

Policy to prevent and combat undesirable behaviour

For the purpose of the "Confidential Advisor Act" / Psychosocial workload policy (PSA)

1. Inleiding

Dailyflex Personeelsdiensten B.V. sees it as its duty to provide working conditions that ensure a safe, healthy and pleasant working environment for employees. This is not only good for employees, but it is also in the interests of the company as a whole. Undesirable behaviour, such as sexual harassment, aggression and violence, poses risks to employees' working conditions. It affects the working atmosphere, the productivity of employees and the quality of work delivered. Employees who fall victim to sexual harassment can no longer function well in their jobs, often becoming ill or unfit for work.

Dailyflex Personeelsdiensten B.V. aims to combat undesirable behaviour at work. This is done by taking measures to protect employees from undesirable behaviour and its adverse forms. This policy memorandum sets out the measures Dailyflex Personeelsdiensten B.V. takes to prevent and deal with undesirable behaviour. The measures to be taken are discussed and detailed later in this policy memorandum.

2. Background and significance of the Occupational Health and Safety Act

The Working Conditions Act, hereinafter referred to as the Health and Safety Act, is a framework law that contains regulations to ensure the safety and protect the health of employees. As undesirable behaviour for employees has negative consequences for their safety and health, the employer is obliged to take measures to prevent undesirable behaviour and to provide shelter and after-care to employees who are its victims (Section 4(2) of the Working Conditions Act).

What measures the employer must take to counteract undesirable behaviour and its consequences are not specified in the Working Conditions Act. Such measures could include preventive measures, but also providing shelter for the employee(s) who have fallen victim to undesirable behaviour. Proper sheltering of victims is very important for sick leave and WIA prevention. The exact details of the measures to be taken can vary from one company to another. Which measures to take can be read in this policy memorandum.

Naturally, employees must also exercise caution and care and take care of their own safety and health and that of other people to the best of their ability. Therefore, employees are obliged to report safety or health hazards immediately.

3. Undesirable behaviour

While at work, employees have regular contact with each other and with the supervisor(s). Most of the time, the manners are problem-free. However, interactions between employees and between employees and supervisors can also take undesirable forms. Every employee can encounter undesirable forms of behaviour at work that affect personal integrity, such as sexual harassment, aggression and violence, bullying and discrimination. Unwanted forms of behaviour can occur at any level of the company and can take place between employees and between employees and managers.

Dailyflex Personeelsdiensten B.V. defines undesirable behaviour as actions by an employee or a group of employees that may be considered hostile, humiliating or intimidating by another employee. This broad definition of the term undesirable behaviour leaves a lot of room for the subjective perception of the victim. Dailyflex Personeelsdiensten B.V. chooses this broad definition of the term undesirable manners because behaviour that is "undesirable" for one employee may be "desired" behaviour for another. This allows employees to indicate their own boundaries when dealing with colleagues or supervisors.

Undesirable behaviour, as referred to in this memorandum, refers primarily to sexual harassment and aggression and violence, including bullying, as mentioned in the Working Conditions Act. But in addition, this policy memorandum also applies to other forms of undesirable behaviour, such as discrimination, stalking and stalking. The description of the various forms of undesirable behaviour follows below:

Sexual harassment

The article-by-article Explanatory Memorandum to the Occupational Health and Safety Act, defines sexual harassment in section 1(3) parts e and f:

"any form of verbal, non-verbal or physical conduct with sexual connotation that has the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, offensive, humiliating or offensive situation."

In general, three types of sexual harassment are distinguished:

- Verbal forms, such as sexual jokes and comments, inappropriate remarks about clothing or appearance, proposing to go to bed, telling erotic experiences, fantasies or dreams;
- Non-verbal forms, such as staring and peeping, physically getting too close, pin ups and naked calendars on the walls or sexually explicit gestures;
- Physical forms, such as kissing, touching breasts, tapping on buttocks, embracing, (attempted) sexual assault and rape (sexual assault and rape are also criminal offences, but - if taking place at work - also physical forms of sexual harassment).

Aggression and violence

The article-by-article Explanatory Memorandum to the Working Conditions Act, in Article 1(3) parts e and f, defines aggression and violence as: *"Incidents in which an employee is psychologically or physically harassed, threatened or assaulted under circumstances directly related to the performance of work."*

Aggression and violence can be distinguished into:

- Verbal violence, such as scolding and insulting;
- physical violence, such as kicking, hitting, pushing and damaging property;
- psychological violence, such as threatening, intimidating, pressuring, and threatening the home.

Bullying

Nowadays, bullying is also included in the Occupational Health and Safety Act. In 5.2 of the explanatory memorandum, bullying is mentioned as part of PSA. The article-by-article Explanatory Memorandum to the Working Conditions Act, in article 1 paragraph 3 parts e and f, defines bullying as: *"all forms of intimidating behaviour with a structural character, by one or more employees (colleagues, supervisors) directed against an employee or a group of employees who cannot or do not defend themselves against this behaviour."*

An important element regarding bullying at work is the repetition of that behaviour over time. Thus, bullying is not a one-off behaviour. This behaviour manifests itself in various ways, but particularly through words, gestures, actions or threats. This enumeration is not exhaustive. Many times, the offender's aim is to deliberately hurt and humiliate another person.

Other undesirable behaviour

Practice has shown that the definition of sexual harassment and aggression and violence used in the Working Conditions Act needs to be broadened to include other threatening and aggressive situations at work. Undesirable manners are often understood to include discrimination and stalking.

Discrimination

The concept of discrimination is not mentioned in the Occupational Health and Safety Act. Under equal treatment legislation, discrimination is prohibited. Even at work, employees may not be treated unequally among themselves because of religion (includes adherence to religious or philosophical beliefs and behaving accordingly), belief, political affiliation, race (includes skin colour, descent, or national or ethnic origin), nationality, gender (includes pregnancy, childbirth and maternity), heterosexual and homosexual orientation and orientation, and marital status. New laws have recently been adopted that also prohibit discrimination on the grounds of disability or chronic illness, certain working hours (full-time or part-time), and type of contract (permanent or temporary).

Stalking

The concept of talking is defined in Article 285b of the Penal Code. Stalking occurs when someone is deliberately and knowingly pursued repeatedly, so that he no longer feels safe. Such stalking and structural harassment can occur in various ways: physically, by mail, telephone or e-mail, using text messages, etc. Harassers/stalkers try, often successfully, to gain power and control over their target.

4. Scope of the policy

The employer must protect employees who perform work within the company under the authority of the hirer. First of all, this includes the employee who performs work on the basis of a permanent or temporary employment contract (Section 1 (1) and (2) of the Occupational Health and Safety Act).

5. Policy on preventing and combating undesirable behaviour

Dailyflex Personeelsdiensten B.V. looks for the company-related factors that encourage undesirable behaviour. These may include company size, company or departmental culture, the composition of the workforce, the degree of independence of employees, job content and job satisfaction, the role of managers, workplace design, working hours, etc. Dailyflex Personeelsdiensten B.V.'s approach to undesirable behaviour has a preventive side. This involves the following aspects:

- **Exemplary management**

Dailyflex Personeelsdiensten B.V. believes it is important that the hirer and its manager(s) continuously demonstrate that undesirable behaviour will not be tolerated in any way within the organisation and that the hirer itself demonstrates desired behaviour and takes a clear stand against undesirable behaviour.

- **Discussing undesirable behaviour**

Dailyflex Personeelsdiensten B.V. aims to ensure that both the employer and the user company openly discuss what is desirable and what is undesirable behaviour. Dailyflex Personeelsdiensten B.V. also sees a stimulating role for the hirer in this respect. The hirer can request support from the confidential advisor in this respect, who can contribute to making the subject open to discussion, for example by providing information.

- **Monitoring the current situation**

To prevent undesirable behaviour, both the employer and the user company must have a good understanding of the working relationships between employees and between employees and supervisors. The employer/user must also know which work situations can give rise to undesirable behaviour. In short, the employer/hirer must have an inventory of the risks that increase the likelihood of undesirable behaviour. The confidential advisor keeps a record of undesirable behaviour and provides anonymous feedback to, for example, the responsible employer/user.

Tackling undesirable behaviour also has a curative side. In it, Dailyflex Personeelsdiensten B.V. arranges the reception of employees dealing with undesirable behaviour. The reception process distinguishes between the informal route and the formal route. The employee can call on the confidential advisor for support in both routes.

The overview below clarifies the difference between the informal and formal routes.

The informal route:

1. Reporter resolves it himself
2. Reporter resolves it with supervisor
3. Reporter and perpetrator resolve via mediator

→ Confidential Advisor

The formal route:

4. Complainant files complaint with Complaints Committee against the perpetrator

→ Confidential Advisor

The informal route

Dailyflex Personeelsdiensten B.V. supports employees who experience undesirable behaviour at work, and who want to stop that undesirable behaviour. The informal approach is the most 'common' way to resolve such problems at work. The informal route refers to reporter and perpetrator. The reporter is the person who experiences and discloses undesirable behaviour. The perpetrator is the person who is bothering the reporter.

A choice can be made to solve the problem yourself, with the manager or through mediation. The employee himself or herself seeks a solution to his or her problem. For example, by discussing the problem with the person from whom he or she is bothered. It often happens that someone does not realise that his/her behaviour is undesirable. Addressing the person directly about his/her behaviour may be enough to put an end to that behaviour.

If it is not possible to discuss the problem himself, the employee can discuss the problem with the manager. A good solution to the problem is then sought together. If the supervisor is part of the problem, help can be sought from a more senior manager.

If you are unable to find a solution yourself, or with the help of the superior, mediation can help. A mediator is impartial. He or she interacts with the two parties. The mediator helps the two parties find a solution together.

The formal route

It may happen that a solution cannot be found through the informal route. Then the employee may choose to file a complaint with the complaints committee. The complaints committee is an independent committee, before which a type of court case can be conducted within the organisation. The complaints committee investigates whether the complaint is justified ('founded') or not ('unfounded'). This is done by hearing all parties involved in the case, as well as any witnesses and/or experts. After investigation, the complaints committee recommends what measures it recommends if the complaint is well-founded. A confidant can support the employee filing the complaint in the complaints procedure.

The formal procedure refers to the complainant and the accused. The complainant is the person who files the complaint. The accused is the person against whom the complaint is made. The complaints procedure is set out in Annex 1.

6. The confidant

Dailyflex Personeelsdiensten B.V. has appointed a confidential advisor. If necessary, an employee can appeal to the confidential advisor. The confidential advisor has been appointed for the employee who encounters undesirable behaviour and is unable to discuss this with the person(s) involved to reach a satisfactory solution.

The confidant's primary role is to accommodate, guide and support the employee emotionally. In doing so, the confidant only has a supporting and informing role. In doing so, the confidant only takes into account the interests of the employee and does nothing without the employee's consent.

The confidential adviser shall carry out her work independently of Dailyflex Personeelsdiensten or the persons working for Dailyflex Personeelsdiensten B.V.. The confidential adviser is not employed by Dailyflex Personeelsdiensten B.V.

7. Duty of confidentiality

Dailyflex Personeelsdiensten B.V. agrees with the confidential adviser that what the employee tells the confidential adviser in confidence will not be disclosed to third parties. The employee must inform the confidential adviser which information should not be disclosed. The confidential adviser must not share the information received from the employee with third parties without consulting the employee. Only with the express consent of the employee concerned can this be deviated from. This duty of confidentiality does not lapse if the confidential adviser ceases to work as such.

The duty of confidentiality does not apply towards the court. The confidential adviser also has the obligation to give evidence in court as a witness. A confidant does not have a legal right to privilege, like a doctor or lawyer. It is the duty of the confidential adviser to inform the employee about the duty of confidentiality and its scope.

8. Further agreements

Dailyflex Personeelsdiensten B.V. agrees with the confidential adviser that the confidential adviser is entitled to receive information from Dailyflex Personeelsdiensten B.V. , which is reasonably necessary for the performance of her duties, for the performance of her function.

Complaints Committee:

Henriette van Santen

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Confidential Advisor:

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Annex 1 Complaints procedure

Sample complaints procedure

1. The employer: Dailyflex Personeelsdiensten B.V.
2. Employee: any natural person employed by Dailyflex Personeelsdiensten.
3. Complainant is the employee who submits a complaint to the Complaints Committee.
4. Complainant is the employee against whom the complaint is directed.
5. A complaint contains:
 - the description of the undesirable behaviour(s);
 - the name and address of the complainant;
 - the name of the person complained against;
 - the time at which the undesirable behaviour(s) occurred.

Anonymous complaints submitted will not be considered.

6. Within two weeks of receiving the complaint, the Grievance Committee will inform the complainant and the accused in writing whether the complaint is admissible and will be considered.
7. The Grievance Committee will send a copy of the complaint and the complaints procedure to the accused.
8. The complainant has the right to withdraw the complaint until the Grievance Committee has issued a recommendation. Withdrawal is done by written notification to the Grievance Committee.
9. The Grievance Committee will investigate the complaint and in doing so is authorised to obtain such information as it deems necessary. The Grievance Committee is entitled to all information on the part of the employer that it requires in its investigation.
10. The Grievance Committee will hear the complainant and the accused. The hearings are of a private nature. Both the complainant and the accused may be assisted at the hearing by a confidential adviser and/or a counsellor/woman. NB It is advisable to arrange and/or pay for a counselor for the accused as well, for reasons of legal equality. Please note that this may involve costs!
11. The Complaints Committee is authorised to hear witnesses and consult experts, whether or not at the request of the complainant and accused.
12. A report will be made of every hearing. A copy of the report will be sent to the complainant and the defendant within seven working days after the hearing.

13. The Complaints Committee will issue an investigation report within one month of the complaint being filed. If the investigation report cannot be issued in time, the Complaints Committee will notify the complainant and the defendant, giving reasons. The period within which the investigation report can be expected may be postponed by a maximum of one month.

In the investigation report, the Grievance Committee determines whether the complaint is (partially) founded or unfounded. The Grievance Committee also advises the employer on the measures to be taken.

A copy of the investigation report will be sent to the complainant, the accused, and, if applicable/desired, to the Confidential Advisor.

14. Within ten working days of receiving the investigation report from the Grievance Committee, a written motivated decision will follow. The defendant and complainant will be informed of this.

15. The employer will ensure that when using the complaints procedure, the complainant will not be disadvantaged in his/her position within the company.

16. If the Complaints Committee is of the opinion that an offence as referred to in the Penal Code has been committed, it will report this in the investigation report. It is up to the complainant to press charges.

17. The Confidential Advisors, the members of the Grievance Committee and anyone else involved in the handling of the complaint will act in such a way that the privacy of the complainant and accused is sufficiently guaranteed.

18. The Grievance Committee (if internally present) reports annually to the management and the Works Council on the number and nature of the complaints handled and the recommendations made therein. In that report, the Grievance Committee may make general recommendations on the policy to be pursued on undesirable behaviour. This report is anonymised.