

# Code of conduct for the prevention of undesirable behaviour

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# Complaints Regulations for CNV

## Introduction

Undesirable behaviour, such as (sexual) intimidation, aggression (psychological or physical), violence, discrimination or bullying, affects a person's integrity. It takes away a person's pleasure in their job. In the worst cases it can even make people change jobs or render them unfit for work.

CNV does not tolerate undesirable behaviour in any way, shape, or form. Such behaviour does not align with the character and identity of our organisation and we strive to prevent such cases rather than penalising them after the fact.

Therefore, CNV has established specific policy with regard to undesirable behaviour, which implements Confidential Advisors, a Complaints Committee, a set procedure for investigating complaints, and descriptions of how to deal with such behaviour and/or threats

This code of conduct addresses all forms of undesirable behaviour that are work-related. This does not mean that the undesirable behaviour must have taken place on the premises of CNV. Undesirable behaviour elsewhere that can be shown to be related to work with CNV is also covered by this code of conduct.

We define undesirable behaviour as any type of behaviour by co-workers or third parties which is experienced as burdensome, harassing, and/or causing unnecessary stress, and is damaging psychologically and/or physically. This written protocol gives any person working for/with CNV the right to see a confidential advisor and/or file a complaint with the Complaints Committee if they experience any such behaviour as described above.

The Complaints Committee will not process and/or investigate complaints which occurred more than a year prior to filing the complaint. However, they reserve the right to do so in extenuating circumstances, such as, for example, an instance where the victim was physically and/or psychologically incapable of filing the complaint, and/or the victim first tried to resolve the problem by other means. Employees who no longer work for the organisation can still file a complaint, if it done so within this timeframe. If an employee is verbally and/or physically threatened and/or treated with aggression, they can choose to file a police report and/or press charges, pursuing legal action. In such cases, it is advisable to file a police report as quickly as possible.

The term 'working for/with' has been deliberately chosen because this code of conduct concerns people employed by CNV as well as any other person doing work on behalf of another employer, who volunteer for/at CNV, who are employed as interns, do outsourced/temporary/freelance work, or are suppliers, etc. These people may call upon the Confidential Advisor and/or the Complaints Committee.

## 1. Procedure

CNV, hereinafter referred to as 'the Employer', considers undesirable behaviour unacceptable and takes targeted measures within its organisation in order to prevent and, where appropriate, combat undesirable behaviour.

The Employer encourages everyone who works for the Employer (including interns, temporary workers, seconded workers, suppliers, etc.) to actively contribute to preventing and combating undesirable behaviour at work.

The Employer shall reasonably arrange its work organisation in such a way that unwanted behaviour is prevented. To this end, the Employer shall set up a coherent policy. This coherent policy shall contain the following components:

- developing and implementing a prevention policy
- a procedure for aggression and threats
- establishing a Confidential Advisor
- developing and implementing a complaints procedure
- setting up a Complaints Committee

## 2. Prevention policy

The Employer shall make it known in the organisation that undesirable behaviour will not be tolerated and that any person guilty of it may be faced with sanctions. The employer publishes the Complaints Regulations for the Prevention and Control of Undesirable Behaviour through the usual information channels within the organisation

## 3. Confidential Advisor

The Employer shall appoint one or more Confidential Advisors, with the approval of the works council. The Confidential Advisor(s) shall at all times be able to assume an independent position within the work organisation. The Confidential Advisor is responsible for the first reception of persons who have had to deal with undesirable behaviour and want to talk about it.

They do not have a mediating task because this would not be in keeping with their position in support of the complainant. He or she may, however, ask others to take on the role of mediator, if the complainant so desires.

In any case, the Confidential Advisor must maintain the confidence of the personnel within the work organisation. The Confidential Advisor must be easy approach, and preferably have experience in the field of individual assistance. The Confidential Advisor shall maintain strict confidentiality with regard to everything that has been said to them in confidence. This obligation of confidentiality will continue even after they no longer hold the position of Confidential Advisor and/or is no longer employed by CNV. The Confidential Advisor shall sign an agreement for this confidentiality.

The Confidential Advisor shall be in possession of a Confidential Advisor Certificate or obtain this certificate by following a specific training course for Confidential Advisors.

Mail directed to the Confidential Advisor shall not be opened by any other person.

The Confidential Advisor is not responsible to the employer.

The tasks and powers of the Confidential Advisor are:

- seeing and/or speaking with the employee/harmed party, accompanying and supporting the employee/harmed party<sup>1</sup>
- looking for a mediator, in consultation with the employee/harmed party
- supporting the employee/harmed party in preparing and submitting a complaint or civil procedure
- analysing incidents and advising on them and referring to professional counsellors or care providers
- providing the board, the works council and others with solicited and unsolicited advice in the field of prevention of undesirable behaviour
- Creating a yearly anonymous overview of the complaints which have been submitted and making this available to the Employer, the Complaints Committee and the works council
- taking no action without the employee's/harmed party's consent
- consulting, on their own initiative, internal and external experts and referring the employee/harmed party to them, when appropriate
- providing after-care (which includes staying in contact with the harmed party to check whether the complaint leads to repercussions and to evaluate whether the motive for the complaint has actually disappeared or diminished)
- if necessary, meeting with employee/harmed party on neutral ground and claim any costs incurred
- providing those who work with the Employer with information about the position of Confidential Advisor and about policies relating to sexual harassment.

The Confidential Advisor shall be facilitated by the Employer in such a way that he or she can perform all required activities without disturbance, which means: having access to a meeting room where the anonymity and safety of the complainant is paramount; having sufficient time to perform his or her task and not being limited in the number and duration of the meetings; having access to a secure system in which information can be stored.

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<sup>1</sup> This also applies to trainees, temps, volunteers, posted workers, suppliers, etc.  
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#### **4. Internal route**

The first course of action regarding complaints should be to discuss and attempt to resolve them internally. This internal procedure should proceed in this order:

- The employee/harmed person makes the person doing the undesirable behaviour aware there is an issue and attempts to talk about it, trying to come to a mutual understanding and resolution. If a direct conversation with the person doing the undesirable behaviour is not possible or not desired, then there should be a conversation with that person's supervisor/manager. The "harmed" employee may also choose to speak with the Confidential Advisor.
- The person with "undesirable behaviour" then has a conversation with their supervisor, preferably with an HR representative and/or a Confidential Advisor also present, aiming to come up with an acceptable solution. Both sides of the situation should be heard.
- Supervisor can suggest mediation if they see this as a solution. The Supervisor advises employee, informing them about the complaints procedure and Code of Conduct protocols.
- Supervisor takes initial action after the conversation, attempting to appease the "harmed" party and/or ensure that the problem does not occur again. Supervisor informs employees involved regarding the course of action which has been taken. Then supervisor informs higher management of what has happened and what course of action is being taken.
- If the Supervisor is the source of the complaint, i.e. the person causing harm, the "harmed" employee should take their complaint to the next level of management.
- If the "harmed" party is not satisfied with the Supervisor's decision, course of action, results of the action, and/or the timing of the action, they may take the complaint to the Board.

If the "harmed party" feels that due to the nature of their complaint and/or that circumstances do not allow them to take the steps described above, the "harmed party" may immediately approach the Complaints Committee. The Complaints Committee will speak with the "harmed party" regarding what course of action, if any, has been taken up to this point, and what that achieved. Further, after this internal process, the person "harmed" may choose to invoke an external complaints committee/mechanism.

#### **5. Procedure for dealing with violence, aggression, and threats**

Any employee who feels threatened by another worker/associate of CNV verbally, physically, by telephone, through email, and/or social media, should take this matter to their Supervisor who will then inform HR and the Facilities Dept, where the situation will be discussed. They shall decide whether to report the incident to the police and/or file charges.

##### **5.1 Filing charges**

In cases of violence (threats, physical harassment, or destruction), the "harmed" party has the option to file charges with the police. Management will support the employee in filing charges when violence has been committed.

To reduce chances of "harmed" party's personal information being revealed, the organisation's (CNV's) address and information should be used in filing the report.

If the "harmed" party is not able to go to the police station (e.g., in hospital, etc), Management/the Supervisor will take the (following) necessary steps with the police.

In cases of physical injury and/or damage/destruction of property, of an employee and/or CNV, the Supervisor/Management will file the charges and/or police report. CNV will provide a list and/or description of damages to the injuring party.

### 5.2 Physical injury

In cases of physical injury and/or damage to an employee's property, the "harmed" employee should file the necessary reports on their own and inform the offender.

CNV's legal insurance can be used to support the "harmed" employee financially in this process.

### 5.3 Support and registration

Any employee who is confronted with threats and experiences physical and/or psychological problems due to these threats, can turn to the Supervisor and/or Confidential Advisor. Together they will decide what type of help/guidance is needed. If external help is needed, the employer will finance this help.

If the employee decides to press charges, Victim assistance will provide after-care. The "harmed" employee is not obligated to take this assistance. The employer (SSC Facilities and Security) will keep records and register each incident/threat, including any actions implemented as remedy, in order to protect CNV employees and gain insight regarding types and frequency of incidents.

## 6. Complaints Committee and procedure

### 6.1 The Committee

CNV uses an external Complaints Committee, namely the National Complaints Committee, the national Institute of Confidential Advisors (the Dutch LIVP). General expenses will be covered by the participating organisations associated with CNV if the case becomes an official complaint, the expenses shall be covered by the offending organisation.

### 6.2 Tasks and powers

- examining complaints received and reporting and advising on them to the Employer;
- provide solicited and unsolicited advice to the Employer on its policy regarding undesirable behaviour;
- gathering information from others, for example colleagues or experts, who can contribute to the provision of relevant information;
- publishing an annual written report on the Committee's activities to the Employer, the Confidential Advisor(s) and the works council.
- Discussing the report with those involved. The report shall not include matters that could damage people's privacy.

### 6.3 Complaints procedure

#### Filing a complaint

The person who has been subject to undesirable behaviour shall approach the Supervisor and/or Confidential Advisor of the organisation as a first step. If the "harmed" person has reason not to want approach the Supervisor and/or the Confidential Advisor and/or is not satisfied with the treatment of their complaint, they can choose to begin a formal investigation by filing the complaint with the Complaints Committee.

Complaints must be submitted in written form to the Secretary of the Complaints Committee:

Complaintscommittee.nl

Attn. Secretary

Postbus 2199

The complaints can also be submitted online to:

<https://www.klachtencommissie.nl/melding/>

### **Processing the complaint**

The specific procedure for processing complaints is described in detail in the LIVP protocol. A copy of the advice will be provided to the person filing the complaint, the accused, the Confidential Advisor, and the Employer.

### **Decision by the Employer**

The Employer shall take a decision within four weeks of receipt of the advice and immediately notify the complainant and the accused, as well as the Confidential Advisor and the Committee, in writing. The Employer may only deviate from the advice of the Complaints Committee on compelling grounds. These compelling reasons shall then be duly explained and substantiated in writing to the complainant and the defendant, within the same four-week period

### **Legal aid expenses**

If before, during or after the complaints procedure the complainant and/or the accused have themselves assisted by a paid legal expert with regard to a complaint submitted in the context of these Regulations, the costs thereof will be reimbursed on a declaration basis up to a maximum of € 1000, excl. VAT for paid legal counsel.

### **6.4 Legal action**

In its advice, the Complaints Committee points out that the complainant and/or the accused can start legal proceedings, if they do not agree with the advice of the Complaints Committee and/or the decision of the Employer.

### **6.5 Registration**

The Complaints Committee will only send (personal) information to HR for the people who are found guilty of undesirable behaviour. The offender will be informed when this occurs. This is done so that the Employer can take action if deemed necessary. The information shall be saved in the offender's regular personnel files during a further specified period by the Complaints Committee. The Employer records any decisions in the personal file.. Additional, supporting documents shall be kept by the Complaints Committee.

## **7. No prejudice**

No employee shall ever be penalised by the Employer for his or her activities as a Confidential Advisor.

Submitting a complaint shall not adversely affect the current and future position of the complainant as an employee.

## **8. Confidentiality**

Anyone who is summoned by the Complaints Committee has an obligation to appear, to provide information and to maintain confidentiality. This obligation of confidentiality also applies to the Confidential Advisor, the members of the Complaints Committee, the administrative support of the Complaints Committee, the work organisation director and the HR department. The advice and decision shall be archived in the personnel file in a closed envelope. The obligation of confidentiality does not expire after a person's formal relationship with CNV has ended.

## **9. Other matters**

This regulation can be cited as 'Protocol for Handling Undesirable Behaviour'. This protocol shall be published on Share Point.

## 10. List of concepts used in this document

For the purposes of these Regulations, the following definitions shall apply:

**Complaint:** a written or verbal expression of dissatisfaction of the complainant about undesirable behaviour, made to the Confidential Adviser, or a written expression of dissatisfaction from the complainant about undesirable behaviour, deposited with the Complaints Committee.

**Deliberately wrongful complaint:** a complaint that has been declared unfounded by the Complaints Committee and of which it has been established, after investigation by the Complaints Committee, that it was submitted with the intention of damaging the person against whom the complaint is directed.

**Complainant:** the natural person who has filed a complaint, being:

- An employee who has or have had an employment contract with CNV Vakcentrale, CNV Connectief, CNV Jongeren of CNV Vakmensen,
- An employee employed by others, interns and members of CNV Vakcentrale, CNV Onderwijs or CNV Vakmensen who regularly performs work or activities for CNV.

**“Harmed” person/party:** the person who has filed a complaint, be that

- An employee who has or has had an employment contract with CNV Trade Union Federation, CNV Connective, CNV Youth and/or CNV Professionals.
- An employee who is a CNV intern, volunteer, and/or is employed by another party.

**Undesirable behaviour:** all behaviour that causes anyone stress, as a psychosocial workload (intimidation: aggression and violence, direct and indirect discrimination, physical violence, bullying, sexual intimidation and other forms of (verbal) aggression).

**Stress:** a condition that has physical, psychological or social consequences perceived as negative.

**Intimidation:** behaviour related to the characteristics or behaviour referred to under the term 'undesirable behaviour' in these Regulations, the purpose or effect of which is to harm the dignity of a person and to create a threatening, hostile, degrading, humiliating or offensive environment.

**Sexual harassment:** any form of verbal, non-verbal or physical behaviour with a sexual connotation, which has the purpose or effect of harming the dignity of a person; in particular when a threatening, hostile, abusive, humiliating or offensive situation is created. This is the same definition as in article 1a, paragraph 2 Awgb (Dutch General Law on Equal Treatment). Sexual harassment can occur in a number of forms. In a non-exhaustive sense, it may concern ambiguous remarks, unnecessary touching, peeping, exhibiting pornographic images at work, but also sexual assault and rape. The definition also indicates that this should include those cases that may involve sexual blackmail, in such a way that the chances of promotion or decisions about working conditions depend on sexual services provided. Such behaviour can create a hostile or sexually intimidating and hurtful environment that is an attack on the dignity of a person involved.

**Aggression:** a situation in which an employee is psychologically or physically harassed, threatened or attacked under circumstances that are directly related to the performance of work. Aggression involves acts of verbal violence (abuse, insulting) and physical violence (kicking, hitting, biting, threatening with a weapon and/or being ambushed). It can also be psychological violence: threatening, intimidation, pressurising, threatening the home situation and damaging property.

**Direct discrimination:** discrimination between persons on the basis of religion, belief, political opinion, race, gender, nationality, sexual orientation or civil status. Direct discrimination based on gender also includes discrimination on grounds of pregnancy, childbirth and motherhood.

Indirect discrimination: discrimination based on other characteristics or behaviours than those mentioned under direct discrimination, but that lead to direct discrimination. The prohibition of indirect discrimination does not apply if that discrimination is objectively justified.

Bullying: all forms of intimidating behaviour with a structural character, by one or more persons, directed against a person or a group of persons, who cannot defend themselves against this behaviour. Examples of bullying: social isolation, making working unpleasant or difficult, mocking, gossiping etc. An important element to define bullying is the repetition (which can be objectified) of that behaviour in time. So bullying is not a one-off behaviour. This behaviour manifests itself in different ways, but in particular by words, gestures, actions or threats. This list is not exhaustive. In most cases the purpose of the perpetrator is to intentionally hurt and humiliate another person.

Complaints Committee: the committee that can be approached with a formal complaint by a person who is or has been confronted with undesirable behaviour, and that deals with this complaint in this respect.

Confidential Advisor: The official to whom the person who is or has been confronted with undesirable behaviour can turn for advice and support.

Accused person/offender: The natural person against whom a complaint has been submitted.<sup>2</sup>

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<sup>1</sup> The Complaints Committee may also consider complaints against natural persons who are not employed by CNV and only have occasional contacts with CNV employees. In such cases, the Complaints Committee shall always recommend initiating civil proceedings against the accused person.

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<sup>2</sup>