

Joint Complaints Procedure Netherlands Code of Conduct for Research Integrity

Fontys University of Applied Sciences, Breda University of Applied Sciences,
HZ University of Applied Sciences and Avans University of Applied Sciences

2021

Paragraph 1. Definitions

In these regulations, the following terms have the following meanings:

- 1.1 *Accused*: the employee about whose conduct a complaint has been submitted. If the complaint concerns a group of researchers, this refers to the researcher or the person representing the group.
- 1.2 *Code*: the Netherlands Code of Conduct for Research Integrity 2018.
- 1.3 *Research Integrity Committee/the Committee*: the joint Committee appointed by the Executive Boards of Fontys University of Applied Sciences, Breda University of Applied Sciences, HZ University of Applied Sciences and Avans University of Applied Sciences, which is tasked with handling complaints concerning actual or alleged breaches of research integrity.
- 1.4 *University of Applied Sciences*: Fontys University of Applied Sciences, Breda University of Applied Sciences, HZ University of Applied Sciences and Avans University of Applied Sciences, jointly.
- 1.5 *Executive Board*: the Executive Board of Fontys University of Applied Sciences, Breda University of Applied Sciences, HZ University of Applied Sciences or Avans University of Applied Sciences.
- 1.6 *Supervisory Board*: the Supervisory Board of Fontys University of Applied Sciences, Breda University of Applied Sciences, HZ University of Applied Sciences and Avans University of Applied Sciences.
- 1.7 *Complaint*: a written or electronic report of an actual or alleged breach of research integrity, with regard to which report the submitter can be established by the recipient.
- 1.8 *Complainant*: the person who submits a complaint to the Committee or Confidential Advisor, via the Executive Board or otherwise.
- 1.9 *The Netherlands Board on Research Integrity (LOWI)*: body for second opinions, which can be reached at <https://lowi.nl/>.
- 1.10 *Staff member*: a person who is or used to be employed by the University of Applied Sciences on the basis of the Collective Labour Agreement for Universities of Applied Sciences (CAO-HBO) or otherwise works or has worked under the responsibility of the University of Applied Sciences.
- 1.11 *Breach of research integrity*: an act or conduct as referred to in Article 5.2 of the Code.
- 1.12 *Confidential Advisor on Research Integrity*: the person appointed by the Executive Boards of Fontys University of Applied Sciences, Breda University of Applied Sciences, HZ University of Applied Sciences and Avans University of Applied Sciences for each individual University of Applied Sciences, to serve as a contact person with regard to actual or alleged breaches of research integrity.

Paragraph 2. Report

- 2.1 Anyone who suspects a breach of research integrity has the right to report the alleged breach, whether with a complaint or otherwise, to the Confidential Advisor of his/her University of Applied Sciences or Committee, via the Executive Board or otherwise.
- 2.2 If the complaint concerns a member of the Executive Board, the complaint can be submitted to the Confidential Advisor or the Committee, via the Supervisory Board or otherwise. If the complaint concerns a member of the Executive Board, the Confidential Advisor or the Committee will advise the Supervisory Board, which will exercise the powers referred to in Article 5.
- 2.3 Anyone is obliged to provide the Confidential Advisor or the Committee with any cooperation that may reasonably be required in the opinion of the Confidential Advisor or the Committee, within the time limit set.
- 2.4 All those involved in the handling of a complaint are obliged to keep confidential any information

that comes to their knowledge during the complaints procedure.

Paragraph 3. Confidential Advisor, appointment, duties and accountability

3.1 Appointment

The Executive Board will appoint one or more Confidential Advisors for a term of four years. Confidential Advisors can be reappointed for consecutive four-year terms.

3.2 Requirements

The following requirements apply for appointment as Confidential Advisor:

- Having extensive experience in research and education, preferably proven eminent experience in and knowledge of research in higher education;
- Having an impeccable educational and/or research reputation;
- Having experience in handling and/or providing advice with regard to discrepancies and conflicts.

3.3 Termination

The Executive Board may terminate the appointment prematurely:

- at the Confidential Advisor's own request;
- if the Confidential Advisor fails to meet or no longer meets the requirements for appointment;
- in connection with unsatisfactory performance on part of the Confidential Advisor.

3.4 Independence

An appointment as Confidential Advisor is incompatible with membership of the Supervisory Board, the Executive Board or the Research Ethics Committee, and an appointment as director of an organisational unit of the University of Applied Sciences or a member of the Committee.

3.5 Duties

The Confidential Advisor is tasked with:

- Acting as the first point of contact for complainants in case of questions and complaints about research integrity and possible breaches thereof;
- Exploring the possibilities for amicable resolution of the complaint;
- Providing information and advice to the complainant on the procedure for submitting the complaint to the Committee.

3.6 Accountability

The Confidential Advisor will account for his/her activities to the Executive Board in an annual anonymised report for the annual report of the University of Applied Sciences.

3.7 Confidentiality

The Confidential Advisor is obliged to keep confidential any information that comes to his/her knowledge in his/her capacity as Confidential Advisor.

Paragraph 4. Committee, composition, duties and powers, working methods, accountability

4.1 Composition and appointment

The Committee is composed of the chair and a minimum of two members. One of them should preferably be a lawyer. The chair and the members are appointed by the joint Executive Boards for a term of four years, and may be reappointed for consecutive four-year terms. The Executive Board of each University of Applied Sciences will appoint an administrative secretary and a deputy to provide the Committee with official legal support with regard to matters concerning the relevant University of Applied Sciences (with regard to which the complaint has been submitted). The administrative secretary will be a lawyer.

4.2 Requirements

In composing the Committee, the objective must be to achieve a typical representation of the University of Applied Sciences' fields of science. The following requirements apply for appointment:

- Broad experience in research and education, preferably in the position of (emeritus) lecturer or professor at one or more Dutch Universities of Applied Sciences or Universities;
- Having an impeccable educational and/or research reputation;
- Having experience in handling and/or providing advice with regard to discrepancies and conflicts.

4.3 Termination

The Executive Board may terminate the appointment prematurely:

- at the request of the chair or of the member of the Committee;
- if the chair or the member fails to meet or no longer meets the requirements for appointment;
- in connection with unsatisfactory performance on the part of the chair or the member of the Committee;

4.4 Independence

An appointment as chair or member of the Committee is incompatible with membership of the Supervisory Board, the Executive Board and the Research Ethics Committee, or an appointment as director of an organisational unit of the University of Applied Sciences or Confidential Advisor.

4.5 Experts

The Executive Board may expand the Committee with one or more experts to investigate and handle a complaint.

4.6 Duties

The Committee is tasked with investigating complaints about actual or alleged breaches of research integrity and, following the investigation, providing the Executive Board – or, in the situation referred to in Article 2.2, to the Supervisory Board – with advice. Furthermore, the Committee will – upon request and at its own initiative – provide the Executive Board with advice on the prevention policy of the University of Applied Sciences in the field of research integrity.

4.7 The Committee will inform the Executive Board that a complaint has been filed.

4.8 Powers

The powers of the Committee are:

- To gather information from all employees and bodies of the University of Applied Sciences. It will be entitled to any documentation and correspondence that it considers relevant to the investigation and assessment of the complaint, and to seize, copy or seal such documentation and correspondence as it deems necessary.
- To hear or consult one or more experts. The expert consulted will draw up an expert report that the Committee will take into account in providing its advice.
- To hear or consult witnesses. A report of the hearing or consultation of the witness will be drawn up, which the Committee will take into account in providing its advice.

4.9 Working method

Insofar as the Committee's working method is not laid down in this or any other regulation, it will be determined by the chair.

4.10 Members of the Committee who are in any way associated with the persons or involved in the facts to which the complaint relates will not participate in the handling of the complaint.

4.11 The Committee assesses the admissibility of the complaint on – among other things – the following criteria:

- a. A clear description of the actual or alleged breach of research integrity, as referred to in Article 1.11, where necessary supported by relevant written documentation or other evidence, by one or more specific complainants from the University of Applied Sciences;
- b. The name, position and contact details of the complainant. If the complainant is represented

- by an authorised representative, a signed power of attorney must be submitted;
- c. At the Executive Board's request, the Committee may investigate a complaint without knowing the identity of the complainant, whether after consulting the Confidential Advisor or otherwise¹;
 - d. The Committee is authorised to decide against handling a complaint if, in its opinion, the breach took place too long ago, the complaint has been investigated previously, or, in its opinion, it is manifestly unfounded or of insufficient importance².

4.12 The Committee may offer the complainant the opportunity to add to the complaint within a term set by it.

4.13 The Committee will decide on the admissibility of the complaint within three weeks of receipt. If it concludes that the complaint is inadmissible, it will immediately advise the Executive Board of the University of Applied Sciences where the complaint has been submitted.

4.14 If the Committee finds the complaint admissible, it will proceed with its substance. The complaint will be handled within the framework of the Code and according to the following criteria:

- a. The Committee will hear the persons concerned, as it considers appropriate. A report of the hearing will be drawn up and appended to the Committee's opinion. When the Committee hears the case, the principle of hearing both sides of the argument will apply.
- b. The hearings will in principle take place in the presence of both parties, unless there are compelling reasons for them to be heard separately.
- c. The Committee may hear witnesses and experts.
- d. The Committee will provide those concerned with all the information at its disposal that is relevant in the handling of the complaint and that comes to its knowledge during the course of the procedure.
- e. Those concerned may be assisted in the proceedings.

4.15 Term of advice

Within twelve weeks of receiving the complaint, the Committee will advise the Executive Board of the University of Applied Sciences where the complaint has been submitted on the merits of the complaint. The Committee may extend this term by a maximum of 12 weeks for justified reasons. The Committee will inform those concerned in writing of the extension of the deadline.

4.16 The Committee's meetings will not be public.

4.17 Accountability

The Committee will account for its activities to the Executive Boards by means of an annual report for the annual report of the University of Applied Sciences.

4.18 Confidentiality

The members of the Committee and any experts consulted are obliged to keep confidential any information that comes to their knowledge in this capacity.

4.19 Decision

The Executive Board of the University of Applied Sciences where the complaint has been submitted will determine its decision within four weeks of receiving the Committee's advice and will decide on sanctions and measures as referred to in Article 4 of the Code. It will immediately inform the complainant and the accused in writing. The Committee's advice will be appended to the decision.

Paragraph 5. Second opinion

5.1 Second opinion

As far as the breach of research integrity is concerned, the complainant and the accused may – within

¹ Paragraph 5.4(6) indicates when such a situation may arise.

² This must be done in accordance with the exhaustive provisions of Article 5.4(7) of the Code.

six of receipt of that initial decision – request that the Landelijk Orgaan voor Wetenschappelijke Integriteit (The Netherlands Board on Research Integrity – LOWI) provide advice on that initial decision. Upon request, the Committee will immediately make copies of any documentation relating to the complaint available to LOWI. A term of six weeks will apply to the issuing of the second opinion.

5.2 If LOWI's advice has not been requested within the former term as referred to in paragraph 2, the Executive Board will determine its decision on the complaint.

5.3 If LOWI's advice has been requested, the Executive Board will take LOWI's opinion into account in its definitive assessment and in the decision to be taken on the basis thereof.

Paragraph 7. Protection of data subjects

The submission of a complaint under these regulations may not result in any detriment to the complainant, whether directly or indirectly, unless the complainant has not acted in good faith. This also applies to witnesses, experts, Confidential Advisors and members of the Committee.

Paragraph 8. Concluding provisions

8.1 In circumstances for which these regulations do not provide, the Executive Board of the relevant University of Applied Sciences will decide.

8.2 These regulations come into effect on 1 September 2021 and replace previous complaints regulations in the field of research integrity.

8.3 These regulations are published on the website of the University of Applied Sciences.

8.4 The Executive Board's findings with regard to those complaints that have been handled by the Committee since the adoption of these regulations, and with regard to which the Committee has established that research integrity has been breached, will be published, in anonymised form, based on the advice of the Committee and the final verdict of the Executive Board.

Adopted by the Executive Board of Fontys University of Applied Sciences on 6 April 2021.