



# Regulations concerning confidential advisers

(adopted on 22 June 2022)

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We believe that a safe and pleasant study and work environment within the Amsterdam University of the Arts (AHK) is of the greatest importance. Social safety, integrity and respect are conditions for a successful study and work time, and transgressive behaviour is therefore unacceptable. Students and employees who experience undesirable behaviour can, among other things, contact a confidential adviser. A confidential adviser listens, informs, advises, is independent, impartial and handles confidentiality with care. Agreements about the duties, role, powers and appointment of confidential advisers are laid down in these Regulations concerning confidential advisers, in accordance with Article U-1 of the 'Collective Labour Agreement for Higher Professional Education' (*CAO voor het hoger beroepsonderwijs*). The definitions of the terms used in these regulations are specified in Article 7 Definition of terms.

## **Article 1. Duties and role**

1. The tasks of the confidential adviser include:
  - a. providing a listening ear, information and advice to those people who would like to discuss undesirable behaviour confidentially;
  - b. assisting, supervising and supporting those who report undesirable behaviour within the meaning of the 'Code of Conduct for Social Safety';
  - c. assisting, supervising and supporting those who lodge a complaint with the Complaints Committee within the meaning of the 'Complaints procedure regarding undesirable behaviour: (sexual) intimidation, discrimination, aggression/violence and bullying';
  - d. discussing the possibilities of an informal resolution process with the person reporting, including mediation between the person reporting and the alleged perpetrator/individual in question, a discussion between the person reporting and the management or a similar discussion with the University;
  - e. advising the management, if so desired by the person reporting, to proceed to a mediation meeting between the person reporting and the alleged perpetrator/individual in question. The management is responsible for organising the meeting and bringing in an independent internal or external moderator. The confidential adviser can, if so desired, be present during the mediation in order to support the person reporting;
  - f. referring the person reporting, in so far necessary and if so desired, to specialised support agencies.
2. The confidential adviser can draw the attention of the person reporting to the possibility of reporting the incident to the police, as well as supervising this process, if there has been a criminal offence, such as (sexual) violence, threats, stalking, punishable discrimination, theft or vandalism.
3. The confidential adviser is at the disposal of the person reporting and not the alleged perpetrator/individual in question. If an alleged perpetrator/individual in question requests support from the confidential adviser, they will be referred to a specialised confidential adviser, for example employed by the occupational health and safety service.
4. The confidential adviser will not undertake any steps without the prior approval of the person reporting.

## **Article 2. Powers**

The confidential adviser is authorised to:

- a. consult (one of the) other confidential advisers;
- b. guide the person reporting during mediation or other types of meetings in the University about the reported case;
- c. guide the complainant when submitting a complaint to the Complaints Committee for Undesirable Behaviour;



- d. advise the management and/or the Executive Board on follow-up care for the benefit of the person reporting;
- e. inform the Executive Board and the management in an anonymised form and in broad outlines about (structural) problems, which could lead to undesirable behaviour at the University and to offer advice about rules of conduct and preventative policy, with due observance of Article 3.

### **Article 3. Confidentiality**

1. The confidential adviser is responsible for ensuring the confidential nature of the information that has made available and will take the greatest possible care in safeguarding the privacy of the persons involved in the event of a report. Ensuring confidentiality shall continue to exist after the confidential adviser has ended their role as confidential adviser.
2. Breaching the promised confidentiality is only possible if the person reporting gives consent for this, with the exception of Article 3.3.
3. In specific cases, there are statutory obligations and circumstances that justify the breaching of confidentiality, for example extremely serious facts, such as a sexual offence against a minor, (a real threat of) violence towards the person reporting or a third party, manslaughter or murder, or if a confidential adviser is asked by the police and judicial authorities to cooperate with an investigation. In all these cases, the confidential adviser is responsible for ensuring that everything is done to obtain the consent of the person reporting before breaching confidentiality and that the breach, whether or not with the consent of the person reporting, can be substantiated. This subsection also relates to the Domestic Violence and Child Abuse Reporting Code of the University. The confidential adviser shall notify the person reporting of this qualification.

### **Article 4. Exemption**

A confidential adviser can request to be exempted (not to handle the report themselves) if:

- a. the confidential adviser is involved with the person reporting or the alleged perpetrator/individual in question in a work-related capacity or personally. In this case, the matter will be referred to one of the other confidential advisers;
- b. it cannot or can no longer reasonably be expected of them to act as confidential adviser of the person reporting.

### **Article 5. File management, responsibility and reporting**

1. A confidential adviser manages the files of cases put forward exclusively for their own use in the role of confidential adviser, whereby the files are protected from unauthorised persons and only accessible to other confidential advisers if the file is transferred.
2. After handling of the report, the file concerned is destroyed after two years.
3. Every year, the confidential advisers jointly report to the Executive Board on the number, nature and manner of treatment of the cases handled, whether settled or not, and the results of the mediation. This report is anonymised and does not contain any details that can be traced back to persons.
4. The details referred to under 5.3 are included in the annual report of the University.

### **Article 6. Appointment**

1. The Executive Board establishes a selection committee that is responsible for the recruitment, selection and nomination of confidential advisers on the basis of profile for confidential advisers determined in advance.
2. This selection committee consists of the P&O adviser for confidential advisers, the coordinator for confidential advisers (chosen from among the confidential advisers), and an academy director.



3. When nominating and appointing the confidential advisers, an attempt is made to ensure a good distribution across the academies and the service bureau, and a diverse team composition is also sought.
4. The P&O adviser for confidential advisers informs the Executive Board when a gap and/or vacancy arises in the team of confidential advisers.
5. The confidential adviser has at least higher professional education or equivalent ability and has followed and passed a certified training recognised by the University that is focused on the role of confidential adviser.
6. The selection committee submits an appointment proposal to the Executive Board and the Executive Board makes a choice.
7. The Executive Board appoints at least two internal confidential advisers. In addition, the Executive Board appoints at least one external confidential adviser.
8. The confidential adviser falls hierarchically under the Executive Board and not under the day-to-day supervisor within the University.
9. Members of the Supervisory Board, the members and the secretary of the Executive Board, and the members of the management, the Complaints Committee and the participation councils, deans and employees of the personnel department cannot be appointed as confidential advisers.
10. The appointment takes place for a period of five years. Confidential advisers can be reappointed for a period of five years, whereby turnover and diversity of the team form part of the criteria.
11. The Executive Board provides the facilities and remuneration which the confidential advisers require for their performance.

### **Article 7. Definition of terms**

In these regulations, the following terms are defined as stated below:

- a. **University:** The Amsterdam University of the Arts, originating from the *stichting Amsterdamse Hogeschool voor de Kunsten* (Amsterdam University of the Arts foundation, AHK);
- b. **Executive Board:** the Executive Board as referred to in the articles of association of the University;
- c. **Supervisory Board:** the Supervisory Board as referred to in the articles of association of the University;
- d. **Confidential adviser:** the confidential adviser is appointed by the Executive Board and acts as point of contact for students and employees who have experienced undesirable behaviour;
- e. **Student:** the person who is enrolled in education at the University, that is to say all higher professional education (hbo) students (Bachelor's, Associate Degree, Master's) and external students, guest students, participants in contract education and students of preparatory courses;
- f. **Employee:** the person who has a permanent or temporary contract with the University. Those who are made available to the University through a temporary employment, internship or secondment contract, or those employed on the basis of a contract for the provision of services, or otherwise, are considered equivalent to an employee;
- g. **Person reporting:** a student or employee of the University who reports undesirable behaviour;
- h. **Report:** a report exists if a student or employee of the University reports an instance of undesirable behaviour or an undesirable situation to the confidential adviser;
- i. **Undesirable behaviour:** behaviour as referred to in sections j up to and including n of this article;
- j. **Intimidation:** frightening someone by means of verbal, physical or psychological threats with the intention of putting pressure on the person threatened and forcing them to do something, not do something or endure something. The victim actually feels forced into behaviour that the perpetrator would not normally be able to demand of them;
- k. **Sexual intimidation:** any form of verbal, non-verbal or physical behaviour with a sexual connotation, the purpose or consequence of which is to offend the person's



dignity, especially if a threatening, hostile, insulting, humiliating or hurtful situation is created. Sexual intimidation can be both intentional or unintentional;

- l. Discrimination: unlawful distinction on the basis of origin, skin colour, gender, sexual orientation, age, physical or mental impairment or chronic condition, political affinity, employment relationship, employment contract, civil status, nationality, religion or ideological beliefs. Examples include discrimination or pronouncements, actions and decisions that are insulting or humiliating;
- m. Aggression and violence: incidents where someone is psychologically and/or physically harassed, threatened or attacked under circumstances that are directly related to the study or work situation. Aggression and violence can be verbal, non-verbal, physical and/or psychological (for example threatening);
- n. Bullying: recurring intimidating behaviour aimed at deliberately hurting or humiliating one or more persons. Bullying behaviour can manifest itself in different ways, for example verbally, by ridiculing someone, gestures, via (social) media, stalking, threats or damaging possessions;
- o. Complaint: a complaint exists if a student or employee of the University submits a complaint about undesirable behaviour to the Complaints Committee for Undesirable Behaviour;
- p. Complaints Committee: the Complaints Committee for Undesirable Behaviour, as referred to in Complaints procedure regarding undesirable behaviour: (sexual) intimidation, discrimination, aggression/violence and bullying;
- q. Complainant: student or employee of the University who submits a complaint to the Complaints Committee for Undesirable Behaviour;
- r. Alleged perpetrator or individual in question: the person to whom the suspicion of breaching the Code of Conduct for Social Safety or Integrity Code related and/or about whose behaviour a report or complaint is submitted;
- s. Exemption: a confidential adviser does not handle a report themselves (anymore) due to certain circumstances. Exemption is a means to guarantee the impartiality of confidential advisers;
- t. WHW: the Dutch Higher Education and Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*, WHW);
- u. Regulations: which are referred to: Code of Conduct for Social Safety, the Student Charter, the Complaints procedure regarding undesirable behaviour: (sexual) intimidation, discrimination, aggression/violence and bullying, and the Domestic Violence and Child Abuse Reporting Code. These regulations can be consulted on the website <https://www.ahk.nl/en/regulations/>.

## **Article 8. Final provisions**

1. These regulations can be cited as the 'Regulations concerning confidential advisers'.
2. These regulations were adopted by the Executive Board on 22 June 2022, after obtaining the consent of the University Council on 21 June 2022.
3. These regulations shall enter into force on 22 June 2022 and replace preceding regulations and articles concerning confidential advisers.