

# COMPLAINTS PROCEDURE UNIVERSITY OF TWENTE

UNIVERSITY OF TWENTE.



# COLOPHON

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## ***Preamble***

The University of Twente aims to provide a socially safe environment for everyone. In our University of Twente Code of Conduct and other codes of conduct, we set out how we, as the University of Twente community, would like to interact.

Nevertheless, there may be conduct at the university, or among staff working under the responsibility of the university, that may warrant lodging a complaint

Social safety and integrity are at the heart of a healthy and inclusive community. They oblige us to take complaints related to social safety and other kinds of interaction with one another seriously, and to investigate and assess these matters.

The intention of these regulations is to promote an atmosphere of trust, openness and improvement, to encourage all those concerned to raise their complaints and concerns, and contribute to the continuous improvement of social safety in our organisation and the way we interact with one another.

The text that follows regulates who students, staff and third parties can appeal to as part of the complaints procedure, how and to whom a complaint as referred to in these regulations can be lodged and the requirements that must be met. It also regulates the duties and powers of the University of Twente Complaints Committee, as well as how the procedure that the committee follows works in practice.

## **Article 1 Terms and definitions**

The following terms and definitions apply to these regulations:

- a. *Manager*: the person who is responsible for managing a unit in accordance with the university's Executive and Management regulations.
- b. *Person concerned*: the person that the complaint concerns.
- c. *Executive Board*: the Executive Board of the university;
- d. *Unit*: an administrative unit as described in the university's Executive and Management Regulations.
- e. *Complaint*: all statements of displeasure about the way the university, or an employee whose work falls under the responsibility of the university, has behaved on a particular occasion. 'Behaviour' also includes omissions.
- f. *Complaints Committee*: the complaints committee of the University of Twente, being a committee as referred to in Section 9:14 of the Dutch General Administrative Law Act [*Algemene wet bestuursrecht*].
- g. University of Twente Complaints Desk: an accessible facility set up pursuant to Section 7:59a of the Dutch Higher Education and Research Act [*Wet op het hoger onderwijs en wetenschappelijk onderzoek*].
- h. *Complainant*: the person who submitted the complaint (employee, student or external third party).
- i. *Employee*: person that works under the responsibility of the university.
- j. *OPUT*: the employee participation body at the University of Twente.
- k. *Supervisory Board*: the body charged with supervising the management and administration of the university as a whole, ensuring compliance with relevant legislation and advising the Executive Board.
- l. *Written/in writing*: by email or by post.
- m. *Student*: students, prospective students, former students, external students, prospective external students or former external students.
- n. *University*: the University of Twente.
- o. *Confidential advisor*: the person referred to in Article 1.12(2) of the Collective Labour Agreement for Dutch Universities.

## **Article 2 Confidential advisor**

1. The university has confidential advisors for staff and ones for students whom employees or students can turn to if they so wish. The confidential advisors will assist them if necessary when lodging a complaint.
2. If the person concerned is also an employee, then they can turn to one of the university's confidential advisors for support.

## **Article 3 Lodging a complaint**

1. The complaint must be signed and must include at least the following information:
  - a. the name and address of the complainant and the name of the person concerned;
  - b. the date;
  - c. A description of the conduct that led to the complaint, supported by written documents where possible.

2. Students can lodge a complaint with the University of Twente Complaints Desk (email address [studentservice@utwente.nl](mailto:studentservice@utwente.nl)). The Complaints Desk will forward the complaint to the secretary of the Complaints Committee as soon as possible.
3. Employees and third parties can lodge a complaint with the secretary of the Complaints Committee (email address [complaintscommittee-hr@utwente.nl](mailto:complaintscommittee-hr@utwente.nl)).
4. If a complaint is lodged with a body other than one referred to in the second or third paragraph of this article, the recipient will forward it to the Complaints Committee without delay.
5. If the provisions of the first paragraph are not met, the complainant will be given the opportunity to remedy the omission within two weeks. If the provisions of the first paragraph have not been met by then, the Executive Board may declare the complaint inadmissible.
6. If the documents are drawn up in a foreign language and the Complaints Committee is of the opinion that a translation is required for proper handling of the complaint, the person who submitted the document must arrange for a translation into Dutch.

#### ***Article 4 Confirmation of receipt***

1. The receipt of a complaint will be confirmed in writing to the complainant as soon as possible.
2. The Complaints Committee will send the person concerned a copy of the complaint and appendices, if applicable. However, the complaint will not be sent to the person concerned if the complainant withdraws the complaint before the secretary of the Complaints Committee has contacted the person concerned as referred to in Article 8.5.
3. The complainant and the person concerned will be informed about the way in which and the timeframe within which the complaint will be handled.
4. The person concerned will be given the opportunity to respond to the complaint in writing within ten working days.

#### ***Article 5 Disregarding the complaint***

1. The Executive Board is not obliged to handle a complaint if:
  - a. the complaint relates to behaviour that took place more than one year before the complaint was lodged;
  - b. the complainant can or could have lodged an objection;
  - c. the complainant can or could have lodged an appeal;
  - d. the complaint concerns a case that is or has been pending before a court other than an administrative court;
  - e. the complaint relates to behaviour that is the subject of a criminal investigation;
  - f. the complaint was previously dealt with according to the provisions of this Complaints Procedure.
2. Furthermore, the Executive Board is not obliged to handle a complaint if the interests of the complainant or the conduct is insufficiently serious.
3. The complainant will be informed in writing, and the reasons for not handling the complaint will be given, as soon as possible, but no later than four weeks after the Executive Board has received the complaint. In the process, the Executive Board will state the time limit within which the complainant may submit a petition to the

National Ombudsman, if they so wish. The Complaints Committee will be sent a copy of this notification.

## ***Article 6 Informing managers and taking provisional measures***

1. In special cases that warrant this in the Executive Board's opinion, and if it is reasonably possible after consultation with the Complaints Committee, the Executive Board may inform the manager(s) of the unit(s) where the person concerned and/or the complainant work that a complaint has been lodged and, if deemed necessary, it may inform them of the substance of the complaint.
2. After consultation with the managers(s) of the unit where the complainant and/or person concerned work, the Executive Board may take provisional measures in special cases which, in its opinion, warrant this.

## ***Article 7 The Complaints Committee***

1. The Executive Board tasks the Complaints Committee with the handling of and giving advice about complaints.
2. The Complaints Committee is independent and advises the Executive Board on:
  - a. disregarding complaints;
  - b. the validity of the complaint;
  - c. the measures to be taken by the Executive Board.
3. The Complaints Committee comprises:
  - A. a chair who does not work under the Executive Board's responsibility;
  - B. four members,
  - C. if the Executive Board deems it necessary and in consultation with the Complaints Committee, a deputy chairperson who does not work under the Executive Board's responsibility may be appointed.The Executive Board appoints the chair and, if applicable, the deputy chairperson. OPUT appoints two of the four members and the Executive Board appoints the other two.
4. The Executive Board appoints the chair, the deputy chairperson (if applicable) and the members of the Complaints Committee for four years. They can only be appointed once. They are entitled to end their appointment at any time.
5. The Executive Board is entitled to end the appointment of the chair and, if applicable, the deputy chairperson, before the end of their term. This will not take place until after they have been heard by the Executive Board about the intention to do so and in consultation with the chair of the Complaints Committee or, if it concerns the chair and, if applicable, the deputy chairperson, in consultation with the members of the Complaints Committee.
6. The Complaints Committee, consisting of a chair and deputy chairperson, if applicable, a member appointed by the OPUT and a member appointed by the Executive Board, handles complaints.
7. If a complaint relates to intimidation, sexual harassment, aggression, violence and discrimination, the Complaints Committee may, if it deems it appropriate, be assisted by a confidential advisor working in that field who has not been involved previously. The confidential advisor acts only as an advisor to the Complaints Committee and is not involved in, nor responsible for, the Complaints Committee's advice to the Executive Board.

8. The Complaints Committee is always structured in such a way that it is considered sufficiently competent to handle complaints.
9. The Executive Board appoints an official secretary, who assists the Complaints Committee. The official secretary is not a member of the Complaints Committee.
10. If a member of the Complaints Committee is unable to attend the hearing, the hearing will proceed provided at least the chair, the deputy chairperson, if applicable, and a member are present and the complainant and the person concerned agree, to the extent that they attend the hearing.
11. The chair, the deputy chairperson, if applicable, and a member of the Complaints Committee will not take part in the handling of a complaint if their impartiality is at stake. The secretary of the Complaints Committee checks with the chair, the deputy chairperson, if applicable, and members of the Complaints Committee in writing when composing the committee.
12. The complainant and/or the person concerned may ask the Executive Board in writing to replace the chair, the deputy chairperson, if applicable, and/or a member of the Complaints Committee. The request must give a precise description of the facts and circumstances that, in the applicant's opinion, preclude the Complaints Committee from dealing with a complaint impartially. A decision will be taken regarding the request within ten working days.
13. The Complaints Committee will perform its work with due care and is subject to a duty to maintain confidentiality concerning everything it takes cognisance of in the process.

### ***Article 8 Introductory interview with the complainant***

1. The complainant is invited for an interview with the secretary of the Complaints Committee prior to the Complaints Committee's handling of a complaint.
2. During that interview, the complainant is given the opportunity to explain the complaint in greater detail and state the expectations of the Complaints Committee's handling of it.
3. During the interview, the secretary of the Complaints Committee will explain how the procedure before the Complaints Committee works, the role of the Complaints Committee and the timeframe for handling the complaint that is reasonably expected at that time.
4. If the secretary of the Complaints Committee believes that the interview with the complainant so warrants, the complainant will be asked whether an interview with the person concerned could still lead to a solution that will satisfy the complainant. In the process, the secretary of the Complaints Committee will draw attention to the fact that the Complaints Committee will still consider the complaint if the interview with the person concerned does not lead to a satisfactory solution for the complainant.
5. If the complainant believes this to be the case, the secretary of the Complaints Committee will contact the person concerned to ask whether they are willing to talk to the complainant. If that is the case, the secretary of the Complaints Committee will set a date for the discussion as soon as possible. The secretary will send the person concerned a copy of the complaint and appendices, if applicable.



6. If the complainant and the person concerned would prefer, they may jointly appoint a moderator to be present at the interview.
7. If the interview fails to lead to a satisfactory solution for the complainant because the Complaints Committee's handling of the complaint was postponed as a result, the secretary of the Complaints Committee will inform the complainant and the person concerned in advance that this may be a reason to extend the timeframe for the handling the complaint in accordance with Article 13.1.

### ***Article 9 Complaints Committee's investigation***

1. The Complaints Committee will launch an investigation as soon as possible after receiving the complaint.
2. The Complaints Committee has the authority to freely obtain written information outside the hearing for the purpose of the investigation at the University of Twente. The Complaints Committee will give the complainant and the person concerned additional information obtained in this way in writing and simultaneously.
3. Any employee who is involved and/or heard in a complaints procedure other than as the person concerned is subject to a duty to maintain the confidentiality regarding all that they take cognisance of in connection with the handling of the complaint.
4. The Complaints Committee is at liberty not to hear witnesses put forward by the complainant or person concerned, or not to admit evidence provided by them, if it considers that these witnesses/this evidence cannot reasonably contribute to the assessment of the complaint.

### ***Article 10 Hearing***

1. The Complaints Committee will give the complainant and the person concerned the opportunity to be heard. The hearing is not open to the public.
2. The complainant and the person concerned are heard in each other's presence, unless the Complaints Committee decides otherwise, and gives reasons for the decision.
3. The complainant will not be heard if:
  - a. the complaint is manifestly unfounded; or
  - b. the complainant has stated that they do not wish to exercise the right to a hearing.
4. The person concerned may also state that they do not wish to exercise the right to a hearing. In that case, the Complaints Committee decides whether it is possible to waive the hearing of the person concerned.
5. The complainant may be represented or assisted by another person. If someone else appears at the hearing on behalf of the complainant, they must be able to produce a written authorisation from the complainant.
6. The person concerned is entitled to be assisted.
7. The Complaints Committee is authorised to hear third parties.
8. A report of the hearing will be compiled.
9. If the complainant, the person concerned and third parties, if applicable, are heard separately, the Complaints Committee will give the complainant and the person

concerned the opportunity to give a written account of their views on what is included in the reports.

### ***Article 11 Withdrawing complaints***

The complainant may withdraw the complaint in writing. If the complainant withdraws the complaint during the hearing, the complainant must confirm this in writing. The Complaints Committee will inform the person concerned in writing about the withdrawal of the complaint.

### ***Article 12 Addressing the complaint***

As soon as the complainant notifies the secretary of the Complaints Committee in writing that the complaint has been satisfactorily addressed, the complaints procedure ends and the obligation to continue to apply these regulations lapses. The person concerned will be informed of this in writing as soon as possible.

### ***Article 13 Time limits***

1. In principle, complaints must be settled within ten weeks of the date of receipt. This term may be extended by four weeks at most. A further extension is possible if the complainant agrees to this in writing.
2. The complainant and the person concerned will be informed in writing of the extension of the time limit for handling the complaint.

### ***Article 14 Advice***

1. The Complaints Committee sends the Executive Board a report of the findings, accompanied by advice and recommendations, if applicable. The report will include an account of the hearing, if one was held.
2. If the complaint involves the Executive Board or a member of the board, the Complaints Committee will send the Supervisory Board a report of the findings, accompanied by advice and recommendations, if applicable. The report will include an account of the hearing, if one was held. The Supervisory Board will handle the complaint, taking into account the terms stated in Article 13.

### ***Article 15 Settling complaints***

1. After receiving the Complaints Committee's report, the Executive Board will inform the complainant and the person concerned of the Executive Board's opinion. Besides the written opinion, the Complaints Committee's advice and the report of the hearing, if one was held, will be sent to the complainant and the person concerned. In the process, the Executive Board will state the time limit within which the complainant may submit a petition to the National Ombudsman, if they so wish. The Complaints Committee will be sent a copy of this notification.
2. If the opinion of the Executive Board deviates from the advice of the Complaints Committee, then an explanation for the deviation will be given.
3. The Executive Board may inform the manager of the unit where the complainant or person concerned works of the way in which the complaint was settled. This will in

any event be the case if the manager was informed about the complaint on the basis of Article 6.1.

### ***Article 16 Final clause***

These regulations enter into force on 1 May 2024 and may be cited as 'University of Twente Complaints Procedure'.

## ***Explanatory notes on the University of Twente Complaints procedure***

More information about the complaints procedure and the way to lodge a complaint **for members of staff and third parties** is available [here](#).

Contact details for the secretary of the Complaints Committee (for members of staff and third parties): email address [complaintscommittee-hr@utwente.nl](mailto:complaintscommittee-hr@utwente.nl) and telephone number 053-4899021.

More information about the Complaints Desk and the way to lodge a complaint **for students** is available [here](#).

Complaints Desk email address (for students): [studentservices@utwente.nl](mailto:studentservices@utwente.nl) and telephone number 053-4892124.

### **Article 1**

Complaints may only concern the way University of Twente or one or more its employees behaved towards the complainant on a particular occasion. 'Behaviour' also includes omissions. Complainants may include University of Twente employees, other persons working on behalf of the university, such as guest lecturers, interns and temporary workers, third parties and their employees carrying out work on the university premises, University of Twente students, PhD candidates on a scholarship, externally funded PhD candidates and external PhD candidates and visitors to the University of Twente.

### **Article 2**

If you have a complaint or need help or support, or if a complaint against you has been lodged and you need help or support,

**the University of Twente offers the following kinds of help and support:**

University of Twente employees (i.e. employees of the University of Twente employed on the basis of an employment contract) can appeal to University of Twente's confidential advisors. More information on the confidential advisors and how you can contact them is available [here](#).

Students at the University of Twente, including PhD candidates at the University of Twente who are not employed on the basis of an employment contract, can appeal to University of Twente's confidential advisors for students.

More information on the confidential advisors for students and how you can contact them is available [here](#).

Situations involved complaints from a student against another student do not fall under this Complaints Procedure. In that case, students can appeal to the student counsellor, the University of Twente's ombuds officer or the confidential advisor for students, among others.

### **Article 3.1**

This clause sets out the minimum amount of information required for the complaint. The complainant may choose between giving their personal address or work address.

In principle, the complaint must be lodged in writing. In exceptional cases, a verbal complaint may be taken under consideration. This is only the case if the complaint *cannot* be put down in writing and the secretary of the Complaints Committee is informed verbally. If an oral complaint is taken into consideration, appropriate arrangements will be made for the handling of the complaint. Departures from the University of Twente Complaints Procedure may be made if necessary when making these arrangements.

### **Article 3.3**

The Executive Board authorises the secretary of the Complaints Committee to receive complaints on behalf of the Executive Board.

### **Article 3.5**

The Executive Board authorises the secretary of the Complaints Committee to declare complaints inadmissible on behalf of the Executive Board.

In practice, the two-week deadline may be deviated from due to special circumstances, for instance if the complainant is on leave.

### **Article 3.6**

The complaints procedure is governed by the laws of the Netherlands. This right of complaint is regulated by Section 9 of the Dutch Administrative Law Act. The various regulations and/or codes of conduct of the Collective Labour Agreement for Dutch Universities often apply to complaints procedures. If there are differences of opinion concerning the interpretation of Dutch and English versions of these laws and regulations, the Dutch text will be binding. For this reason, Dutch is the language of communication during the complaints procedures.

Documents compiled in a foreign language must be translated into Dutch by the complainant, if the Complaints Committee deems it necessary for the proper handling of the complaint. The person who submits the documents in question is responsible for their translation. As a rule, the Complaints Committee requires receipt of this translation within two weeks. The translation must be done by a certified translation agency; translation agencies designated by the University of Twente may be used.

The University of Twente will reimburse the costs of translations up to a set maximum amount if you are an employee or student at the University of Twente. Doctoral candidates on a scholarship, guest lecturers, interns, temporary workers and self-employed persons who have been hired may also claim reimbursement of translation costs. More information on the maximum reimbursement of translation costs can be found [here](#) (under 'Complaint Procedure' and 'Dutch language').

The translation costs will be for your own account if you are not an employee or student at the University of Twente.

The hearing is held in the Dutch language. If at least one of the persons involved has insufficient knowledge of the Dutch language, the University of Twente will enlist the services of a sworn interpreter under its own responsibility and at its own expense.

The secretary of the Complaints Committee will arrange for the interpreter.

The Complaints Committee's advice and the attached report of the hearing will also be drawn up in the Dutch language. If any of the persons involved in the proceedings is a non-Dutch speaker, these documents will be translated into English by a translation agency enlisted by and at the expense of the University of Twente.

#### **Article 4.2**

The complaint and appendices, if applicable, will be forwarded to the person concerned once the secretary of the Complaints Committee has contacted the person concerned about the complaint.

#### **Article 5.1.b**

A complaint is levelled against inappropriate treatment/conduct experienced. An objection, on the other hand, is directed against allegedly unfair treatment based on a decision (or the absence thereof) taken on behalf of the competent authority.

#### **Article 5.3**

The secretary of the Complaints Committee always contacts the complainant first if the Complaints Committee decides not to take a complaint into consideration.

#### **Article 7.2**

The Complaints Committee advises the Executive Board on whether the complaint should be disregarded and whether it is justified or unfounded. In addition to this, the Complaints Committee may recommend that the Executive Board takes measures. This could include measures aimed at improving social safety, the way people interact with each other and improving the organisation. For instance, the Executive Board may instruct the faculty board to discuss the situation with the person concerned or issue an instruction to update information to students on the university's website. More severe measures may be required to address more serious issues, for instance inappropriate behaviour or falsely lodging a complaint to disparage a colleague unduly.

The Complaints Committee may also advise the Executive Board to restore (rehabilitate) the good name of the person concerned if the complaint is unfounded. This is the case if the good name of the person concerned has been affected by merely lodging the complaint to such an extent that it is unreasonable to simply dismiss the complaint as unfounded.

#### **Article 8**

The complainant is always free to discuss the matter with the person concerned. If the complainant and the person concerned are both willing to discuss the matter, they themselves decide how the discussion will be conducted and whether a moderator will be present. The complainant and the person concerned may, if they both wish to do so, jointly appoint a moderator to attend the interview. This could, for instance, be the University of Twente's ombuds officer.

The following persons are not permitted to act as moderators: the chair, the deputy chair or a member of the Complaints Committee, the secretary of the Complaints Committee or a confidential advisor. However, the complainant and the person concerned are both entitled to have a confidential advisor assist them during the discussion.

#### **Article 10.4**

If the person concerned wishes to waive a hearing, the Complaints Committee may accommodate the person concerned if it believes it already has sufficient information to advise the Executive Board without holding a hearing.

The person concerned also does not have to be heard if the complaint is manifestly unfounded.

However, hearing the person concerned may be important under certain circumstances to assess whether the complaint was lodged unjustifiably.

#### **Article 10.5**

If the complainant is represented by a lawyer at the hearing, the lawyer is not required to produce a written authorisation.

#### **Article 12**

If the complaint is addressed to the complainant's satisfaction and the complainant notifies the secretary of the Complaints Committee of this in writing, the complaint is deemed to have been withdrawn and the complaints procedure ends.

#### **Article 15**

The way in which a complaint has been handled is not open to appeal or objection. If the complainant or person concerned is not satisfied with the way their complaint has been handled, they are entitled to file a complaint with the National Ombudsman if they so wish.

#### **Article 15.3**

The Executive Board may inform the manager of the unit where the complainant or person concerned works of the way in which the complaint was settled.

The manager will in any event be informed if information about the complaint was shared with this manager at an earlier stage.

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