



Regulation Undesirable Behaviour for Staff

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Introduction

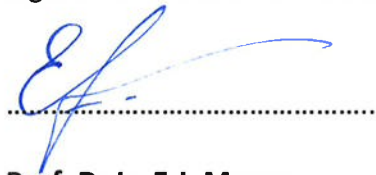
IHE Delft Institute for Water Education (IHE Delft) is a unique and diverse community where we think, speak and act with respect for each other. IHE Delft Institute for Water Education wants to provide a safe social environment and culture, where undesirable behaviour will not be tolerated.

Collegiality, respect and paying attention to colleagues are our regular manners. We prevent undesirable behaviour because it may create a hostile, intimidating, unpleasant working environment with a possible negative effect on performance.

This regulation of conduct applies to all employees of IHE Delft Institute for Water Education including temporary employees, consultants and staff of third parties. Also, this regulation applies to the extent that the undesirable behaviour has taken place in the location and/or is directly related to work.

The Rectorate has adopted the following regulations with the consent of the Works Council (WoC).

Signed on behalf of IHE Delft:



Prof. Dr Ir. E.J. Moors
Rector IHE Delft Institute for Water Education

Place: Delft, The Netherlands

Date: 22-11-2017

Art. 1 Definitions

In this regulation, the following definitions apply:

- a. **Undesirable behaviour** is defined as direct or indirect, unwanted statements or actions, expressed in verbal, non-verbal, or physical conduct towards a person which is experienced by this person as uninvited and unwelcome and constitutes a breach of this person's integrity, leading to psycho-social work- or other pressure, including (sexual) harassment, discrimination, aggression and violence, and bullying in circumstances directly related to work.
 1. Sexual harassment is defined as any form of verbal, non-verbal or physical conduct of a sexual nature, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating, or offensive environment.
 2. Discrimination is defined as treating an employee differently than another person is, has been, or would be treated in a similar situation based on religion, philosophy of life, political opinion, race, sex, nationality, heterosexual or homosexual orientation, marital state, age, handicap or chronic illness, or based on whatever ground as referred to in Article 1 of the Netherlands Constitution (Grondwet).
 3. Aggression and violence are defined as incidents whereby an employee is mentally or physically harassed, threatened, or attacked in circumstances directly related to work.
 4. Bullying is defined as all forms of intimidating behaviour of a structural nature, by one or more employees (colleagues, supervisors) aimed against one employee or against a group of employees.
- b. **IHE Delft**: IHE Delft Institute for Water Education;
- c. **Employee**: a person who is working for or at IHE Delft on the basis of an employment contract with IHE Delft;
- d. **Course participant**: a student registered in the central student administration system at IHE Delft;
- e. **Temporary or external worker**: a person who is working for or at IHE Delft as temporary or external staff on the basis of an employment contract with a third party other than IHE Delft or as a consultant;
- f. **Supervisor**: the immediate manager or (academic) supervisor of an employee, temporary or external worker, course participant or visitor;
- g. **Complainant**: the employee (or temporary or external worker) who files a complaint to the Complaints Committee under this Regulation;
- h. **Alleged perpetrator**: the person about whose conduct a complaint has been filed to the Complaints Commission under this Regulation;
- i. **Confidentiality Counsellor**: the person who has been appointed as Confidentiality

Counsellor by the Rectorate in consultation with the Works Council (WoC). He/she is trained to support complainants during the complaints procedure. Normally, at least one Confidentiality Counsellor is available to staff;

- j. **Complaints Committee:** Complaints Committee to review and handle complaints with respect to undesirable behaviour, also referred to as 'the Committee', established by the Rectorate (Managing Board) referred to in article 6 in these Regulations;
- k. **Governing Board:** the Board is responsible for safeguarding the continuity of IHE Delft's operations by providing funds and resources. The Dutch Ministry of Education, Culture and Science approves the nomination of a candidate for the role of a Chairman of the Governing Board;
- l. **Rectorate (or Managing Board):** the Rectorate of IHE Delft consist of three members, namely a Rector, Vice-Rector and Business Director who are responsible for the strategy, i.e. strategy implementation and execution, and daily operations of the Institute.

1. Code of Conduct Undesirable Behaviour

Art. 2 General

IHE Delft wants to prevent undesirable behaviour by creating a safe social environment and culture. Our policy regarding prevention consists of:

- Communication of the regulation;
- Informing staff, supervisors and employees on a regularly basis on the subject, facts and figures and how to stimulate desirable behaviour;
- Mapping risks in the Risk Inventory and Evaluation (RI&E), systematically eliminating or reducing the risks relating to undesirable behaviour;
- Appointing a Confidentiality Counsellor and provide a Complaint Regulation;
- Monitoring adherence to this regulation.

If it occurs, we want to tackle undesirable behaviour. We expect an active contribution from all employee's at IHE Delft. Not only regarding one's own behaviour, but also in dealing with undesirable behaviour from others.

If you observe or are confronted with undesirable behaviour from one or more person(s), first try to find a satisfactory solution together. If this does not work or if you feel uncomfortable with it, you can ask your supervisor or HR advisor for help. If you need support in a situation that requires confidentiality, you can consult the Confidentiality Counsellor.

Art. 3 Confidentiality Counsellor

When it is not possible to resolve an issue of undesirable behaviour in dialogue with the person(s) involved, an employee (or a temporary or external worker) or supervisor can consult the Confidentiality Counsellor. The Confidentiality Counsellor listens, provides information, offers advice, supports and assists the employee in case of a formal complaint.

Any experience, suspicion, question or doubt can be discussed. If related to undesirable behaviour, the employee can discuss the problem with the Confidentiality Counsellor in a confidential setting. The Confidentiality Counsellor treats reports and complaints regarding undesirable behaviour with strict confidentiality and only informs third parties with the employee's explicit permission. IHE Delft has appointed an external, independent, Confidentiality Counsellor. Appointments can take place outside IHE Delft.

2. Complaints Procedure Undesirable Behaviour

Art. 4 Right to file a complaint

Any employee (and temporary or external workers) has the right to file a complaint according to the Regulation Undesirable Behaviour for staff. The Complaints Committee of IHE Delft will act in accordance with the Regulation. The Confidentiality Counsellor can advise and support the employee during the procedure and in the event of a hearing.

Where a complaint has been lodged with the Rectorate or the Confidentiality Counsellor, the complaint will need to be sent to the Committee imminently. If the Complainant contacts the Confidentiality Counsellor first, the latter will act as a low-threshold point of contact for any questions and complaints about undesirable behaviour and will provide the Complainant with pointers regarding submitting a complaint with the Committee.

If the complaint concerns a member of the Rectorate, the complaint should be submitted with the Committee, whether or not it be through the Governing Board or the Confidentiality Counsellor. In such a case, the Committee shall report to the Governing Board, who shall exercise their powers as set out in article 6.

The complaint must be submitted within five years of the undesirable behaviour occurring. This complaint regulation applies equally to any complainant who is no longer working at IHE Delft at the time of submitting the complaint.

Art. 5 Confidentiality Counsellors for undesirable behaviour

1. The Rectorate will appoint at least one external Confidentiality Counsellor;
2. It is the duty of the Confidentiality Counsellor to:
 - Act as a contact for the employee who has been faced with undesirable behaviour;
 - Assist, inform, counsel and advise the employee about the possible ways of resolving the problem with undesirable behaviour;
 - Advise or assist in any further steps to be taken by the employee; in which case the Counsellor does not act personally as a mediator or problem solver;
 - Assist and counsel the employee faced with undesirable behaviour with the submission of the complaint to the Committee, during procedure, and in the event of a hearing;
 - Provide aftercare to the employee who has been confronted with undesirable behaviour and/or has filed a complaint;
 - Advise on request as well as on own initiative, on policy matters concerning undesirable behaviour, based on signals received and problems identified
 - Registers the number and nature of complaints received and submits an anonymised annual report on these to the Rectorate
 - Advise the Rectorate on request as well as on own initiative.
3. The Confidentiality Counsellor is authorized to consult external experts. He/she will do so in consultation with the Rectorate, without revealing the identity of

the complainant. Budget will be made available for this purpose when the need arises;

4. The Confidentiality Counsellor will treat reports and complaints confidentially and will only inform third parties with the consent of the employee or complainant. This provision applies to the extent that the law does not provide otherwise;
5. The Confidentiality Counsellor has the right to decline handling a case.

Art. 6 The Complaints Committee

1. The Rectorate establishes a Complaints Committee. At the end of each year, the Rectorate will evaluate whether the Committee meets IHE Delft's requirements in terms of suitability and effectiveness;
2. The Committee consists of preferably three members and there are also ideally three substitute members as back-up, including one chairperson, a legal specialist or lawyer and one member with relevant expertise in undesirable behaviour. Members of the Complaints Committee are external, do not have a work history with IHE Delft as an employee, whereas the aim is to include both men and women;
 1. The members are appointed by the Rectorate. Appointment is for a period of at least one year. At the end of this period, the members are eligible for reappointment immediately. They can be reappointed an indefinite number of times;
 2. If required, the Committee is supported by an administrative secretary, appointed by the Rectorate;
 3. The members of the Committee must be impartial, may have no personal interest in the handling of the complaint and may not be involved in the complaint;
 4. Members of the Complaints Committee have the right to decline handling a case;
 5. The members of the Committee, the administrative secretary of the Committee and all those involved in the treatment of the complaint are bound to confidentiality on all matters that come to their notice relating to or in connection with the complaint;
 6. The Committee registers the number and nature of the complaints received and/or incidents that have been investigated and submits an anonymised annual report on these to the Rectorate.

Art. 7 Submitting a complaint

1. The complainant submits a written complaint to the Committee in the English (preferred) or Dutch language;
2. The complaint is sent in an envelope addressed to the Committee and marked 'Private and confidential';
3. Once a complaint has been received, the Committee will confirm receipt in writing to the complainant.

Art. 8 Admissibility

1. To be admissible, the written complaint must contain at least:
 1. The name and address of the complainant and the name of the alleged perpetrator;
 2. The complaint contains a substantiated description of the undesirable behaviour experienced and states the period in which it has taken place;
 3. The date and signature of the complainant.
2. It is possible that more complainants submit a complaint adding to the same case of undesirable behaviour which then need to be dealt with under these Regulations;
3. As referred to in article 4, the behaviour did not take place more than five years before the complaint was submitted;
4. The complaint does not normally relate to behaviour that is or has been subject of proceedings before a court of law although this cannot be excluded at the time of submitting;
5. The complaint does not normally relate to behaviour that is subject to a criminal investigation or is being prosecuted although this cannot be excluded at the time of submitting;
6. If the requirements of Article 8 are not met, the Complaints Committee advises the Rectorate to declare the complaint inadmissible, provided that the complainant has been given the opportunity to rectify the omission. If the complaint is inadmissible, the complainant is informed in writing without delay, but not later than four weeks after the complaint was received by the secretary.

Art. 9 The Complaint Procedure

1. The Complaint Committee investigates the actual facts relating to the complaint;
2. The Committee informs the alleged perpetrator and hears both the complainant and the alleged perpetrator;
3. After hearing of both parties the Complaint Committee can decide to hear witnesses or experts;
4. If there is a conflict of interest, any person involved in an incident can recuse a member of the Committee for substantiated reasons. If grounded the Rectorate should replace the member on this particular occasion only;
5. The Complaints Commission's file is confidential and the sessions of the Complaints Committee take place behind closed doors;
6. Having heard both parties, the Complaints Committee can decide, whether at the request of the complainant or alleged perpetrator, to hear witnesses or experts;
7. A report is made of all hearings. It is signed for approval by the person heard, with or without comments, and subsequently forms part of the Complaints Committee's file;
8. Based on the progress of the case, the Complaints Committee can advise the Rectorate to take temporary measures in the interest of the investigation or required by the position of one or more persons involved in the investigation;
9. The Complaints Committee delivers a written report preferably in English on every hearing. It is signed for approval by the person heard, with or without comments and subsequently forms part of the Complaint Committee's file;

10. The Complaints Committee deals with a complaint without delay, unless it would interfere with a careful procedure.

Art. 10 Report and advice

1. The Complaints Committee reports without delay to the Rectorate on the findings relating to its enquiries. With the report, the Complaints Committee provides advice on how to settle the complaint. The Complaints Committee sends a copy of the report and the advice to the complainant and the alleged perpetrator;
2. The report and the advice of the Complaints Committee are confidential;
3. If relevant to the complaint, the advice can also contain:
 1. Advice to the Rectorate regarding measures to be taken;
 2. Advice on an aftercare process.

Art. 11 Decision

After having received the Complaints Committee's report and advice, the Rectorate makes a decision on how to settle the complaint. If the Rectorate deviates from the Complaints Committee's advice, their decision must be well-informed.

Art. 12 Deadlines

1. The processing of the complaint takes place within ten weeks of receipt of the complaint up to the decision made by the Rectorate;
2. The Rectorate or the Complaints Committee may postpone the processing for a maximum of four weeks;
3. Further postponement is allowed when the complainant agrees in writing.

Art. 13 Temporary measures and arrangements before or in response to the advice

1. The Rectorate may at all times, whether at the request of the Complaints Committee or the Confidentiality Counsellor or otherwise, take temporary measures if, as a result of (suspected) undesirable behaviour, a situation is created that is untenable for one or more people involved or if this is considered necessary in the interest of the investigation;
2. The temporary measures and necessary arrangements which the Rectorate may take regarding the alleged perpetrator might have immediate consequences for his/her position, i.e. tasks and/or responsibilities, in the organization;
3. The consequences which the Rectorate may attach to a well-informed advice from the Complaint Committee, related to a complaint, include disciplinary measures in conformity with the Collective Labour Agreement (CLA or in Dutch CAO) and provisions on the employment contract according to Dutch Civil Code against the person who has been found guilty of undesirable behaviour.

Art. 14 Complaints file

The file on a complaints procedure will be destroyed after five years.

Art. 15 Miscellaneous provisions

1. An employee who has been involved, in whatever matter, in a complaints procedure as set out in these Regulations will not suffer any negative

consequences as to his/her position within IHE Delft. This principle does not apply to a person who under these Regulations has been found guilty of undesirable behaviour;

2. The Rectorate decides in cases not provided for by these Regulations.

Art. 16 Works Council (WoC)

1. The Rectorate annually informs the Works Council (WoC) of the Confidentiality Counsellor's report stating the number and type of complaints, however, using anonymous data;
2. The Rectorate annually informs the Works Council (WoC) of the Complaints Committee's report stating the number and type of complaints as well as the advice for each case, however, using anonymous data.