

# **Complaints Procedure for Unwanted Behaviour**

**The purpose of this complaints procedure is to ensure careful handling of complaints from anyone working for the Vrolijkheid Foundation who is facing unwanted behaviour in the workplace. This procedure promotes a safe working environment and is endorsed by the director and the board.**

## **1. General**

### **1.1 Definitions**

**In this procedure, the following definitions apply:**

- 1. Accused:** the employee (see also Article 1.2) against whom a complaint has been filed because of unwanted behaviour.
- 2. Competent Authority:** the manager of the Vrolijkheid Foundation (see special provisions regarding the position of the director).
- 3. Complaint:** a written, factual description of the unwanted behaviour, indicating why this behaviour was considered unwanted.
- 4. Complaints Committee:** the committee to which an employee who has faced unwanted behaviour may turn with a complaint. The committee investigates this complaint and provides recommendations to the competent authority, which includes an opinion on the merits of the complaint and a proposal regarding the measures to be taken.
- 5. Complainant:** the employee (see also Article 1.2 [1]) who has a complaint about unwanted behaviour and submits it to the Complaints Committee.
- 6. Reporter:** the employee (see also Article 1.2) who approaches the Confidential Advisor regarding unwanted behaviour.

7. **Confidential Advisor:** the official appointed by the management to whom the employee facing unwanted behaviour may turn for advice, support, and guidance.
8. **Support Person:** the person appointed to support the accused, if required.
9. **Unwanted behaviour, which includes:**
  - a. **Discrimination:** any form of distinction, exclusion, restriction or preference, which aims or may aim to disadvantage and/or discriminate against an employee or groups of employees in the organisation based on their race, ethnic origin, age, disability, gender, sexual orientation.
  - b. **Sexual Harassment:** any form of verbal, non-verbal, or physical behaviour with sexual connotation that has the purpose or effect of violating the employee's dignity, in particular when creating a threatening, hostile, insulting, humiliating, or offensive situation.
  - c. **Aggression and violence:** incidents involving verbal, non-verbal harassment, threats or physical attacks against an employee, whether psychological or physical, under circumstances directly related to the performance of work.
  - d. **Bullying and harassment:** any form of intimidating behaviour of a structural nature, by one or more employees (colleagues, supervisors) against an employee or group of employees who cannot defend themselves against such behaviour.

## **1.2 Scope of the Complaints Procedure**

- 1. Anyone working as an employee, trainee, volunteer, freelancer or otherwise, or who was employed by the Vrolijkheid Foundation up to one year ago at the latest, falls within the scope of this complaints procedure. They may seek assistance from the Confidential Advisor or support person and use the complaints procedure.**
- 2. Throughout this procedure, the term “employee” refers to those described in the preceding paragraph 1 of this Article.**
- 3. This procedure also extends to officers who are not employed by the Vrolijkheid Foundation, but who are working on the premises of the Vrolijkheid Foundation and, in connection with this work, face unwanted behaviour by an employee working for the Vrolijkheid Foundation.**

## **2. Confidential Advisor on Unwanted Behaviour**

### **2.1 Appointment, Suspension and Dismissal of the Confidential Advisor**

- 1. The management is responsible for appointing, suspending, and dismissing the Confidential Advisor.**
- 2. The management provides the Confidential Advisor the opportunity to properly fulfil their duties .**
- 3. Given the importance of independence and the nature and size of the organisation, the Confidential Advisor is preferably recruited externally. However, internal Confidential Advisors may also be appointed to serve as a sounding board and provide initial reception.**

## **2.2 Duties of the Confidential Advisor**

**The duties of the Confidential Advisor include:**

- 1. Supporting, advising and guiding the reporter, as well as referring them to a professional social institution if necessary.**
- 2. Attempting to resolve the situation by engaging a mediator. Ideally, the mediator should be the immediate supervisor, as they are responsible for a safe working environment for their team. Should the immediate superior be involved in the complaint, their supervisor is requested to mediate. If, in the opinion of the complainant, this mediation does not lead to a solution, or relations are seriously disturbed, an expert or an external mediator may be engaged, if the complainant and the accused so wish.**
- 3. Advising and assisting the reporter in any further steps to be taken.**
- 4. Supporting and guiding the employee facing unwanted behaviour in submitting a complaint to the Complaints Committee and in being heard by them.**
- 5. Providing both solicited and unsolicited advice to the manager on policies, prevention, and information concerning unwanted behaviour within the organisation.**
- 6. Providing education regarding unwanted behaviour in the organisation.**
- 7. Anonymously recording the nature, extent and handling of reports of unwanted behaviour to make this information available to the management, potentially in the form of an annual report.**

- 8. Providing follow-up support to the employee who has faced unwanted behaviour. The objectives include ensuring that lodging a complaint does not result in repercussions for the complainant, that the unwanted behaviours have ceased, and that the measures enacted by the competent authority are implemented.**
- 9. The Confidential Advisor is certified with a professional association specialised in social work.**

**Note:** In the Working Conditions Act (*Arbowet*), unwanted behaviour such as discrimination, sexual harassment, bullying and aggression and violence fall under psychosocial workload (*PSA in Dutch*). It also includes work pressure. The management of work pressure falls under the jurisdiction of supervisors, HR, or the welfare department, rather than the Confidential Advisor.

## **2.3 Procedure and Authorities of the Confidential Advisor**

- 1. The Confidential Advisor works independently and may not be a member of the Complaints Committee, the Works Council or the management or hold positions such as company doctor, HR employee, staff officer, or supervisor.**
- 2. The Confidential Advisor is accountable to the management with due observance of confidentiality.**
- 3. The Confidential Advisor is authorised to gather information necessary to gain a comprehensive understanding of the report and the possibilities of finding a solution. They take the utmost care to protect the privacy of all parties involved.**
- 4. Confidentiality is paramount for the Confidential Advisor. They are obligated to keep confidential any information**

**obtained in their role. Generally, the Confidential Advisor only discloses information with the client's explicit consent. In exceptional cases, if there is a risk of harm to the client or another person, the Confidential Advisor may breach confidentiality on the basis of a conflict of duties. Persons approached by the Confidential Advisor are also bound by this confidentiality.**

5. **The Confidential Advisor processes personal data related to their duties in accordance with the provisions of the General Data Protection Regulation.**

### **3. Complaints Committee on Unwanted Behaviour**

#### **3.1 Establishment, Composition and Appointment of the Complaints Committee**

1. **The management establishes a Complaints Committee.**
2. **The Complaints Committee consists of three members.**
3. **The Complaints Committee consists of a chairperson and two other members. The chairperson does not work for the Vrolijkheid Foundation nor has any other ties to the organisation.**
4. **The management appoints a deputy for each member.**
5. **The appointment of the members and deputy members is for a period of three years and may be renewed once for a period of three years, unless they resign prematurely. In case of early resignation, a successor is appointed to fulfil the remaining term.**
6. **Excluded from appointment are members of the management, supervisors, HR employees, staff officers, Works Council members, the Confidential Advisor, company doctor and the welfare department, all working for the Vrolijkheid Foundation.**

- 7. The Complaints Committee must have both legal experience and expertise in the field of unwanted behaviour.**
- 8. The composition of the Complaints Committee should be as diverse as possible, with representation of both sexes.**
- 9. A member of the Complaints Committee may not be directly or indirectly involved in the unwanted behaviour subject to a complaint. If this is the case, that member's deputy handles the complaint.**
- 10. A secretary is appointed who also manages the archives. The secretary is not a member of the Complaints Committee but supports the work of the Complaints Committee.**
- 11. The Complaints Committee undertakes to increase expertise.**
- 12. If and in so far as the annual report gives cause to do so or on request, consultation takes place between the (chairman of the) Complaints Committee, the Confidential Advisor and the management.**

### **3.2 Tasks and Authorities of the Complaints Committee**

- 1. The Complaints Committee decides on the admissibility of a complaint. A complaint is admissible if it is submitted by an employee authorised to do so under this procedure, if it is within the competence of the competent authority to take measures regarding the complaint about unwanted behaviour and if the complaint has been submitted in writing, with all necessary information (see Article 3.4), as referred to in the general provisions of this procedure (see Article 1.1).**

- 2. The Complaints Committee investigates every written complaint submitted to it that meets the criteria for complaint handling, provided it involves persons mentioned in Article 3.2 (1).**
- 3. Following its investigation, the Complaints Committee issues a written recommendation to the management.**
- 4. The Complaints Committee is authorised:**
  - a. To call upon relevant third parties to obtain information.**
  - b. To request relevant documents, if and in so far as these are necessary for the work of the Complaints Committee.**
  - c. To initiate an investigation at the workplace or have such an investigation initiated.**
  - d. To obtain advice and assistance from experts.**
- 5. The Complaints Committee has the authority to provide both solicited and unsolicited advice to the management on policies regarding unwanted behaviour.**
- 6. Once a year, the Complaints Committee submits an anonymous report on its activities to the management.**

### **3.3 Procedure for Handling Complaints**

- 1. Upon receipt of a complaint, the Complaints Committee sends a confirmation of receipt to the complainant within one week.**
- 2. Within two weeks of receiving the written complaint, the Complaints Committee informs the complainant in writing whether the complainant and the complaint are admissible and whether the complaint will be processed. In doing so, the complainant is also informed of:**

- a. **The further procedure.**
  - b. **The right to access all documents on which the Complaints Committee bases its advice.**
  - c. **The right to assistance by a counsellor and/or Confidential Advisor: only the costs for a Confidential Advisor are borne by the organisation.**
  - d. **The fact that the complaint is forwarded to the accused.**
  - e. **The fact that all documents sent to the Complaints Committee and all information provided orally to the Complaints Committee is also made available to the complainant and the accused.**
- 3. **The Complaints Committee sends the complaint to the accused at the same time as the documents referred to in paragraph 2.**  
**The accused is also informed of:**
  - a. **The procedure for handling complaints.**
  - b. **The right to access all documents on which the Complaints Committee bases its advice.**
  - c. **The right to assistance by a counsellor and/or a support person: only the costs for a support person are borne by the organisation.**
  - d. **The opportunity to respond in writing and in substance to the complaint within a reasonable time limit to be specified by the Complaints Committee.**
  - e. **The fact that all documents sent to the Complaints Committee and all information provided orally to the Complaints Committee is also made available to the accused and the complainant.**
- 4. **At the hearing, the Complaints Committee hears the complainant and the accused in each other's presence. If**

**a direct confrontation between the parties would be too stressful for the complainant, the Complaints Committee may decide to hear the parties separately.**

- 5. Following the joint hearing, the complainant and the accused are given the opportunity to respond to each other orally. In case the complainant and the accused are heard separately, the procedure as mentioned under Article 3 (10) and further will be followed after the separate hearings.**
- 6. If during the investigation of the complaint, both the complainant and accused appear willing to:**
  - 1. Reach a settlement or agreement, the Complaints Committee oversees the negotiation and record the agreements made.**
  - 2. Pursue mediation or conciliation, the Complaints Committee suspends the handling of the complaint until the mediation under the supervision of a mediator is concluded.**
- 7. In addition, the Complaints Committee may hear witnesses and experts, whether or not in the presence of the complainant and accused, in so far as this is necessary in the opinion of the Complaints Committee and in connection with a careful handling of the complaint.**
- 8. The Complaints Committee may hear witnesses who wish to remain anonymous in relation to the complainant and/or the accused in so far as the Complaints Committee comes to the opinion that this wish for anonymity is reasonable and substantial and the hearing of the witness is necessary for a proper handling of the complaint. The report of the hearing of the anonymous witness is sent to the complainant and the accused after the witness has agreed, omitting identifiable details.**

- 9. The hearings of the Complaints Committee are not public.**
- 10. A concise report is made of every hearing in which the complainant, the accused, witnesses or another person are heard, in each other's presence or separately, in which the essence of the heard person's statement is recorded. Within one week after the hearing, the person(s) heard are given the opportunity to access the report and may add any comments, which is attached to the report.**
- 11. If the person concerned does not make use of the authority referred to in paragraph 10, this is expressly stated in the report, along with any known reasons.**
- 12. Subsequently, the complainant and the accused are also given the opportunity, within one week after completion of the step(s) mentioned in paragraph 10, to access the reports of the persons heard and the documents submitted to the Complaints Committee, and to provide these with any comments and observations.**
- 13. The Complaints Committee then issues a written recommendation to the management within two weeks. In its recommendation, the Committee determines whether the complaint is substantiated and to what extent. A complaint is substantiated if the Complaints Committee can establish that the unwanted behaviour occurred, identify the parties involved, describe the nature and frequency of the behaviour.**
- 14. The two-week period may be extended by a maximum of two weeks in writing, stating reasons.**
- 15. Simultaneously with sending the recommendation to the management, the Complaints Committee sends a copy to the complainant and the accused.**

### **3.4 Provisions Related to the Complaint**

- 1. All complaints must be submitted in writing.**
- 2. Complaints about unwanted behaviour may be submitted to the Complaints Committee up to three years after the unwanted behaviour last occurred and no later than one year after the complainant left the employment of the Vrolijkheid Foundation.**  
**The complaint must include:**
  - a. Name, position and date of birth of the complainant.**
  - b. Name and position of the person accused.**
  - c. Description of the unwanted behaviour.**
  - d. Date of the incident(s).**
  - e. Date of signature.**
  - f. Signature by the complainant.**
- 3. Anonymous complaints are not considered by the Complaints Committee.**
- 4. The complainant may withdraw their complaint until the moment the Complaints Committee issues their recommendation to the management. In such cases, all documents related to the complaint will be destroyed, except for the procedural report.**

### **3.5 Confidentiality and Privacy Protection**

- 1. The privacy of those involved are protected as much as possible.**
- 2. The members of the Complaints Committee and those who support the Complaints Committee maintains**

**confidentiality about everything they learn in connection with the complaint.**

3. **At the start of each hearing, the chairperson informs the person to be heard and the other persons present of the confidential nature of the complaint procedure.**

## **4. Decision by the Management**

1. **Within two weeks after receiving the recommendation of the Complaints Committee, the management decides in writing whether they adopt (part of) the recommendation of the Complaints Committee and, if so, whether this recommendation gives cause to take the measures proposed by the Complaints Committee. If necessary, this two-week period may be extended once by an additional two weeks, with reasons provided in writing.**
2. **If the management chooses not to adopt the recommendation of the Complaints Committee, while the complaint has been declared (partially) founded by the Complaints Committee, the management describes the reasons that led to this decision.**
3. **The decision of the management are sent to the complainant and the accused. The Complaints Committee receives a copy of the decision.**

## **5. Other Provisions**

1. **The management seeks the advice of the Confidential Advisor and the chairperson of the Complaints Committee on any proposal to amend this complaints procedure before adopting the proposed amendment.**

**Amendments are submitted to the Works Council for approval.**

- 2. Information relating to filing a complaint is not included in the personnel file. However, any sanctions are recorded and a copy of the management's decision is included in the personnel file.**
- 3. All documents, reports and other information relating to the handling of the complaint are recorded in a complaint file by the secretary of the Complaints Committee. This file will be kept for five years, starting from the first year after the complaint was dealt with, in a locked archive accessible only to the Complaints Committee.**
- 4. After settlement of the complaint, the secretary will take back and destroy all documents, reports and other information available to the members of the Complaints Committee related to the complaint.**
- 5. Members of the Complaints Committee and the internal Confidential Advisor\* may not face retaliation in their position within the company by or on behalf of the management by virtue of their membership of the Committee. They are entitled to the same protection as members of the Works Council pursuant to Article 21 of the Works Councils Act (*Wet op de Ondernemingsraden*).**

**\* if the Vrolijkheid Foundation has appointed an internal Confidential Advisor.**

- 6. The management of the Vrolijkheid Foundation ensures that filing a complaint does not result in any retaliation against the complainant within the company.**

## **6. Special Provisions Regarding the Manager's Position**

**In cases where the manager is implicated in a complaint, the chairman of the board will assume the manager's responsibilities for the purposes of this procedure.**

**The board fully adheres to the complaints regulations and procedure outlined therein in such instances. Consequently, wherever the "management" is mentioned in this procedure, it should be understood as the "board".**

## **Contact Information of the Confidential Advisor**

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