

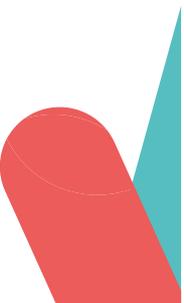


COMPLAINTS REGULATION EXTERNAL COMPLAINTS

18 MAY 2020

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Article 1 – Definition and scope

- 1.1 Everyone is entitled to submit a complaint to NVAO regarding the manner in which NVAO or an individual acting under the responsibility of NVAO has behaved towards him/her or any other person. NVAO, the individual or individuals addressed by the complaint will hereinafter be referred to as: the “Defendant”. Defendants may also be individuals who have been seconded or individuals sitting on a committee or panel or conducting other tasks on behalf of NVAO, if such individuals have entered into a commission contract with NVAO.
- 1.2 The Dutch General Administrative Law Act (specifically, Chapter 9) applies to this complaints regulation.
- 1.3 This regulation does not extend to complaints pertaining to incidents that have taken place during assessment procedures in Flanders.
- 1.4 The security of personal data is protected under the Dutch Data Protection Regulation (AVG). With respect to (requests and) complaints or appeals pertaining to decisions regarding such requests, please refer to the Data Protection Act and the NVAO Personal Data Protection Regulation.

Article 2 – Submitting complaints (who, how, timeframe)

- 2.1 Every stakeholder or authorised representative of a stakeholder, hereinafter to be referred to as the “Complainant”, may lodge a complaint.
- 2.2 A stakeholder within the meaning of this regulation cannot be: someone who is employed by NVAO or acting under the responsibility of NVAO.
- 2.3 A complaint must be submitted in the manner specified on the NVAO website.
- 2.4 A complaint must be received by NVAO within one year, counting from the date on which the Defendant engaged in the behaviour that has prompted the complaint. If such behaviour occurred at several consecutive moments in time, the most recent date can be used as the basis for calculating this timeframe.

Article 3 – Complaints processing: by whom

- 3.1 A person against whom a complaint has been lodged will not process such a complaint him/herself.
- 3.2 A complaint regarding the conduct of a staff member of the NVAO Netherlands Department or an individual working for the Netherlands Department will be processed by the Director of NVAO Netherlands.
- 3.3 A complaint regarding the conduct of a staff member of the NVAO Flanders Department or an individual working for the Flanders Department will be processed by the Director of NVAO Flanders.
- 3.4 A complaint regarding the conduct of a staff member or an individual working for the NVAO Support Department will be processed by the Director of NVAO Netherlands.
- 3.5 A complaint regarding the conduct of an individual reasonably performing work under the responsibility of NVAO, which is not covered by Articles 3.2, 3.3 or 3.4, will be processed by the Director of NVAO Netherlands and/or the Director of NVAO Flanders.

- 3.6 A complaint regarding the conduct of the Head of the Netherlands Department, the Director of NVAO Flanders or the Director of NVAO Netherlands will be processed by the NVAO Executive Board.
- 3.7 A complaint regarding the conduct of a member of the NVAO Executive Board will be processed by two Dutch and two Flemish members of the Board of NVAO who do not also sit on the Executive Board.
- 3.8 A complaint regarding the conduct of a member of the Board of NVAO (who does not also sit on the Executive Board) will be outsourced to an external independent complaints processor or complaints committee; such processing will be commissioned by NVAO and NVAO will bear the costs of processing such a complaint. With respect to the manner in which such complaints processes will be conducted, please refer to the procedures of the external independent complaints processor or complaints committee that will be advising the Board of NVAO.

Article 4 – Consideration of a complaint: yes or no?

- 4.1 The complaints processor or complaints committee decides whether a complaint will be considered. In principle, a complaint will not be considered if, inter alia:
 - a. apparently, the interest of the Complainant is insufficient, or the conduct carries insufficient weight;
 - b. the Defendant has not been offered the opportunity to resolve the issue him/herself;
 - c. the Complainant has previously lodged a complaint regarding that same incident;
 - d. the conduct addressed by the complaint has occurred more than a year before the complaint was lodged;
 - e. the complaint was not submitted in the required manner, as specified on the NVAO website;
 - f. the complaint pertains to conduct to which the Complainant could have lodged an internal or external appeal;
 - g. the conduct addressed by the complaint is or has previously been brought before a judge other than a judge in administrative law;
 - h. the conduct is covered by a criminal investigation or prosecution.
- 4.2 In the event that Article 4.1 paragraph e applies, NVAO may provide the Complainant with an opportunity still to submit the complaint in the required manner within five working days.

Article 5 – Process (including timeframes)

- 5.1 A confirmation of receipt of a complaint will be emailed within ten working days, unless the complaint has meanwhile been resolved. The confirmation of receipt will state whether the complaint will be considered or whether a deadline will be set for meeting the outstanding requirements(see 4.2), and who will be processing the complaint.
- 5.2 Once it has been decided that the complaint will be considered, the Defendant will receive a copy of the complaint as soon as possible.

- 5.3 The complaints processor or complaints committee will hear the Complainant, the Defendant, and the witnesses, if any, and set down the times and location of interviews, if any.
- 5.4 The complaints processor (Articles 3.2, 3.3, 3.4 or 3.5) will advise the NVAO Executive Board. The complaints committee, i.e.:
 - the Executive Board (Article 3.6);
 - two Dutch and two Flemish members of the Board of NVAO (Article 3.7);
 - an external independent complaints committee (Article 3.8);will advise the Board of NVAO.
- 5.5 An advice will be provided in writing and involve a statement as to the (partial) validity or invalidity of a complaint; the complaints processor or complaints committee may advise an appropriate measure and may make recommendations.
- 5.6 The Executive Board or, as the case may be, the Board of NVAO may decide in accordance with the advice or depart (in part) from the advice. A Defendant will abstain from voting. Departure from advice will involve a decision that must be substantiated.
- 5.7 The timeframe for processing complaints is six weeks, which can be extended by four weeks. Any extension must be communicated and explained to the Complainant and the Defendant in writing before expiry of the six weeks.
- 5.8 At any given time during the complaints process, the parties involved may agree to commission an independent mediator, on a voluntary basis. NVAO may designate a mediator.

Article 6 – Hearing, witnesses, reporting, communication

- 6.1 In principle, the Complainant and the Defendant will be given the opportunity to be heard. Hearings will not be public. The Defendant, the Complainant, and third parties, if any, are under an obligation to observe secrecy.
- 6.2 Both the Complainant and the Defendant may propose witnesses to be heard. It is up to the complaints processor or the complaints committee to determine whether to hear the proposed witnesses. Witnesses will not be anonymous.
- 6.3 Records will be kept of the interviews that the complaints processor or the complaints committee conducts with the Complainant, the Defendant, and/or witnesses. Those who have been heard will first be given an opportunity to take note of and comment on the contents of the reports. The reports and the comments, if any, on their contents will be distributed among the parties involved, taking account of privacy protection. The text drawn up by the complaints processor or complaints committee will remain leading. The aforementioned reports will be annexed to the advice to be provided.
- 6.4 The complaints processor or complaints committee may request a minutes secretary to make a report; furthermore, the complaints processor or complaints committee may decide, in consultation with the person to be heard, to make sound recordings, solely for the purpose of making a report. Such sound recordings will be destroyed once the complaint has been settled.
- 6.5 In addition to the interviews requested by the complaints processor or complaints committee, other communications will, in principle, take place via email. In lieu of email, the Complainant or the Defendant may request that the required documents be forwarded by mail.

Article 7 – Appeal to the National Ombudsman

In the event that the Complainant does not agree with:

- a. the decision of the Executive Board or the Board of NVAO, as referred to in Article 5.6 of this regulation, to adopt or (partially) reject the advice;
- b. (one of) the measure(s), if any, imposed by the Executive Board or the Board of NVAO;
- c. the procedure or the process conducted by the complaints processor or the complaints committee, other than the external independent complaints processor or complaints committee;

the Complainant may appeal to the National Ombudsman.

Article 8 – Final clauses

- 8.1 Every complaint as referred to in this regulation is governed by Dutch law.
- 8.2 This regulation was endorsed by the Board of NVAO on 18 May 2020 and came into force on 18 May 2020.
- 8.3 This regulation may be unilaterally amended and re-endorsed by the Executive Board.
- 8.4 This regulation will be published on the NVAO website.

Colophon

Complaints Regulation - External Complaints

18 May 2020

Compilation: NVAO



Nederlands-Vlaamse Accreditatieorganisatie
Accreditation Organisation of the Netherlands and Flanders

Parkstraat 83 • 2514 JG Den Haag
P.O. Box 85498 • 2508 CD The Hague
The Netherlands

T +31 (0)70 312 23 00
E info@nvao.net
www.nvao.net