Academy’s Research Integrity Complaint Procedure

Preliminary remarks

The Netherlands Code of Conduct for Research Integrity 2018 lays down the guiding principles of correct and honest academic practice and the resulting standards for proper research practice. These principles and standards are also endorsed by the Royal Netherlands Academy of Arts and Sciences (KNAW, “the Academy”) and they apply as guidelines as referred to in Section 1.7 of the Dutch Higher Education and Research Act [Wet op het hoger onderwijs en wetenschappelijk onderzoek, WHW]. Within the Academy, all those involved in research have their own responsibility for maintaining research integrity. Everyone must make every effort to ensure that the standards are carefully complied with. A complaint may be submitted if research integrity is thought to have been violated. The Academy ensures that a careful, fair procedure is in place for dealing with complaints and the subsequent decision-making. The Academy Board has drawn up the following procedure in order to achieve this. These rules shall be applied as far as possible by analogy if an investigation into a possible violation of research integrity is instituted at the request of the Academy Board without a complaint having been submitted.

The rules are based on the National Model Research Integrity Complaints Procedure drawn up by the Association of Universities in the Netherlands (VSNU).

Where this procedure utilises the masculine form, the reference should be taken as being to both men and women.

Section 1 Definitions

1.2 Violation of Research Integrity: An act or omission that constitutes a Violation of Research Integrity within the meaning of Sections 5.2 (A) (1), (2), or (3) of the Code of Conduct.
1.3 Complaint: A written report regarding an alleged Violation of Research Integrity committed by an Employee.
1.4 Complainant: The party who submits a Complaint to the Committee or the Confidential Counsellor.
1.5 Defendant: The Employee whose conduct is the subject of a Complaint, or whose conduct is the subject of an investigation by the Committee at the request of the Board.
1.6 Employee: A person who is or has been employed by the Academy or who is or has been otherwise employed under the responsibility of the Academy; this also includes persons who are not Employees, or only part-time Employees, of the Academy in so far as they participate in Academy research or who publish their research under the name or responsibility of the Academy. Persons are excluded who are only involved in the research in a support role.
1.7 Confidential Counsellor: The person appointed by the Board as a Research Integrity Counsellor.
1.8 Committee: The Committee appointed by the Board to deal with Complaints regarding Violations of Research Integrity.
1.9 Board: the Board of the Academy.

Section 2 General Provisions

2.1 Anyone has the right to consult the Confidential Counsellor in the event of an alleged Violation of Research Integrity.
2.2 Anyone has the right to submit a Complaint to the Committee, which shall notify the Board of receipt of the Complaint without delay. A Complaint can only be submitted regarding an alleged Violation of
Research Integrity. The Complaint must sufficiently substantiate why the Complainant considers that research integrity has been violated.

2.3 The Board may request the Committee to investigate an alleged Violation of Research Integrity even if no Complaint has been submitted.

2.4 An anonymous Complaint shall only be dealt with if the Committee or the Board sees reason to do so because:
   - compelling public interests or compelling interests of the Academy or of third parties so require; and
   - the fact-finding investigation may be carried out without input from a Complainant.

2.5 If the Complaint concerns a person who is or has been an employee of multiple institutions that have endorsed the Code of Conduct and the Complaint could therefore be investigated at multiple institutions, the Complaint may be handled jointly or the institutions concerned may make other arrangements as to how it should be handled. In such case, the Committee shall decide on how it is to be handled.

2.6 Without prejudice to the provisions of the law or other binding regulations, everyone shall be obliged, within the set reasonable period of time, to furnish the Confidential Counsellor and the Committee with all such cooperation as these can reasonably request in the exercise of their powers.

2.7 Anyone involved in the handling of a Complaint shall be required to maintain confidentiality with regard to the notification that a Complaint has been or is being made, the content of the Complaint, and the information which has become known in connection with the Complaint or the procedure. This confidentiality obligation shall also apply after the procedure has been completed, with the exception of the anonymised presentation of cases in annual reports or on a website. The Committee or the Board may attach appropriate consequences to a violation of the confidentiality obligation, including termination of handling of the Complaint.

Section 3 Research Integrity Counsellor

3.1 Appointment
a. The Board shall appoint one or more Confidential Counsellors for a period of four years. Said Counsellor(s) may be reappointed for consecutive periods of four years.

b. The Confidential Counsellor shall have a scientific background, be a member of the Academy, have an impeccable academic reputation, and be able to deal effectively with contradictions and conflicts. The Confidential Counsellor may not hold any ancillary position that might interfere with his functioning as a Confidential Counsellor.

c. The members of the Board, the directors of the Academy institutes, the Director General, and the members of the Committee shall not be eligible for appointment.

d. The Board may terminate an appointment prematurely:
   - at the request of the Confidential Counsellor;
   - due to the person concerned no longer meeting the requirements for appointment;
   - due to unsatisfactory performance as a Confidential Counsellor.

3.2 Duties
The Confidential Counsellor:

a. shall act as a low-threshold point of contact for questions and Complaints regarding research integrity;

b. shall attempt, if such appears possible, to mediate or otherwise resolve the Complaint in an amicable manner;

c. shall indicate to the Complainant, where appropriate, how the latter can submit a Complaint to the Committee;

d. shall not simultaneously assist both the Complainant and the Defendant;

e. shall only act for the benefit of the Complainant or Defendant with their consent.
3.3 Accountability
In a subsequent annual report, the Confidential Counsellor shall render an account to the Board regarding the activities carried out, for the purpose of the Academy’s annual report. Said account shall report in general terms on the cases dealt with and the activities carried out. It shall not be possible to trace the content of the report to individuals. The Confidential Counsellor shall, furthermore, be obliged to maintain confidentiality with regard to everything that has come to his knowledge in that capacity. This obligation may only be departed from with the express consent of the Complainant and the Defendant.

Section 4 Committee on Research Integrity

4.1 Appointment and Composition
a. The Board shall appoint a Committee consisting of a chairperson and at least two other members. At least one of these persons should preferably be a legal expert, and the Committee should display gender diversity.
b. The chairperson and members shall be appointed by the Board.
c. The provisions of Section 3.1 shall apply mutatis mutandis, on the understanding that a Confidential Counsellor shall not be eligible for appointment as chairperson or member of the Committee.
d. In making the appointments, the Board shall strive for a balanced representation of the different academic disciplines.
e. In investigating a particular Complaint, membership of the Committee may be temporarily extended to include experts or ad hoc members, who may or may not be affiliated with the Academy. The ad hoc members shall have the same duties, powers, and responsibilities during the Complaint procedure as the members of the Committee.
f. The Committee shall be assisted by a secretary.

4.2 Duties
The Committee shall be charged with investigating Complaints, assessing whether research integrity has been violated, and advising the Board on the matter. At the request of the Board, the Committee may also carry out an investigation and deliver its advice on the matter without a Complaint having been submitted.

4.3 Powers
a. The Committee shall be authorised to gather information from all Academy Employees and bodies. It may require access to any documentation and correspondence which it considers relevant to its investigation, or require copies thereof, and may, if it considers such to be necessary, seize such documentation and correspondence, or have it sealed.
b. The documentation referred to in the previous subparagraph shall also include the investigation data to which the Complaint relates. If the Committee considers such to be necessary, parts of the research and the relevant data that are not publicly available shall be made available for checking by two persons appointed by the Committee for that purpose. Said persons shall carry out their check in strict confidentiality and shall only share their findings with the Committee. The findings concerned shall be presented in the Committee’s advisory report in such a way that the confidentiality of the research or the research data is not compromised.
c. The Committee may consult experts or other third parties, whether or not affiliated with the Academy. A report shall be drawn up of such consultation. The parties shall be informed as to the identity of the experts or third parties consulted. The Committee may decide, for compelling reasons, to keep confidential the identity of the experts or third parties who have been consulted.
4.4 Working Method

a. In so far as the working method of the Committee has not been laid down in these or further procedures, it shall be determined by the chairperson.

b. Unless Section 2.5 applies, a Complaint shall be dealt with by the chairperson of the Committee and two other members, perhaps supplemented by one or more experts or ad hoc members. Such experts or ad hoc members shall be appointed by the Board at the Committee's request.

c. Members of the Committee who are in any way involved with the persons or facts to which the Complaint relates or who otherwise have an interest in the matter shall not be eligible to deal with a Complaint.

4.5 Commencement of the Procedure

a. Upon receiving the Complaint, the Committee shall notify the Complainant and the Defendant within two weeks, in writing, that it has received the Complaint, and shall inform the Complainant and Defendant of the procedure to be followed and of the content of the Complaint. The Committee shall also notify the Board that a Complaint has been submitted.

b. The Committee shall assess the admissibility of the Complaint on the basis of the following requirements:

   I. the Complaint contains a clear description of the alleged Violation of Research Integrity by one or more Employees and is accompanied by the relevant written documents or other evidence;

   II. the Complaint is dated and states the name, position, and contact details of the Complainant. This requirement shall not apply if Section 2.4 applies. The Complaint shall also state the name and position(s) of the Defendant(s).

c. If the Complaint is written in a language other than Dutch and a translation of the Complaint is deemed necessary in order for it to be properly considered, the Complainant shall provide such translation.

d. If the Complaint is incomplete, the Committee shall afford the Complainant the opportunity to supplement the Complaint within a period of time set by the Committee. The period referred to in 4.5(g) shall then be extended by the period referred to in the previous sentence or the period within which the supplement to the Complaint has been provided.

e. The Committee shall be authorised to advise the Board not to deal substantively with a Complaint if:

   I. too long a period of time has elapsed since the alleged violation, or the Complainant has waited unreasonably long to submit the Complaint. In principle a term of ten years shall apply;

   II. the Complaint has already been investigated by the Committee or a similar committee and no new relevant facts have become available;

   III. a different complaint, objection, or appeal procedure arranged by the Academy is or has been open to the Complainant regarding the conduct to which the Complaint relates;

   IV. the Complainant has violated the confidentiality obligation set out in Section 2.7;

   V. the omission as referred to in d of this subparagraph has not been rectified within the set period of time;

   VI. the alleged violation was not committed by an Employee.

g. The Committee shall also be authorised to advise the Board not to deal substantively with a Complaint if, on the basis of an initial assessment, it has come to the conclusion that the Complaint:

   I. is manifestly unfounded;

   II. is manifestly of insufficient importance;

   III. involves solely a professional difference of opinion;

   IV. is traceable solely to a conflict regarding employment;

   V. cannot lead to the conclusion that the Defendant's conduct constitutes a Violation of Research Integrity.

h. If the Committee considers that the Complaint is inadmissible, or should not be dealt with substantively, it shall submit its advice to that effect to the Board within four (4) weeks.

i. The Board shall then decide as quickly as possible whether to declare the Complaint inadmissible or not to deal with it substantively, and shall send its decision to the Complainant and the Defendant.
the Board decides to declare the Complaint inadmissible or not to deal with it substantively, this shall constitute an initial decision as referred to in Section 5.1.

i. If subparagraph g does not apply or if the Board decides, by applying subparagraph h, that the Complaint is nevertheless admissible or should be dealt with substantively, the Committee shall proceed to deal with it substantively. The basic presumption shall be that the Defendant is innocent until proven otherwise.

4.6 Substantive Consideration of the Complaint

a. If necessary, the Committee shall determine whether there are other interested parties besides the Complainant and the Defendant who should be involved in the procedure.

b. The Committee shall afford the Complainant and the Defendant the opportunity to be heard. The Committee may also decide to afford other interested parties the opportunity to be heard.

c. The Complainant, the Defendant, and any interested parties shall be heard in one another’s presence, unless there are compelling reasons for them to be heard separately. In that case, each of the parties shall be notified of what was stated during the hearings when they were not present.

d. A written report shall be drawn up of the hearing that gives an objective account of what was said. Said report shall be forwarded to the person heard and signed by him. In its report of findings, the Committee shall incorporate, or state, the comments on the report made by the person heard within a period of time set by the Committee. If the person who has been heard refuses to sign the report, such shall be stated in the report, where appropriate stating the reasons for such refusal.

e. The Committee may make audio recordings of the hearing. These shall serve solely as an aid to preparation of the report. After the Board has issued its final decision, the recordings shall be deleted. Nobody other than the Committee shall be permitted to make audio or video recordings during a hearing.

f. During the hearing, the Complainant, Defendant, and any interested parties may have themselves assisted but not represented.

g. The Committee may hear witnesses and experts or may request experts to provide a written expert report.

h. With a view to a fair hearing, all relevant information gathered by the Committee shall be made available to the Complainant, the Defendant, and any interested parties, unless the Committee sees compelling reasons to deviate from this rule. The reasons for not making certain information available shall be set out in the advisory report.

i. The hearings and other sessions of the Committee shall take place behind closed doors.

j. Within ten (10) weeks of receiving the Complaint, the Committee shall issue a report of findings to the Board and its advice as to the validity of the Complaint. In doing so, it shall make use of the weighting criteria set out in Section 5.2 (C) of the Code of Conduct. The Committee may extend said ten-week period by four (4) weeks. The Complainant, the Defendant, and any interested parties shall be notified, in writing, of such extension. Further extension shall be possible subject to the written consent of the Complainant, Defendant, and any interested parties.

k. The report of findings shall comprise at least:
   I. the reports of the hearings held and reports made, and the documents relevant to the Complaint;
   II. a statement of the conclusions drawn by the Committee therefrom.

l. Before sending the report of findings to the Board, the Committee shall present the conclusions of the report referred to under subparagraph k(II) of this paragraph to the Complainant and the Defendant. In its report of findings, the Committee shall incorporate, or state, the comments on the report made by the Complainant and Defendant within a period of time set by the Committee.

m. Neither the report of findings nor the Committee’s advice shall be public.

n. The Committee shall present an anonymised summary (intended for publication) of its findings and its advice to the Board.

o. Once the procedure has been completed, the Board shall publish the public summary and the anonymised decision of the Board.

p. The Board may opt, for compelling reasons, for non-anonymised publication.
4.7 Withdrawal of the Complaint

a. The Complainant may withdraw the Complaint at any time during the course of the investigation by sending a written statement to that effect to the Committee. The Committee shall inform the Board and the Defendant of the withdrawal without delay.

b. If, after withdrawal of the Complaint, the Committee is of the opinion that there is still reason to deal further with the Complaint, it shall be authorised to do so. In such case, the Committee shall inform the Board, the Defendant, and the Complainant to that effect without delay.

4.8 Accountability

The Committee shall render an account of its activities to the Board, in a subsequent annual report, for the purpose of the Academy's annual report. Said account shall report in general terms on the cases dealt with and the activities carried out. It shall not be possible to trace the content of the report to individuals. The members of the Committee and any experts who have been consulted shall be required to maintain confidentiality with regard to everything that has come to their knowledge in that capacity. This obligation may only be departed from with the express consent of the Complainant and the Defendant.

Section 5 Follow-up Procedure

5.1 The Board shall render its decision as soon as possible after receiving the Committee's advice, but in any case within four (4) weeks. It shall immediately inform the Complainant, the Defendant, and any other interested parties thereof, in writing. The report of findings and the Committee's advice shall be sent with the initial decision. If the Board's initial decision deviates from the Committee's advice, the reasons for it doing so shall be stated in the initial decision.

5.2 The Complainant, the Defendant, and any other interested parties may request the Netherlands Board on Research Integrity [Landelijk Orgaan Wetenschappelijke Integriteit, LOWI] to issue its advice on the matter within six (6) weeks from the date of the initial decision. The Board shall, if so requested, send copies of all documents relating to the Complaint to LOWI.

5.3 If the opinion of LOWI has not been requested within the period referred to in 5.2, the Board shall adopt its final decision on the Complaint.

5.4 If the advice of LOWI has been requested, the Board shall include that advice in its final decision. The Board shall immediately notify the Complainant and the Defendant(s), in writing, of the final decision. If the Board’s decision deviates from LOWI’s advice, the reasons for doing so shall be stated in the decision.

5.5 The decision of the Board, together with the report of findings and the advice of the Committee, shall be published in anonymised form after completion of the procedure.

Section 6 Protection

The Academy Board shall make every effort to protect the rights of the Complainant and Defendant and to ensure that they do not sustain any undue disadvantage in their career prospects or otherwise. The same shall apply to any other interested parties, witnesses, experts, Confidential Counsellors, or Committee members.

Section 7 Exclusion of Other Complaint Procedures

Any other complaint procedures applying within the Academy shall not apply to Complaints that are dealt with in accordance with the present procedure.

Section 8 Final Provisions

8.1 In cases not provided for in this procedure, the Board shall decide.

8.2 This procedure shall take effect on 1 January 2021 and shall replace the previous complaint procedure in the area of research integrity in so far as Complaints are concerned that are submitted on or after that date.
8.3 This procedure may be cited as the “Academy’s Research Integrity Complaint Procedure” and shall be published on the Academy website.

This procedure was adopted by the Board on 4 December 2020 with the approval of the Works Council.

*The Dutch-language version of these Regulations will prevail over any translations thereof.*