



K O N I N K L I J K E N E D E R L A N D S E A K A D E M I E V A N W E T E N S C H A P P E N

Academy's Inappropriate Behaviour Complaints Regulations

Preliminary Remarks

The Royal Netherlands Academy of Arts and Sciences (KNAW, 'the Academy') is the forum, voice, and conscience of science and scholarship in the Netherlands. From our independent position, we bring people and resources together to contribute knowledge and creativity for the development of our society. The Academy considers a healthy and positive working environment to be essential. It is committed to social safety within the organisation, in a working environment characterised by integrity. In this context, 'working environment' refers to the work location but also to other places in a work situation, for example when someone is travelling (on Academy business) or during social activities at external locations. The Academy has a preventive policy aimed at averting and combating inappropriate behaviour. It wishes reports of inappropriate behaviour to be dealt with scrupulously and as quickly as possible, in consultation with those directly involved. The solution often lies in an informal approach, such as engaging in discussion. The Internal Confidential Contact and the External Confidential Counsellor can advise the employee concerned on possible follow-up steps. If this does not lead to a satisfactory solution, or if the person submitting the report opts for it, then the formal complaints procedure laid down in the present Complaints Regulations is available for dealing with the complaint. A complaint is deemed to exist when the employee concerned submits a formal complaint to the Complaints Committee.

The purpose of these Complaints Regulations is to provide a clear and careful procedure for submitting and handling formal complaints regarding inappropriate behaviour. It fleshes out the general provisions set out in the Collective Labour Agreement (CLA). The legal basis for these Regulations is to be found in the (Dutch) Occupational Health and Safety Act [*ARBO-wet*] and the (Dutch) General Equal Treatment Act (AWGB). Any complaint about inappropriate behaviour will be dealt with scrupulously and subject to strict confidentiality.

Section 1 Definitions

1. In these Regulations, the following terms shall be understood to have the meanings assigned to them below:

- a. Inappropriate Behaviour: behaviour perceived as being threatening, humiliating, or intimidating, for example sexual harassment, discrimination, aggression, violence, and bullying.
- b. Employee: any person who is or has been employed by the Academy. This includes all persons working for or at the Academy regardless of the contractual basis (i.e. also interns, fellows, employment agency workers, secondees, volunteers, self-employed persons as guests performing work on a hospitality basis).
- c. Person Submitting a Report: an Employee who reports a situation in which Inappropriate Behaviour has been experienced.
- d. Complaint: submission of a Complaint to the Complaints Committee regarding Inappropriate Behaviour in a work situation.
- e. Complainant: the Employee who submits a Complaint.
- f. Alleged Perpetrator: the Employee against whom the Complaint is directed.
- g. Complaints Committee: the external committee established by the Academy Board to deal with Complaints regarding Inappropriate Behaviour.
- h. Confidential Counsellor: the Academy has two types of Confidential Counsellor, namely the Internal Confidential Contact and the External Confidential Counsellor.
 - Internal Confidential Contact: A person working at the Academy whom Employees of the relevant institute can approach directly and to whom, on a low-threshold basis, they can give



their account when they have encountered Inappropriate Behaviour. The Internal Confidential Contact can also provide guidance for Employees who have encountered Inappropriate Behaviour, and provide information about possible follow-up steps. In complex situations and Complaints, the Internal Confidential Contact can refer the Employee to the External Confidential Counsellor and/or to the complaints procedure.

- External Confidential Counsellor: the external person appointed by the Academy who acts as an independent point of contact when an Employee encounters Inappropriate Behaviour. The External Confidential Counsellor can also provide guidance for Employees who have encountered Inappropriate Behaviour and provide information about possible follow-up steps and the complaints procedure, and assist with submitting a Complaint.
- i. Employer:
 - the Director General of the Academy; or
 - the President of the Academy if the Complaint has been submitted by or against the Director General of the Academy or if the latter is involved in the conduct that the Complaint concerns.

Section 2 Main Forms of Inappropriate Behaviour

1. Inappropriate Behaviour manifests itself in various forms. The following can in any case be distinguished:

- a. Intimidation: exerting psychological pressure, usually from a hierarchical position; there is then an abuse of power. It may involve verbal, non-verbal, or physical behaviour that has the purpose or effect of harming someone's dignity. Abuse of power usually refers to the relationship between a person in authority (for example a manager or supervisor) and one or more subordinates or persons who rely on the legitimacy of the person in authority (Employees, interns).
- b. Aggression and violence: any verbal or physical act(s) in which a person is pestered, threatened, or attacked.
- c. Sexual harassment: behaviour with sexual overtones that creates a threatening, hostile, insulting, humiliating, or offensive situation. Examples: verbal behaviour (such as sexually-oriented jokes, sexist comments, sending WhatsApp messages and showing sexual images); non-verbal behaviour (such as staring at certain body parts, facial expressions); and physical behaviour (such as unnecessary and inappropriate touching, standing pointedly close behind or near someone).
- d. Bullying: repeated inappropriate negative behaviour against which someone cannot defend themselves. This can be verbal, non-verbal, or physical behaviour (or a combination of these). Examples include ignoring, passing over or deliberately excluding someone, gossiping, making annoying and belittling remarks, deliberately giving someone pointless tasks or assignments.
- e. Discrimination and racism: discrimination means treating people differently, placing them at a disadvantage, or excluding them on the basis of (personal) features such as religion, gender, sex, race, nationality, philosophy of life, political persuasion, social origin, wealth (or financial resources), birth, civil status, disability, age, or sexual orientation. Racism means disadvantaging or excluding people (or groups of people) based on their skin colour, descent, national or ethnic origin.
- f. Sexual offences: criminal sexually transgressive behaviour such as indecent assault or rape. Pursuant to Section 4(5) of these Regulations, such criminal forms of Inappropriate Behaviour will not be dealt with by the Complaints Committee.

Submitting a Complaint to the Complaints Committee

Section 3 Complaints Committee

1. An external Complaints Committee consisting of a chairperson and two (2) members will be established. With a view to the committee's independence, the members of the Complaints Committee will not be associated with the Academy in any way. Care will be taken to ensure that committee



members are complementary to one another in terms of their competences, knowledge, and experience.

2. The role of the Complaints Committee is to investigate formal Complaints that have been submitted and to advise the Employer on how they should be dealt with.
3. The Complainant and the Alleged Perpetrator may request that one or more members of the Complaints Committee be replaced, provided that such request is based on facts and circumstances that might make it difficult for the member concerned to form an impartial opinion. Members of the Complaints Committee are also entitled to have themselves replaced. In the event of a request for replacement, the members of the Complaints Committee whom the request does not concern will decide. If the number of votes in favour and against are tied, the chair will have the casting vote.

Section 4 Submission of a Complaint

1. An Employee who encounters Inappropriate Behaviour has the option of submitting a formal Complaint to the Complaints Committee. The External Confidential Counsellor can provide support for doing so.
2. The Complaint will be submitted to the Complaints Committee digitally. A link to the appropriate form can be found on the Academy's intranet ([see here](#)).
3. The written Complaint must include the following: the name, address, and date of birth of the Complainant; a description of the nature, content, date, and place of the Inappropriate Behaviour or conduct; the name of the Alleged Perpetrator and any witnesses. If applicable, a description of the steps taken against the Inappropriate Behaviour should also be submitted. Any written documentation relating to those steps must be submitted to the Complaints Committee. Anonymous Complaints will not be dealt with.
4. A Complaint cannot be submitted on behalf of multiple Employees.
5. The Complaints Committee does not conduct criminal investigations. If a criminal offence may be involved that is subject to a statutory reporting requirement, the Employer will be notified.
6. The Complainant may withdraw the Complaint, in writing, until the point when the Complaints Committee issues its advice to the Employer. All concerned must be notified that the Complaint has been withdrawn.

Section 5 Processing of a Complaint

1. The Complainant will receive a written acknowledgement of receipt of the Complaint from the Complaints Committee. The Employer will be informed of the receipt of a Complaint.
2. No later than one (1) week after receiving the Complaint, the chair of the Complaints Committee will decide whether or not the Complaint is admissible.
3. A Complaint is inadmissible if:
 - a. the Complaint does not meet the criteria for Inappropriate Behaviour set out in Sections 1 and 2;
 - b. the Complainant or Alleged Perpetrator does not fall within the definition of an 'Employee' set out in Section 1(b);
 - c. the Complaint does not comply with the requirements set out in Section 4(3) of these Regulations. In such case, the Complainant will be given two (2) weeks within which to ensure that the Complaint does so comply. In such case, the period for dealing with the Complaint will be extended by two (2) weeks;
 - d. there is suspicion of a criminal offence;
 - e. the facts to which the Complaint relates are already being investigated by a judicial authority (or have been so investigated);
 - f. the Complaint has been submitted after the expiry of five (5) years after the last incident of Inappropriate Behaviour took place, unless there are reasonable grounds why the time limit has been exceeded, without there being reasons to assume the excusability of exceeding this time limit;



- g. the Complaints Committee has already examined the Complaint before and no new facts have been presented in the Complaint;
 - h. the Complaint relates to a workplace accident or occupational illness;
 - i. the Complaint concerns the amount of a claim for damages;
 - j. it is no longer reasonably possible to conduct a careful investigation after the Alleged Perpetrator has left employment with the Academy, with this being at the discretion of the Complaints Committee.
4. If a Complaint is to be dealt with, the Complainant will be so informed by the Complaints Committee. If the Complaint is not to be dealt with, the Complainant will be informed of the reasons.
 5. The Complaints Committee will inform the Employer as to whether or not the Complaint will be dealt with.
 6. If the Complaint is to be dealt with, the Complaints Committee will notify the Alleged Perpetrator and the director of the institute concerned. These will also be informed of the nature and substance of the Complaint.

Investigation and Hearing

Section 6 Investigation of the Complaint

1. If the Complaint is dealt with, the Complaints Committee will instigate an investigation of the Complaint.
2. For the purpose of the investigation, the Complaints Committee will be authorised to obtain any information necessary for issuing its advice to the Employer.
3. The Complaints Committee will inform both the Complainant and the Alleged Perpetrator of the investigation and its progress.
4. The Employer may at any time –whether or not at the request of the Complaints Committee or Confidential Counsellor – take preliminary measures if, as a result of (alleged) Inappropriate Behaviour, an untenable situation arises for one or more of the persons directly involved, or if such is deemed necessary for the progress of the investigation.

Section 7 Suspension of the Investigation

1. If the investigation of the Complaint reveals that both the Complainant and the Alleged Perpetrator are willing to have the matter dealt with by conciliation/mediation, the Complaints Committee will suspend the investigation of the Complaint during the conciliation/mediation.
2. If the investigation of the Complaint by the Complaints Committee indicates that external investigation by an independent expertise agency is necessary, the Complaints Committee will suspend the investigation of the Complaint and inform the Complainant, the Alleged Perpetrator, and the Employer accordingly. The Complaints Committee will give reasons why it holds this view. The decision as to whether to initiate an external investigation will rest with the Employer. The investigation by the independent investigation agency will be subject to the same set of safeguards as set out in the present Complaints Regulations.

Section 8 Hearing both Sides

1. Before issuing its advice, the Complaints Committee will give the Complainant and the Alleged Perpetrator an opportunity to be heard (separately from one another). The Complaints Committee will also be authorised to hear other persons (third parties/witnesses), whether or not at the request of the Complainant or Alleged Perpetrator.
2. The hearings will be held in private.
3. Together with the invitation to attend the hearings within the meaning of Subsection 1, the Complainant and the Alleged Perpetrator will receive a copy of the written Complaint(s) (including



- annexes), any additional documents (such as witness statements), and a copy of the Complaints Regulations.
4. If they so wish, the Complainant and Alleged Perpetrator may be assisted by a person of their choice (for example a confidential counsellor, lawyer, acquaintance) during the investigation by the Complaints Committee. The Complaints Committee will notify them of this right in the written invitation to attend the hearing.
 5. The Complainant, Alleged Perpetrator, and witnesses/third parties called on to be heard by the Complaints Committee are expected to appear. If they are unable to attend, they must notify the chair of the Complaints Committee as soon as possible, giving reasons.
 6. A report will be drawn up of the hearings within the meaning of Subsection 1, to be signed for approval by the person(s) concerned, with factual inaccuracies in the report being corrected if necessary. If a person who has been heard does not wish to sign it for agreement, the report can also be signed for as having been seen. If a person concerned refuses to sign, this and the reason(s) why, if any, will be stated in the report.
 7. The Complainant, Alleged Perpetrator, and witnesses/third parties must send the report of the hearing back to the Complaints Committee no later than one (1) week after receiving it. If this is not done in time, the Complaints Committee will assume that the person concerned agrees to the report without any caveats, unless the person concerned can invoke *force majeure*.
 8. At the end of the investigation, the Complainant, the Alleged Perpetrator, and the parties supporting them may inspect all signed reports of the hearings conducted by the Complaints Committee – in so far as the content relates to them – after which they will be given the opportunity to respond to said reports orally or in writing. The same will also apply to the content of hearings of informants and/or witnesses.

Section 9 Handling of Personal Data

1. The Complaints Committee will only collect and process personal data that is necessary for issuing its advice. When processing personal data, the Complaints Committee will ensure that said data is protected against loss and unlawful processing.
2. The Complaints Committee will be subject to an obligation of confidentiality regarding personal data in so far as disclosing information is not necessary for performing its duties.
3. All those involved in dealing with a Complaint will be subject to an obligation of confidentiality regarding any information that has come to their knowledge during the complaints procedure.

Advice and Decision

Section 10 Advice

1. The Complaints Committee must complete its investigation within twelve (12) weeks of receiving the Complaint. This period may be extended once by a maximum of four (4) weeks. The Complaints Committee will immediately notify the Complainant and the Alleged Perpetrator, in writing, of a decision to extend said period. Further postponement will be possible if the Complainant and the Alleged Perpetrator agree. If, in an exceptional situation, the circumstances so require, a shorter period for dealing with the Complaint can be agreed by the Employer in consultation with the Complaints Committee.
2. Within two (2) weeks of completion of the investigation, the Complaints Committee will send a reasoned advisory report to the Employer – based on the investigation conducted and the hearings – regarding the validity or invalidity of the Complaint and the Committee's findings. A Complaint will be considered valid if it is (sufficiently) plausible that the Inappropriate Behaviour took place (i.e. all or part of it). In its report, the Complaints Committee will include its advice to the Employer as to how to deal with the situation that has thus arisen, making specific recommendations. The Complainant and Alleged Perpetrator will receive a copy of said advice.



3. The Complaints Committee will discuss its advice with the Employer. At that point, the Employer may request the Complaints Committee to clarify certain issues or provide additional advice.
4. The report of the findings and the advice resulting from the Complaints Committee's investigation will not be public, and may be inspected only by the Complainant, the Alleged Perpetrator (and persons assisting them during the procedures), and the Employer.

Section 11 Decision by Employer

1. Within fourteen (14) days of the Complaints Committee issuing its advice, the Employer will take a decision on said advice and will notify the Complainant, the Alleged Perpetrator, and the Complaints Committee, in writing, of that decision and of the associated conclusions.
2. Said period of fourteen (14) days may be extended once by another fourteen (14) days. Reasons will be given if the decision that is taken deviates from the advice of the Complaints Committee.
3. The decision will not be open to objection or appeal. If the conclusions of the complaints procedure give reason for adopting a different decision, such as a disciplinary measure, the interested party may pursue such via the normal judicial process.

Retention of Advice and Annual Report

Section 12 Retention of Advice

1. The Complaints Committee's files will be retained in its records. They will be accessible only to the Employer within the meaning of Section 1 and to the Complaints Committee itself.
2. Documentation relating to complaints procedures will be destroyed five (5) years after settlement of the Complaint.
3. In the Alleged Perpetrator's personnel file, it will be only the sanction, if any, imposed by the Employer that will be retained.

Section 13 Annual Report

1. The Complaints Committee will submit an annual report on its work to the Employer.
2. Said annual report will describe, in anonymised form, which Complaints were submitted and the number of such Complaints, as well as the findings of the Complaints Committee.

Section 14 Final Provisions

1. A Complainant, witnesses/third parties, Confidential Counsellors, and members of the Complaints Committee who, in good faith, have submitted a Complaint or have cooperated in an investigation of a Complaint may not be disadvantaged in connection with a Complaint or how it has been dealt with.
2. An appropriate solution will be sought if the complaint procedure has resulted in exceptional non-material damage (for example reputational damage) or material damage. This will apply to both the Complainant and the Alleged Perpetrator.
3. In cases not provided for in these Regulations the Employer will decide.
4. These Regulations replace the Academy's Regulations on Appropriate/Inappropriate Behaviour dated 1 January 2020.
5. The Director General of the Academy will ensure appropriate communication of the present Regulations.