inappropriate Behaviour when processing and advising on formal complaints.
4. The Confidential Adviser will inform the plaintiff that their identity must be made known to the individual against whom the complaint is lodged.
5. The Confidential Adviser will ensure that a record is kept of the complaints and notifications, in accordance with article 19 of this document.

## Article 12 Line manager

1. The line manager is responsible for processing an informal complaint about inappropriate behaviour within six weeks of submitting the complaint.
2. Until the line manager reaches a substantiated conclusion regarding the complaint, he or she must take all necessary measures or propose such measures to the authorised body.
3. The line manager must report to the Executive Board regarding the processing of informal complaints.
4. The line manager must make all information regarding complaints and notifications available to the Confidential Adviser in accordance with article 19 of this document.

## Article 13 Complaints Committee

1. The Executive Board will appeal to the Complaints Committee for the processing of and advising on written formal complaints involving inappropriate behaviour as outlined in the Collective Complaints Committee Regulation for Inappropriate Behaviour.
2. The Executive Board will appoint an Executive Secretary Inappropriate Behaviour as outlined in article 14.

## Artikel 14 Executive Secretary Inappropriate Behaviour

1. The Executive Board will appoint an Executive Secretary Inappropriate Behaviour.
2. The clerk will determine whether a formal written complaint was submitted to the Confidential Adviser. If this is not the case, the clerk will give the plaintiff the opportunity to submit the complaint to the Confidential Adviser and will determine whether the complaint can be resolved via the informal procedure outlined in section 2 of this document.
3. The clerk will assess the admissibility of the written formal complaint in accordance with article 7 of this document. If the complaint is not admissible, the clerk will

request the Complaints Committee to appeal to the Executive Board for the application of article 7.

4. The clerk will support the Complaints Committee in processing and advising on complaints filed by a student or employee at Maastricht University.
5. The clerk will ensure that a student member is appointed to the Complaints Committee in accordance with article 6 of this document if the complaint was filed by a student.

## Section 5 Additional stipulations

### Article 15 Confidential treatment of information

All parties involved in reporting inappropriate behaviour will handle the information with due diligence and confidentiality.

### Article 16 Objections to the Confidential Adviser

The student, employee or administrative body that has an objection to the Confidential Adviser must submit a written letter of complaint to said officer. If discussions between the plaintiff and the Confidential Adviser do not lead to a resolution, the plaintiff can submit a new complaint to the Executive Board.

### Article 17 No undue disadvantage

The plaintiff, Confidential Adviser, Executive Secretary Inappropriate Behaviour, Chair and members of the advisory committee may not be unduly disadvantaged in their position for filing a complaint.

### Article 18 Facilities

The Executive Board will provide the Confidential Adviser, Executive Secretary Inappropriate Behaviour and Complaints Committee with all of the necessary facilities to carry out their tasks.

### Article 19 Central Contact Point and Registration

1. A central contact point has been established for notifications and complaints involving inappropriate behaviour and is located at the Complaints Office. All officers involved in the report of an inappropriate behaviour complaint must notify the Complaints Office in writing, specifying the name and address of the plaintiff, the accused, the nature of the complaint and the way in which the complaint was processed. The Complaints Office will then make the information and registration form available.
2. The Confidential Adviser will ensure that the registration of reports and complaints as well as an overview of the complaints not processed and the reason for their dismissal.
3. The Confidential Adviser will manage the registration system and is the only one with access to (electronic) files. The information will not be used for any other purpose.
4. For the working conditions report, the Confidential Adviser will draft an annual report on preventing and combating inappropriate behavior including a quantitative and qualitative analysis.

### Article 20 Filing

1. All documents pertaining to complaints procedures for which a written conclusion was submitted by the Executive Board will be filed into a confidential folder in the ADP archive. The secretary of the Advisory Board for Inappropriate Behaviour is the only individual with access to these files.
2. The files will be destroyed five years after the Executive Board ruling.



Article 21 Document retention period

Reports that did not lead to a filed complaint will be saved for two years in the Complaints Office archives. They will then be destroyed by the Confidential Adviser.

This regulation was approved and adopted by the Executive Board on 17 May 2011 and thereby replaces the regulation implemented on 19 September 2000.

The regulation will be effective as of 1 June 2011.