



Undesirable Behaviour Complaints Procedure of Fontys University of Applied Sciences

(pertaining to 'Code of Conduct on Undesirable Behaviour of Fontys University of Applied Sciences')

Introduction

The Executive Board of Fontys University of Applied Sciences has decided, after hearing the Central Participation Council, to adopt a procedure for handling complaints relating to undesirable behaviour (sexual harassment, aggression, violence, intimidation, bullying, discrimination and abuse of power) as referred to in the Fontys Internal Rules of Conduct (Integrity Code) and the Code of Conduct on Undesirable Behaviour of Fontys University of Applied Sciences.

This complaints procedure is based on the current legislation and regulations.

Complaints relating to a workplace conflict that is experienced as an employment dispute are not in scope of this complaints procedure; such complaints can be submitted to the [Staff Ombudsman](#).

Article 1. Facilities

Anyone employed by, working for or studying (including course participants) at Fontys University of Applied Sciences ("Fontys") who is confronted with any form of undesirable behaviour by a Fontys student or staff member can report this (as a "person reporting") to a confidential advisor or submit a complaint about this (as a "complainant") to the designated help desk referred to in Article 5.1 .

Article 2. Confidential advisors

1. a. Fontys has a number of [confidential advisors](#), who are available at the various Fontys locations. Everyone is free to choose a particular confidential adviser.
 - b. Following a selection procedure, the Executive Board appoints confidential advisors for a period of five years, with the first year serving as a probationary period. Following an assessment of their performance, they may then be reappointed in this capacity, each time for a period of five years. Confidential advisors are in Fontys' employment and in principle hold another role or position in addition to their duties as confidential advisor.
 - c. On the confidential advisors' advice, one of them is also assigned the role of coordinator. If none of the confidential advisors are in a position to act as coordinator, a coordinator will be recruited internally or externally.
 - d. The confidential advisors are exclusively accountable to the Executive Board with regard to the performance of their duties. The coordinator is also accountable to the director of the HR department, but only with regard to the coordinating duties (so not with regard to the duties as confidential advisor).
2. Each year, the confidential advisors report on their activities in anonymised form to the Executive Board by means of an annual report. The coordinator of the confidential advisors meets at least once a year with a member of the Executive Board and/or the Executive Secretary to discuss the annual report, with another confidential advisor being in attendance.

Article 3. Duties of confidential advisors

1. The confidential advisors will draw up a separate code of conduct and/or protocol describing their working method. The code of conduct/protocol will be adopted by the Executive Board.
2. The confidential advisors' duties are as follows:
 - serving as a contact for a person reporting who has been confronted with sexual harassment, aggression, violence, intimidation (including abuse of power), bullying, discrimination or integrity issues;
 - advising the person reporting about potential follow-up steps and provide assistance in this context;
 - discussing with the person reporting what steps are to be taken in order to reach a solution;
 - offering support to a person reporting who considers submitting a complaint;
 - offering and providing after-care to the complainant;
 - providing solicited and unsolicited advice to the management (including the Executive Board and directors) on the subject of undesirable behaviour;
 - providing information within Fontys.
3. The confidential advisors have a duty of confidentiality (but not a legal right to refuse to give evidence) regarding everything they hear or read in their capacity as confidential advisor. This means that they are not allowed to disclose anything about the content of discussions or correspondence, but that this may be different if legal proceedings are instituted.
4. Confidential advisors will not assist any person against whom a complaint has been made ("complainee"). However, they can inform complainees about procedural aspects and, where applicable, refer them to an external party.

Article 4. Facilities for confidential advisors

The Executive Board will provide confidential advisors with the facilities they need for the performance of the duties assigned to them, including enabling them to attend study days and training sessions. The board of the department or institute where the confidential advisors work will help facilitate the performance of the duties ensuing from their appointment.

Article 5. Internal procedure prior to handling by external complaints committee

1. A complainant may submit a complaint to the designated help desk, either directly or after consulting with a confidential advisor: loket-ongewenst-gedrag@fontys.nl
2. The help desk will send the complainant a confirmation of receipt and forward a copy of the complaint to the complainee. The complainee's manager (and the complainant's manager, provided this is not the same manager) will receive a copy of this confirmation. The manager(s) is/are expected to talk to both the complainant and the complainee. In some cases (if the complaint concerns a deputy director or director) the term 'manager' may refer to the Executive Board.

3. If after the intervention of the manager(s) it is found that no solution can be reached, the help desk will request the complainee to respond to the complaint in writing.
4. The complainee's written response will be forwarded to the complainant.
5. If the complainant indicates that this response does not resolve the complaint, Fontys will send the file to the external complaints committee, requesting it to handle the complaint.

Article 6. External complaints committee

1. Fontys is affiliated with the Complaints and Objections Committee of the Foundation for Educational Disputes (*Stichting Onderwijsgeschillen*).
2. The working method of this external complaints committee has been laid down in regulations, which can be viewed on www.onderwijsgeschillen.nl.
3. The external complaints committee will only handle a complaint after the internal procedure (Article 5) has been followed. The referral to the external complaints committee is made by Fontys.
4. If a complaint is handled by the external complaints committee, the complainee will have the option to consult an external confidential adviser designated by Fontys.

Article 7. Decision of the Executive Board

1. The external complaints committee will issue an advice to the Executive Board regarding a complaint that has been handled.
2. The Executive Board may decide at any time to take measures or report a matter to the police, without waiting for the external complaints committee's advice.
3. The Executive Board will take a decision within four working weeks of receiving the external complaints committee's advice. The decision reached and the reasons for the decision will be communicated in writing to the complainant, the complainee and the manager concerned. The external complaints committee will also be informed. If the decision differs from the advice given, the Executive Board will explain the reasons for this. The abovementioned period can be extended by a maximum of four weeks, in which case the reasons for this are to be stated.
4. If the Executive Board adopts the advice, it may take the following action, depending on the advice:
 - a. for staff members: impose a measure in accordance with chapter P of the collective labour agreement for universities of applied sciences (CAO-HBO);
 - b. for students: impose a measure in accordance with Section 7.57h of the Higher Education and Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*, Whw);
 - c. for other persons: impose a measure tailored to the situation.

In addition, the Executive Board may propose other measures, in consultation with those involved, such as mediation, attendance of a training course, designating a different supervisor and/or transfer to a different group.

Article 8. Sex crime or sexual harassment towards a student

1. If the Executive Board is aware that a Fontys staff member may have committed or has committed a sex crime as referred to in Title XIV of Book 2 of the Dutch Code of Criminal Procedure (*Wetboek van Strafrecht*) or sexual harassment in the sense of intimidating sexual advances towards a Fontys student, the Executive Board or a representative of the Board will immediately contact the confidential educational inspector (see Section 6 of the Education Inspection Act (*Wet op het onderwijstoezicht*)).
2. When it must be concluded from the consultations with the confidential educational inspector that there is a reasonable suspicion that the staff member concerned has committed a sex crime as referred to in paragraph 1 above, the Executive Board or a representative of the Board will immediately report this to the police and the confidential educational inspector will be informed of this police report.
3. The Executive Board or a representative of the Board will inform the staff member concerned and the student concerned of the police report. If the student is under age, the Executive Board or a representative of the Board will also inform the parents.
4. If a Fontys staff member is aware that another Fontys staff member may have committed or has committed a sex crime or sexual harassment towards a student, the staff member must inform the Executive Board of this immediately.

Article 9. Appeals procedure

1. Pursuant to chapter P of the CAO-HBO, staff members can submit an objection to an imposed measure to the Executive Board and subsequently submit an appeal to the Appeals Board for Universities of Applied Sciences (*Commissie van beroep hbo*) of the Foundation for Educational Disputes (*Stichting Onderwijsgeschillen*).
2. After submitting an objection to an imposed measure to the Executive Board as referred to in Article 48 of the Fontys Students' Charter, students can submit an appeal to the Administrative Jurisdiction Division (*Afdeling Bestuursrechtspraak*) of the Council of State (*Raad van State*).
3. The appeals procedure will be set out in the relevant decision of the Executive Board.

Article 10. Protection

Complainants and confidential advisers may not be prejudiced in their position of Fontys staff members as a result of submitting a complaint or performing their work. Students submitting a complaint will likewise be protected against the consequences of this. The foregoing will also apply after the handling of the complaint has been finalised for as long as the student is enrolled at Fontys or the staff member is employed by Fontys.

A complainee will enjoy protection against (the consequences of) the complaint submitted as long as the Executive Board has not decided on the complaint.

If desired, the complainee can obtain advice and support from an external confidential adviser to be designated by Fontys.

Article 11. Provision of information to the external complaints committee

Staff members employed by Fontys are obliged to provide the information requested by the external complaints committee and are obliged to observe confidentiality in respect of this request and the provision of information. Students are requested to do the same.

Article 12. Confidentiality

Reports and complaints of undesirable behaviour are treated confidentially.

All persons who are involved in the submission and handling of the complaint or who have become aware of it in some other capacity are obliged to observe confidentiality. This obligation will continue to exist when the person(s) involved is/are no longer covered by the complaints procedure.

Arrangements can be made about communication after the end of the procedure, in consultation with those involved.

Article 13. Evaluation

This complaints procedure will be evaluated after three years.

Article 14. Other provisions

1. All matters not provided for by this complaints procedure will be decided by the Executive Board of Fontys.
2. This complaints procedure can be cited as “Undesirable Behaviour Complaints Procedure of Fontys University of Applied Sciences” (*Klachtenregeling ongewenst gedrag Fontys Hogeschool*).
3. This complaints procedure takes effect from 1 January 2024 and replaces the “Undesirable Behaviour Procedure” (*Regeling ongewenst gedrag*) from 2010 with effect from that date.

The complaints procedure was adopted by the Executive Board on 5 September 2023.

The consent of the Central Participation Council was obtained on 14 September 2023.